



# Comparing Serious Violent Crime in the US and England and Wales:

## Why It Matters, and How It Can Be Done

Zelia Gallo, Nicola Lacey and David Soskice

LSE Law, Society and Economy Working Papers 16/2014

London School of Economics and Political Science

Law Department

This paper can be downloaded without charge from LSE Law, Society and Economy Working Papers at: [www.lse.ac.uk/collections/law/wps/wps.htm](http://www.lse.ac.uk/collections/law/wps/wps.htm) and the Social Sciences Research Network electronic library at: <http://ssrn.com/abstract=2456963>.

© Zelia Gallo, Nicola Lacey and David Soskice. Users may download and/or print one copy to facilitate their private study or for non-commercial research. Users may not engage in further distribution of this material or use it for any profit-making activities or any other form of commercial gain.

# Comparing Serious Violent Crime in the US and England and Wales:

## Why It Matters, and How It Can Be Done

Zelia Gallo, Nicola Lacey and David Soskice \*

**Abstract:** Comparative analysis of violent crime is hampered by a lack of reliable statistics, even between relatively similar countries, with doubts about existing studies suggesting that further comparative data is needed. Violent crime presents particular problems of variation in offence definition and recording practices. We can, however, derive reasonably valid comparative data for the US and England and Wales for the narrower category of serious violent crime. We show broadly that the incidence of serious violent crime per capita is between three and seven times as high in the US as in England and Wales. This parallels the comparative data on homicide; existing comparisons with Canada and New Zealand lend further weight to the claim that levels of serious violence in the US are distinctively high.

**Key words:** United States, England and Wales, serious violent crime, comparative analysis.

---

\* Fellow, Department of Law, London School of Economics; Professor of Law, Gender, and Social Policy, London School of Economics; Professor of Political Science and Economics, London School of Economics.

## INTRODUCTION

Comparative analysis of violent crime – by contrast to that of punishment – is hampered by a lack of reliable comparative statistics. This is a major problem even in a comparison between the United States and England and Wales (US and E&W), relatively similar societies, and the subject of this paper. The only offence involving interpersonal violence for which reliable data is available is homicide; as is well-known, the number of homicides per capita in the US is at least five times the corresponding number in England and Wales. Data on violent crime is available from the International Crime Victimization Survey for a number of societies, including the US and England and Wales. Important though the Survey is in relation to many offences, it is widely argued to be misleading in relation to violent crimes.<sup>1</sup> Hence, there is some doubt over its finding that violent crime in England and Wales is greater than or equal to that in the United States. As will be seen, that doubt has not prevented such data being used in academic work. Thus, we believe that more carefully derived comparative data is needed. This may not be possible for the general category of violent crime, because of intractable variations in both offence definition and recording practices in different countries (Aebi et al 2010: 18, 22). We show in this paper, however, that we can derive reasonably valid comparative data for the US and E&W for the much narrower set of offences constituting serious violent crime.

We show that the incidence of serious violent crime per capita is between three and seven times as high in the US as it is in England and Wales. This very broadly parallels the comparative data on homicide between the two societies. There are of course many qualifications, which we set out at length in the paper: these relate to the exact nature of different offences, reporting of crimes to the police, as well as police recording practices;<sup>2</sup> and, for reasons we will explain (section 3.1), our comparative estimates relate only to the years 2008-10. However, the New Zealand Ministry of Justice carried out a related exercise comparing serious violent crime in New Zealand (NZ) with that in the US for 2000, and their results (4.5 times higher in the US) are broadly comparable to ours (Segessenmann, 2002). A similar comparison between Canada and the US also for 2000 reported an incidence in the US of serious violent crime 2.3 times that in Canada (Gannon, 2001a, 2001b). These studies lend further weight to the claim

---

<sup>1</sup> The latest iteration of the ICVS suggests that violence rates in the US are broadly comparable with those in England and Wales (Van Dijk et al., 2007; Van Kesteren et al., 2000). But many scholars have questioned the validity of its findings on this point, identifying a number of methodological features of the survey that suggest that its results may be misleading (Reiner, 2007: 104-5; Young, 2004). Even leaving aside the relatively small samples (around 2000 surveys per country), the use of a telephone survey may elicit responses skewed by a varying consciousness of violence in different countries, with those in low-violence countries exhibiting lower tolerance of violence and hence more likely to recall or identify an incident as involving violence than those in countries where violence is more common (Reiner, 2007: 104-107).

<sup>2</sup> For an evaluation of recording of violent crime see the one-off analysis conducted by Her Majesty's Inspectorate of Constabulary in 2009 (HMIC, 2009).

that the US experiences a distinctively higher level of serious violence as compared with other relatively similar countries.

The paper is arranged as follows: We first explain the significance of the issue (Section 1). We then go on to review the relationship between the legal definitions of serious violent crime offences in the US and in England and Wales in Section 2. The main focus of our argument is in Section 3, where we build robust comparative data based on the comparability of police recording criteria in the two countries for the relevant offences, using the detailed instructions and examples for recording given to police forces. Notwithstanding differences in offence definitions, it is possible to construct a persuasive argument to the effect that Aggravated Assault – AA – (based on the US Model Penal Code) operates in broadly similar ways to Sections 18 and 20 of the Offences against the Person Act 1861 in England and Wales, along with certain smaller categories of interpersonal violent crime.<sup>3</sup> In Section 4, we set our findings in the context of existing findings about the relationship between serious violent crime in the US and in Canada and New Zealand, before drawing conclusions in Section 5.

## 1. WHY THIS PAPER?

Recent years have seen a resurgence of interest in comparative criminal justice. Notwithstanding significant changes in both crime and punishment in most advanced democracies over the last half century, scholars have begun to come to terms with differences in both the scale and the quality of these changes across different countries, and to interest themselves in what can be learnt from these differences about the underlying dynamics of crime and punishment (Cavadino and Dignan, 2006; Downes, 1988; Lacey, 2008; Pratt and Eriksson, 2013). Comparative studies inevitably raise problems of measurement in areas in which there are no internationally agreed criteria. But this is much less the case on the punishment side of the equation, where the crude but readily accessible measure of comparative imprisonment rates is widely used. While there are difficulties,<sup>4</sup> the

---

<sup>3</sup> It is known that police in both countries depart from prescribed recording practices under a variety of conditions: we explain in Section 4.4 why it is unlikely that these departures have a significant impact on the recording of serious violent crime. HMIC's 2009 evaluation of 43 forces, 30 were rated as having 'excellent' and 6 as having 'good' compliance in recording offences of 'most serious violence' (2009: 25). More recording error was found in relation to recording of 'assault with less serious injury': with 12 forces rated 'excellent'; 16 'good'; 14 'fair' and 1 'poor' (2009: 25). The primary error in relation to less serious assaults was recording as less serious, offences that should have been included in the most serious violence category: 7.6% (290) of the 3,920 offences audited were recorded as less serious when, on HMIC's evaluation, they should have been recorded as most serious (2009: 15). These figures should, however, be combined with the figures returned from auditing most serious violence, in which 6.9% (252) of the 3,675 offence sample were recorded as involving GBH when ABH would have been more accurate (2009: 12).

<sup>4</sup> The main difficulties have centred on producing measures which capture, or act as reasonable proxies for, the qualitative severity of imprisonment and the evaluation of non-custodial sentences which are *prima facie* less punitive than prison sentences but which nonetheless imply significant forms of surveillance (Cavadino and Dignan, 2006; Tonry, 2007; Wacquant, 2009).

problems in comparing levels and types of punishment pale into relative insignificance as compared with those which arise in relation to crime.

In principle the most straightforward way of comparing serious violent crime in the US and England and Wales would be to use the large-scale and generally reliable victim surveys in the two countries, the National Crime Victim Survey (NCVS) in the US and the Crime Survey of England and Wales (CSEW) in England and Wales. Unfortunately, although there is data on serious violent crime in the American survey, there is only data on a very much wider category of violence in the CSEW. We therefore develop a different approach using police-recorded crime data,<sup>5</sup> and we will show (section 3.2) that it is possible to put upper and lower estimates on levels of serious violent crime in England and Wales and in the US.

This data is summarized in Table 1, and is justified in detail in Section 3.

**Table 1: The Ratio of Serious Violent Crime and of Homicides, United States, England and Wales, Canada and New Zealand, based on offences per 100,000 of the population.**

|  | US to England<br>and Wales,<br>2008          | US to<br>Canada,<br>2000 | US to<br>New<br>Zealand,<br>2000 |
|--|--|--------------------------|----------------------------------|
| <i>Serious<br/>Violent<br/>Crime<br/>ratio</i> | 3.9 (lower<br>bound)<br>6.9 (upper<br>bound) | 2.3                      | 4.5                              |
| <i>Homicide<br/>ratio</i>                      | 4.6  | 5.5                      | 5.5                              |

Notes: (a) The data are for the calendar years for the US, Canada and NZ, and the 'Financial' years April 1<sup>st</sup> to March 31<sup>st</sup> for E&W. (b) US: The UCR data is from *Crime in the United States 2012*, FBI, Criminal Justice Information Services Division, Table 1, Col 11. (c) E&W: Data are from *Crime in England and Wales*, ONS, Quarterly 1<sup>st</sup> Release to March 2012, rows 5A for lower and 8F for upper bound. (d) The Canadian data are from Gannon (2001a and b); e) The New Zealand data are from Segessenmann (2002).

The US/E&W comparative measure of serious violence is a salient research question for a number of reasons.

---

<sup>5</sup> Our approach works along the lines mapped out by one of the ICVS authors, John van Kesteren who, in a recent article, urges 'future studies [...] to [supplement data from victimisation surveys] with more detailed police-recording information on serious crimes of violence' (2014: 70).

First, the most comprehensive comparative data on violent crime (ICVS) has been quite widely used in comparative work<sup>6</sup> notwithstanding its methodological problems. Similar questions can be raised about the United Nations Crime Trends Survey for 2013 (<https://www.unodc.org/unodc/en/data-and-analysis/statistics/data.html>, last accessed on 10 June 2014), whose data for assaults gives the E&W rate at about three times the US rate (US rate 263; E&W rate 724), suggesting that the US rate is based (correctly) on Aggravated Assault data, while the E&W rate is for a much wider category of assaults.<sup>7</sup> The more robust comparative data provided by the European Sourcebook of Crime and Criminal Justice Statistics (Aebi et al, 2010) does not, for obvious reasons, include the US. The Sourcebook uses very fruitful methodology – not dissimilar to the one used in this paper – providing standard definitions of given offences (for assaults ‘inflicting bodily injury on another with intent’ (2010: 350), approximating national data to that definition, and specifying when and how national data diverges from the definition (2010, esp at 350-54; Aebi et al, 2009). However, Sourcebook data for E&W assaults is based on offences of committing GBH with intent to commit GBH, roughly equivalent to s. 18 Offences Against the Person Act 1861, or Home Office recording category 5A (Aebi et al, 2009: 136; compare also Aebi et al, 2009 at 112 and table 2.04 Home Office Statistical Bulletin 06/07: Nicholas et al, 2007: 36). For the reason set out below (sections 2 and 3, esp. 3.2-3.3) we believe that *in a comparison with US aggravated assault*, offences classed as 5A are not sufficient on their own but need to be combined with offences categorised in HO category 8F, including GBH without intent. We argue that the approach developed in this paper is therefore the most promising way to refine our understanding of the relative rates of violent crime in the US and England and Wales.

Second, there is a particular reason to focus on the comparison of serious violence as between England and Wales and the US.<sup>8</sup> Comparative data on most crimes is fraught with problems of definition and validity. It is, however, possible

---

<sup>6</sup> A list of publications ‘completely or mainly based on ICVS data’ can be found on the ICVS site: <http://www3.unil.ch/wpmu/icvs/key-publications/publications-completely-or-mainly-based-on-icvs-data/>. The site also lists publications ‘in which ICVS data is used’: <http://www3.unil.ch/wpmu/icvs/key-publications/publications-in-which-icvs-data-is-used/>, last accessed 23 October 2013.

<sup>7</sup> UN data is collected by means of surveys that are compiled by national criminal justice agencies. The relevant survey portion, directed to the police, defines assault as ‘physical attack against the body of another person, resulting in serious bodily injury, excluding indecent/sexual assault, threats and slapping’. Assaults leading to death are also excluded (<https://www.unodc.org/unodc/en/data-and-analysis/statistics/crime/cts-data-collection.html>, last accessed June 2014). It has not been possible to identify what data has been provided for England and Wales that matches this definition.

<sup>8</sup> The European Sourcebook (Aebi et al, 2010) differentiated in its fourth edition among assaults/bodily injuries (‘inflicting bodily injury on another person with intent’: p. 30) by adding categories of minor and aggravated bodily injury (pp. 42-44), but unfortunately was not able to provide these differentiated figures for England and Wales. From the definition of ‘aggravated assault’ provided by the Sourcebook it appears that the category would, in fact, encompass a sub-set of the offences classed under HO category 5/OAPA s. 18: on our reading of the Sourcebook, and the E&W data, it appears that the level of harm for Sourcebook ‘aggravated assault’ is more serious than that encompassed in the broader ‘grievous bodily harm’ category (Aebi et al, 2010: 353-54). This also suggests that the Sourcebook’s ‘aggravated assault’ is not in fact equivalent to UCHR ‘aggravated assault’.

– for the reasons set out in Section 3 of this paper – to construct very broadly comparative series of serious interpersonal violent crime for the two countries. This pushes the boundary of broadly reliable statistics out from homicide to this further and much larger category of crimes. From a political perspective, it can be argued that this category of offence is one about which voters in advanced countries are greatly concerned (Miller, 2013). From a social science perspective, the particular benefit of comparisons between the US and England and Wales (as well as Canada and New Zealand) is that these countries are ‘similar cases’ in the way in which many political, economic and legal institutions function, from the broad nature of the liberal capitalist system (Hall and Soskice, 2001) to that of the safety net welfare state (Esping-Andersen, 1990) and the competitive political system (Lijphart, 1984), through to a common law legal system (Lacey, 2008).

Third, our data may be useful in one major current debate and in one specific but important policy issue. The debate concerns the role of crime in explaining the distinctive trajectory of American criminal justice since the 1970s. Some scholars have argued that when serious violence reaches a certain level (Peterson and Krivo, 2012), it is of key concern to voters and hence acquires a new degree of political salience (Lacey and Soskice, 2013; Miller, 2013; Kleiman, 2010); and one important study of homicide concluded that ‘America’s special problem is violence and not crime’ (Zimring and Hawkins, 1997: 7).<sup>9</sup> By contrast, several leading scholars have argued that the exceptional level of American punishment in recent decades is a social and political phenomenon – independent of high levels of violent crime (Tonry, 2004; Tonry, 2007; Wacquant, 2010; Western, 2007). One argument in support of this position is that in the UK rates of violent crime are broadly similar to those in the US while incarceration rates are only a small proportion of American rates. Reliable comparative data is therefore crucial to adjudicating between these positions.<sup>10</sup>

The specific policy issue relates to the debate over gun control. The Institute for Legislative Action of the National Rifle Association (NRA-ILA) has claimed that violent crime rates are higher in the UK than in the US, arguing that this suggests that gun ownership reduces violent crime. While the data source is not clear, it seems possible that it may have been derived from a superficial interpretation of the ICVS data on violent crime.<sup>11</sup> (<http://www.nraila.org/legislation/federal-legislation/2011/8/uk-mayhem-leaves-disarmed-citizens-at-t.aspx>;

<sup>9</sup> Our findings are consistent with those of Zimring and Hawkins, and substantially broaden the upshot of their analysis by moving beyond homicide.

<sup>10</sup> A further obvious focus of interest in relation to this question would be intra-US comparisons of the levels of serious violence as between US states. However, the existence of distinctive institutional arrangements in the US political and criminal justice systems quite generally means that it is also important to try to establish a clearer comparative picture at the national level.

<sup>11</sup> For recent analyses of the links between gun ownership and violence, also based on the ICVS but yielding different, more complex conclusions see: Van Kesteren 2014 (for an over-view of macro-level studies on the gun-crime link see p.55).

<http://www.fraserinstitute.org/publicationdisplay.aspx?id=13506>, last accessed on 21 June 2014). This underlines a more general point about the need for transparency in methods of data collection and analysis, as well as a more general issue about the use of such data for political purposes.

## 2. THE LEGAL BACKGROUND

As explained above, our argument turns on the *instructions to those recording crime issued by the Home Office in England and Wales and by the FBI in the US*. Since much of the debate thus far has turned on the legal definitions of the relevant offences, and since the recording instructions in each country refer to those offences, we offer in this section a brief survey of the relevant offences, as well as reasons for thinking that, despite their technical differences, they may not be as different, even as a matter of legal interpretation, as has generally been assumed.

The basic definitions of the main offences in question are as follows:

*Aggravated Assault under the Model Penal Code 211 (1) (2) (US) (AA)*<sup>12</sup>

- a) requires that the offence causes or attempts to cause ‘serious bodily injury’; There are three types of *mens rea* contained in the requirement that the offence is carried out ‘purposely, knowingly or recklessly under circumstances manifesting extreme indifference to value of human life’;
- b) ‘attempts to cause bodily injury with a deadly weapon’.

*Section 18 Offences Against the Person Act 1861 (England and Wales) (s.18) – Wounding/Causing Grievous Bodily Harm with Intent*

‘Whosoever shall unlawfully and maliciously by any means whatsoever wound or cause any grievous bodily harm to any person [...] with intent, to do some grievous bodily harm to any person [*mens rea* i], or with intent to resist or prevent the lawful apprehension or detainer of any person, [*mens rea* ii] [...]’

*Section 20 Offences Against the Person Act 1861 (s.20) – Malicious Wounding/Inflicting Grievous Bodily Harm*

‘Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty [...]’ [where the *mens rea* is foresight that the victim might suffer *some* harm]

---

<sup>12</sup> The Model Penal Code has not been adopted uniformly across the United States (Robinson and Dubber, 2007: 319). However, ‘since its introduction the [MPC] has served as the basis for wholesale replacement of existing criminal codes in almost three quarters of the states’ (Robinson, 2010: 565) and has been adopted with only minor revisions in several more (Robinson, 2010: 565; see also Robinson and Dubber, 2007: 326-7). As such the MPC offers the best available basis for our discussion of legal definitions of interpersonal violence. More significantly for our purposes, the MPC definition of AA is the basis for police recording guidelines (see Section 4).



It is apparent that, on the pure basis of the legal definitions of aggravated assault on the one hand and sections 18 and 20 on the other, there is a lack of fit between the two groups of assaults. Most obviously, section 18 has a more stringent *mens rea* requirement (intent) than aggravated assault, while section 20 has a less stringent one than aggravated assault in that it can be committed recklessly as to some bodily harm (*R. v Savage and Parmenter* 1992) and irrespective of extreme indifference to human life. AA includes the offence under 211(1)(2) b). Since this offence is an ‘attempt’, it requires proof of intention. However, the attempt is to cause ‘bodily injury’ and not ‘serious bodily injury’; (attempts to cause serious bodily injury with or without a deadly weapon are included in 211(1)(2)a)). *Prima facie* this is broader than S18; for example, using a gun in an attempt to bruise someone is not an offence under S18.

S18, conversely, includes the offence with *mens rea* ii which is not included under AA. This is a small category numerically. But in any case, given that the point we wish to establish is that the ICVS’s finding of England’s high levels of interpersonal non-fatal violence as compared with the US is exaggerated, the fact that including *mens rea* ii makes S18 larger is relatively unproblematic in that it makes our argumentative task harder rather than easier.

The key issue about the comparability of the *mens rea*, notwithstanding the possibility of recklessness as well as intent, is the inclusion in AA of the requirement that the offence is carried out ‘under circumstances manifesting extreme indifference to the value of human life’. As we have noted, this is a much narrower test than in, say, section 20 OAPA 1861, where the recklessness need only be as to some physical harm (*R v Savage and Parmenter* 1992). In fact one might argue that it is not so different from the section 18 test, in that it comes close to the definition of intention established in an important series of English cases from *Moloney* to *Woollin* (*R v Moloney* 1985; *R v Woollin* 1998). These held that where an outcome is so probable that the defendant must have realised it was virtually certain, juries are to be directed that they may infer that it was intended even if there is no direct intent – in other words, even if it is not proven to have been the offender’s purpose to cause the (virtually certain) result. While only a tiny fraction of cases ever comes before a jury, and not all of these require a judicial direction on intent, this technical provision shows that, even in those rare cases where the defendant’s intention becomes a key legal issue, evidential proxies short of clear proof of direct intention may be relied upon for the purposes of classification. As we shall see, this is yet more true of the norms that govern recording practices (section 3.2).

If a defendant charged with AA was indeed aware of what he was doing and did it ‘under circumstances manifesting extreme indifference to the value of human life’, a natural interpretation – absent any mental incapacity excuse or other unusual circumstance – is that he was aware that serious injury or death was likely to result but was unconcerned. But the key comparative question is how an offence in which the defendant was aware that serious injury or death was likely to

result from his action, and knew that he was undertaking the action but did not explicitly have the intent to produce serious injury or death – a central case of AA in the US – would be treated by the police who determine what goes into the official records in England and Wales. Here, we argue, the detailed administrative instructions issued to recording authorities in each country become crucial.

### 3. HOW THE DATA ARE COMPILED

In this section we explain in detail how police recording of serious violent crimes is structured in the US and in England and Wales. This is on the basis of relatively precise instructions by the FBI to local police forces, contained in the Uniform Crime Reporting Handbook for the US, and by the Home Office in England and Wales in the periodically revised HO Counting Rules. Both sources give a large number of examples which enable us to ‘match’ categories of offences in the two countries. It goes without saying that (apart from homicides) data on comparative crimes are bound to have substantial measurement error. However, as shown in the last section, in both countries there are criminal assault offences in which serious physical violence is present and/or intended, so categories of crime do exist that *prima facie* cover similar conduct. We argue below that we can make meaningful comparisons of the American offence of ‘aggravated assault’ and the English offences of ‘grievous bodily harm’ section 18 (with intent, hence more serious) and section 20 (less serious) based on police recording, at least giving upper and lower bounds in the period 2008 to 2010.

The main statistical problems in compiling a reliable basis for comparison come from the English rather than the American data. The UCR has remained broadly consistent in coverage and recording procedures over a long period of time.<sup>13</sup> The framework for police recording of serious violent crime in England remained unchanged from 1960 until the early-mid 1990s. But at that point a political debate on violent crime developed, leading to a widespread view that serious violent crime was being heavily under-recorded by the police. The period from the mid-1990s to 2008 was accordingly one of a series of major and minor changes in recording procedures and HOCs. Indeed, the major procedural changes in police recording of 2002-3, under the NCRS, are thought to have taken several years of ‘bedding-down’. 2008/9 is the first year when the number of both s18 and s20 offences are published; but it marks the high point of reliability, as recent work suggests that police recording of offences known to them has declined since then (although this is unlikely to have affected the recording of serious violent crime as much as more minor offences).<sup>14</sup>

---

<sup>13</sup> See Baumer and Lauritsen’s cautionary note on US reporting rates over time (2010: 173).

<sup>14</sup> The ONS view is that reliability of police recording fell again after 2007/8, though the effect was probably small in 2008/9 when the police data for the first time distinguish s18 and s20 offences from less serious ones. Since then, reliability has fallen again; in January 2014 the UK Statistics Authority withdrew gold standard status from police recorded crime data; <http://www.theguardian.com/uk-news/2014/jan/15/police-crime-figures-status-claims-fiddling>, last accessed on 4 February 2014.

The criteria for police recording are broadly based on these legal definitions (discussed in section 2). However, the precise instructions do *not* require that the police give a technical legal justification for their classification; indeed a number of US states have somewhat different legal offences,<sup>15</sup> but their police forces are still required to use the UCRH rules. Police recording must not be based on prosecution (or judicial) decisions if these differ from the recording criteria.

There is an alternative to the police recording system of estimating crimes in the two countries based on crime victim surveys: in the US, the National Crime Victimization Service [NCVS] and in England and Wales the British Crime Survey, renamed the CSEW. The NCVS is useful as it has the category of AA offences. Unfortunately the CSEW has no category of serious violent crime, but only a very much broader category of ‘wounding’, leading us back to police recorded offences as a better measure with which to compare violent interpersonal crimes across the two nations.

Based on the instructions given in the FBI’s UCRH and the Home Office’s NCR counting rules, we can be reasonably confident that the definition of AA is such that it has a wider reach than Section 18 offences and a narrower reach than Section 20 offences: in other words, if the English police applied the AA definition to assaults in England and Wales, they would record more assaults than would be recorded under the more serious Section 18 alone, but fewer assaults than they would have recorded under Sections 18 and 20 together.<sup>16</sup>

To justify this claim, we make five points: (1) That the Home Office Counting Rules for 2008/9 under the NCRS for the first time explicitly record the number of s18 and of s20 offences known to the police. By this date the NCRS procedures for recording serious violent crime were probably reasonably effective compared to previous periods. We will refer to this data source as recorded under NCRS. (2) That the instructions for AA offences in terms of ‘intent’ are somewhat weaker than for s18 offences, thus suggesting that at least some (but probably not most) offences classified as s20 in the NCRS would be classified as AA in the UCR. (3) That the examples of injuries given in UCRH and the HOCR show that the terms ‘grievous bodily harm’ in s18 and s20 offences and ‘severe or aggravated bodily injury’ in AA offences (or other similar phrases) are broadly interchangeable. (4) That reasonable upper bounds can be put on the relative rate of AA offences in the US and s18 and s20 offences in England and Wales not recorded by the police, by drawing on the NCVS and the CSEW in relation to the UCR and the NCRS. (5) That the hierarchy rules and the counting rules in terms of offence per victim are similar for UCR and NCRS. In subsection (6), we then note the need for some minor adjustments, for example to take account of the fact

<sup>15</sup> See Robinson and Dubber, 2007: 320; Robinson, 2010.

<sup>16</sup> To the extent that part of the recording error identified by HIMC concerned offences of GBH with intent being recorded as GBH without intent (HMIC, 2009: 12), aggregating s. 18 and s. 20 offences also helps us iron out this specific recording inaccuracy.

that ‘attempted murder or killing’ is part of AA offences in the US but not s18 offences in England and Wales.

*(1) The Use of NCRS Data 2008/9*

The Home Office has changed its counting rules used in compiling the NCR on a number of occasions; since the late 1990s, in 1998-9, in 2002-3, in 2008-9 and again in 2012/13.<sup>17</sup> In addition the procedural framework was changed in a major way in 2002-3 with the introduction of the NCRS (see above). It is widely agreed, including by Home Office researchers, that each of these changes had the effect of increasing the numbers of recorded violent crimes, at least until the late 2000s (Povey and Prime, 1999; Hough et al., 2005; Reiner, 2007: 70-71; Simmons et al., 2003; Walker et al., 2006).

For instance, the Home Office estimated that the changes in 1998-9 inflated the violence against the person count by over 120% (Hough et al., 2005: 28). Moreover, ‘[...] changes would have taken several years to bed in [...] the changes will have artificially inflated the count of crimes each year, as officers across the country became more aware of, and compliant with, the new procedures’ (Hough et al., 2005: 28). This seems of particular relevance for the major changes of 2002-3. Thus, the NCRS data in the late 2000s uses counting rules that lead to the recording of a greater proportion of violent crime than does the data for any previous year. For the purposes of our argument, 2008-9 HOVR is therefore the most suitable set of rules in that it provides the most rigorous benchmark for testing our claim.

In addition, and for our purposes most significantly, the 2008-9 Home Office counting rules enable us (more or less) to distinguish Section 18 and Section 20 offences, which was not previously possible: from 2008-9 on, the Home Office classification 5A consists of Section 18 offences together with a numerically insignificant number of other related offences (below), and Home Office classification 8F consists of Section 20 offences. Finally, the NCRS systematised procedure is believed to operate to catch a wide number of the most serious violent crimes; and as with the UCR rules there is no reason to believe that there are major discrepancies in recording practices across police forces (prosecutors play no role in the way the statistics are collected in either jurisdiction). Thus we look at the 2008-9 HOVR rules used in the NCR data for classifying offences in England and Wales involving Grievous Bodily Harm (broadly Section 18 and Section 20 offences) and at the 2004 UCR Handbook rules, still applicable from 2008 on, for classifying offences in the United States involving serious bodily injury (Aggravated Assault).

It is unfortunately the case that the Home Office Counting Rules were changed again from 2012/13 onwards. In HOVR 2012/13, the division between Section 20 offences and the less serious Section 47 offences (assault occasioning

---

<sup>17</sup> On the importance of understanding counting rules, and the breadth of the England and Wales definition of violent crime see Lewis, 2010: 11.

actual bodily harm) is again dropped, so from now on it will not be possible to know the number of criminal assaults in which grievous bodily harm was present. Whatever the Home Office's motivation, this is a most unhelpful change for research on serious violent crime in the UK; and for the untutored reader of the data, crime involving grievous bodily harm will appear to have been greatly reduced.

Thus, we confine our attention to 2008/9, while providing data for 2009/10 and 2010/11 for comparative purposes.

*(2) Comparing the detailed rules for recording offences in the US and in England and Wales*

We next set out the definitions of and guidance related to classifying the offences, for the purpose of crime recording, using UCRH 2004 for AA and HOCR 2008-9 for Section 18 and Section 20 GBH offences. It is worth repeating that *in both crime-recording systems these definitions are independent of prosecutorial policy*. As the UCR Handbook explains for the US: 'Prosecutorial policy in a jurisdiction must not dictate an agency's classification of an assault. Reporting agencies must examine and classify assaults according to the standard UCR definitions, regardless of whether they are termed misdemeanors or felonies by local definitions' (UCRH, 2004: 27). Similarly, in HOCR 2010 the Assault Flow Chart makes it clear that prosecutorial decisions play no part in the recording category (<http://webarchive.nationalarchives.gov.uk/20110218135832/http://rds.homeoffice.gov.uk/rds/pdfs10/countviolence10.pdf>, last accessed 29 July 2013).

*Aggravated Assault*

Aggravated Assault (AA) is defined in UCRH 2004 as: 'An unlawful attack by one person on another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm' (UCRH, 2004: 23).

The UCRH classifies AA into four groups, according to the type of weapon that is used:

- Aggravated Assault – Firearm (4a)
- Aggravated Assault – Knife or Cutting Instrument (4b)
- Aggravated Assault – Other Dangerous Weapons (4c)
- Aggravated Assault – Hands, Fists, Feet, Etc. – Aggravated Injury (4d)

In relation to the first three categories: 'All assaults by one person upon another with the attempt to kill, maim, or inflict serious bodily injury with the use of any dangerous weapon are classified as Aggravated Assault. It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon that could cause serious personal injury is used' (UCRH, 2004: 24). Given that all these assaults involve an '*attempt* to [...] inflict serious bodily injury', the classifying criteria appear to require intent. While no reference is explicitly made to intent in

the examples given (1) to (8), (UCRH, 2004: 23-24), it would be difficult to imagine intent not being present, though just arguably the intent might have been to commit a less serious assault.

Agencies are further advised to take three factors into account in classifying the offence: (i) the type of weapon employed or the use of an object as a weapon (ii) the seriousness of the injury (iii) the intent of the assailant to cause serious injury. 'Often the weapon used or the extent of the injury sustained will be the deciding factor in distinguishing aggravated from simple assault. In only a limited number of instances should it be necessary to examine the intent of the assailant' (UCRH, 2004: 27).

The language used in the UCRH is at times somewhat loose (as it is in the HOCR). The most straightforward reading of the last quotation is that if *either* a deadly weapon has been used (as specified under 4a to 4c) *or* serious bodily injury resulted, that will normally be a sufficient condition for an AA classification. In 4d, 'the seriousness of the injury... is the primary factor' (UCRH, 2004: 25). It will not normally be necessary to examine intent because this will have been obvious from the circumstances. However, it follows that it is in principle possible that offences in which a deadly weapon has been used without the intent to commit serious bodily injury are sometimes classified as AA.

#### *Section 18 and Section 20 Offences.*

Offences in England and Wales involving grievous bodily harm are classified into two categories, 5A and 8F, the two relevant categories in HOCR 2008-9. Broadly 5A correspond to Section 18 offences, grievous bodily harm with intent, and 8F corresponds to Section 20 offences, grievous bodily harm without intent. In 5A and 8F a numerically small number of related offences are included, to do with endangering life.<sup>18</sup> Less serious assaults (occasioning actual bodily harm) correspond to Section 47 of the OAPA (1861) and are classified under 8G.

HOCR 2008/9 (5A Classification 2 of 3) gives the following recording instructions for Section 18 offences:

If there is intent to commit GBH, record under class 5A, otherwise record under 8F [Section 20 offences, *our addition*] or 8G [Section 47 offences of assault occasioning actual bodily harm, *our addition*]. The gravity of the injury resulting is not necessarily the determining factor.

The following factors **may** indicate intent:

- Use of a firearm
- Use of a knife
- Use of other made offensive weapons
- Other object used as a weapon but not necessarily during instant arming
- Glass-bottle smashed and used to assault

---

<sup>18</sup> See fn 5 of Appendix to ONS User Guide 2013, Table A4 Notes.

- Repeated kicks to the head
- Indication of pre-planning
- Words spoken by the assailant
- Ferocity and/or length of time of any assault

[...] If any of these factors are present and the actions result in really serious bodily harm then record an offence under class 5A. If the elements of intent are present and the actions of the offender show a deliberate attempt to inflict serious bodily harm yet the resulting injury does not constitute serious bodily harm then record an offence under class 5A.

The AA rules are couched somewhat differently to the Section 18 (5A) rules but they have a very similar coverage. Both AA and Section 18 require intent to cause serious injuries and the conditions for showing intent when serious injury is present seem similar: for Section 18 if any of the indicative factors are present, e.g. the use of a firearm, then serious injury constitutes a Section 18 offence, without further need to show intent: this is similar to AA.

In so far as there is a difference, it is this: in UCRH in the event of an assault without serious injury, the use of (e.g.) a firearm by itself constitutes an AA (UCRH, 2004: 24). Since AA requires intent, according to our reading of the UCRH the presumption is that the use of a firearm is sufficient evidence of intent to commit serious bodily injury. In HOCR as in UCRH, in the *presence* of serious injury, the presumption is that the use of a firearm (or whatever other 'element indicating intent') will generally be sufficient evidence of intent to commit serious injury. By contrast, however, if there is not serious injury, stronger evidence of intent appears to be called for in HOCR than UCRH: 'If the elements of intent [e.g. use of a firearm] are present and the actions of the offender show a deliberate attempt to inflict serious bodily harm yet the resulting injury does not constitute serious bodily harm then record an offence under class 5A.' In other words there is an additional requirement that 'the actions of the offender show a deliberate attempt to inflict serious bodily harm' in the case where the offence is classified as 'attempt to inflict grievous bodily harm'. In the practical context of decisions about recording crime the use of a firearm is mandated as an evidential proxy for intent in both England and Wales and the US. Thus, while non-harming threats involving weapons are explicitly covered by AA in the US but not by class 5A in England and Wales, in practice such threats will generally be recorded under class 5A because they amount to attempts. There are exceptions to this practice, for example in cases of instant arming (which HO rules specifically exclude from category 5A: see above).

Thus, our view is that AA is close to Section 18 (5A) offences when a serious injury is present; but it may be somewhat broader by not requiring additional proof of intent than the use of a weapon as described in sections 4a to 4c UCRH, where the injury is not sufficiently serious to itself be a proxy for intent. Thus, it

may cover cases which in England and Wales would be classified as Section 20 (8F), where in England and Wales – in the absence of sufficiently serious injury – the relevant weapons are not sufficient for establishing intent in themselves. In those cases the UCHR uses more generous evidential presumptions to indicate intent (see Table 2). This means that s.18 (5A) alone would be too narrow to directly compare to AA and, being unable to speculate just how many s.20 (8F) events would be classed as AA were they recorded under UCHR, we use s.20 offences as an upper bound for our comparison. A quite conservative position, in terms of the point that we wish to establish, is therefore to say that Section 18 together with Section 20 offences have at least as large a coverage as AA offences. We now turn to this issue.



**Table 2: Comparison of detailed rules for recording violent offences in US and England and Wales**

|  |   | Factors to consider when classifying offence   |   |   |   |
|--|---|--|---|---|---|
|  |   | Serious injury   | Intent to commit serious injury   | Weapon & Serious Injury   | Weapon  |
| <b>Offence categorisation under US recording rules</b>         | <b>Aggravated Assault – UCRH</b>  | Class as AA if injury sufficiently serious and no further evidence of intent required.   | Consider intent if injury/weapon not enough to define as AA.<br><br><i>AA is broader than HO category 5A, for which intent requirements more stringent.</i> | Class as AA if injury sufficiently serious and/or deadly weapon used.   | Class as AA if weapon evidence of intent.<br><br><i>If deadly weapon used then AA may be broader than HO category 5A. Under UCRH deadly weapon is proxy for intent.</i>   |
| <b>Offence categorisation under England and Wales HO rules</b> | <b>More serious wounding or other act endangering life – HO Category 5A</b> | Class as 5A if combined with intent to commit GBH.   | Class as 5A if combined with serious injury <u>or</u> incident amounts to attempt to commit GBH with intent.  | Class as 5A if weapon evidence of intent to commit GBH.   | Class as 5A if weapon evidence of intent to commit GBH, and incident therefore attempt to commit GBH with intent.   |
|  | <b>GBH without intent – HO Category 8F</b>                                  | Class as 8F if no intent to commit GBH.<br><br><i>Under UCRH rules this may be AA if injury is sufficiently serious and no further evidence of intent is required.</i> | Not required for 8F. If present record as 5A.   | Class as 8F if weapon is <u>not</u> evidence of intent to commit GBH, e.g. in instant arming.<br><br><i>Under UCRH this will be AA if weapon is sufficient evidence of intent e.g. in cases of deadly weapons.</i><br><br><i>Here AA may be broader than 5A and therefore spill over into 8F.</i> | Class as 8F if there is serious injury and weapon is not enough to make incident an attempt to commit GBH with intent.<br><br><i>Under UCRH this will be AA if weapon alone is sufficient evidence of intent.</i><br><br><i>Here AA may be broader than 5A and therefore spill over into 8F</i> |

*(3) The definition of 'serious injury'*

The argument so far assumes that 'grievous bodily harm' used in classifying s18 and s20 offences is broadly comparable to 'serious bodily injury' and related terms used in classifying AA offences. So we now examine the relation between the definitions of 'grievous bodily harm' in the 2008/9 HO counting rules and 'serious bodily injury' in the 2004 UCR Handbook.

(a) *England and Wales:* The relevant guidelines are contained in the HO Counting Rules 2008/9. In the HO Counting Rules (5A: Wounding or Carrying out an Act Endangering Life Classification 3 of 3) the definition requires that 'to constitute grievous bodily harm, really serious bodily harm must be caused, "grievous" means no more and no less than "really serious", and there is no distinction between the phrases "serious bodily harm" and "really serious bodily harm"'.

The same section then gives six examples of 'what would usually amount to serious harm':

- injury resulting in permanent disability or permanent loss of sensory function;
- injury which results in more than minor permanent, visible disfigurement; broken or displaced limbs or bones, included fractured skull;
- compound fractures, broken cheekbone, jaw, ribs, etc.;
- injuries which cause substantial loss of blood, usually necessitating a transfusion;
- injuries resulting in lengthy treatment or incapacity;
- psychiatric injury. As with assault occasioning actual bodily harm, appropriate expert evidence is essential to prove the injury.

A series of examples is given about the boundary between wounds that should be classified as grievous bodily harm and those that are more minor. 'Great care should be taken when considering if the wound is minor. Class 8G (for more minor wounds than either s18 or s 20 offences) should *only* [our italics] be used for wounds that require basic first aid or minimal hospital treatment.' (HOCR, 2010 - 8G Classification - 3 of 3). In discussing Section 20 offences (classified as class 8F), example 2 under 8F Counting Rules 1 of 1, a victim has a wound under her eye that 'requires stitching at hospital'. This is thus a sufficient condition for the wound to be 'grievous bodily harm'. In the Assault flow diagram in the HOCR 2010, the two most serious injuries listed for the injury not to count as grievous bodily harm are 'a simple broken nose', 'loss of or broken tooth' and 'a broken finger or a broken toe with no intent to cause serious injury'. These are given as examples of the injury only requiring 'basic first aid or minimal hospital treatment'.

(b) *The United States:* The relevant counting rules are provided in the 2004 UCR Handbook. This does not define serious bodily injury, but it gives examples: '[...]

the personal injury is serious, for example, [if] there are broken bones, internal injuries, or stitches are required', (UCRH, 2004: 25). In the two explicit examples given: '[...] [a] man suffered an abrasion and a broken wrist;' and '[a man] slapped [a woman] [...] and broke her jaw', (UCRH, 2004: 25)

In conclusion, there does not seem to be a significant difference in the broad usage of 'serious bodily injury' in AA and 'grievous bodily harm' in s18 and s20 offences. All the examples of 'serious bodily injuries' in UCRH would be classified under 5A or 8F (in effect, s18 or s20) in the HOCA guidance, according to the Assault flow chart.

#### *(4) Police recording practices*

The next major issue is this: do the American and English police forces differ in the extent to which actual offences are recorded under AA and under s18 and s20 respectively? In the absence of direct and detailed empirical research, we can nonetheless get some critical purchase on whether our assumptions are robust by assessing the police recording data against the benchmark of the existing crime surveys. We do not, of course, know the number of offences under these categories actually committed, but crime victim surveys provide a reasonable guide to the number of actual offences. Using the NCVS in the US, the rate per 100,000 population of AAs in the NCVS was 330 in 2008, 320 in 2009 and 280 in 2010 (Bureau of Justice Statistics, 2009, 2010). This is relatively similar to the UCR rates for the corresponding years, 274.6 in 2008, 264.7 in 2009 and 252.3 in 2010, (FBI, 2008, 2011)<sup>19</sup>. The ratios of the UCR rate to the NCVS rate are 83.2% in 2008, 82.7% in 2009 and 90.1% in 2010 or on average 85% over the three years. Hence this suggests that the number of UCR AAs is a reasonable ball-park estimate of the number of actual AAs, although underestimating the NCVS rate by around 15%.

In England and Wales, the CSEW does not have individual data on categories of s18 and s20 GBH assaults (5A and 8F respectively in HOCA), but only a much larger category of violence against the person offences (this is presumably due to the sample size: if the CSEW did have such data, this paper would be much shorter!). This is the category of 'wounding', and notably includes, as well as s18 and s20 GBH offences, the large ABH category (8G in HOCA), as interpreted by CSEW interviewers. For the reasons given earlier we focus on 2008/9 (section 3.1). The total number of 'woundings' in the CSEW 2008/9 survey is 498,000. If we add these categories up in the NCRS police recorded offences we get 414,077 (22,663 s18 and 5A in the HOCA; 17,159 s20 and 8F; and 374,255 s47 and 8G). In terms of rate per 100,000 population, CSEW woundings are 853 and NCRS 760.4.

---

<sup>19</sup> The population in the NCVS case is population over the age of 12, living in households, the correct deflator since the survey is of those 12+ living in households. The population in UCR is total population, again the correct comparator.

The NCRS rate is 89.1% of the CSEW rate: so again these are in the same broad ball park, with a shortfall of 11%.

The NCRS rates of s18 and s20 GBH offences in 2008/9 are 70.8, namely 40.5 and 30.3 respectively. These are much smaller than the figure for the NCRS wounding rate of 760.4. These GBH offences are for very serious injuries, and it seems very probable that a high proportion would come to the attention of the police. There is clear evidence in the US, from a study using NCVS microdata, that the probability of a victim reporting a crime to the police increases *inter alia* with the severity of injuries, so that for example 88% of those hospitalised in the NCVS sample reported the crime to the police (Hart and Rennison, 2003). We have not been able to find a similar study in England, perhaps because the sample size for very serious injuries is too small.<sup>20</sup> However we do know, at least for 2008/9, that of offences that come to the notice of the police, the ratio of police recorded crimes of violence to a comparable sub-set of CSEW violent crimes reported to the police or which come to the notice of the police in other ways, was 93% (ONS, 2013: User Guide 2013 Table UG10). Thus, we can have some confidence that the NCRS rates for s18 and s20 offences are unlikely to be hugely short of the mark. There is no reason to believe that the shortfall is substantially different from the average 15% gap for 2008 to 2010 between the NCVS rate and the UCR rate for aggravated assaults in the US. Insofar as there are discrepancies in police recording of violent offences and victimisation levels, a comparison of victim surveys and police records in the US and E&W suggests these discrepancies to be roughly equivalent in both nations, further suggesting that AA and our constructed measure of serious interpersonal violence are indeed comparable.

##### *(5) Minor Adjustments*

(a) Both UCRH 2004 and HOCR 2008/9 require one offence to be counted for each victim.

(b) Hierarchical rules, which determine which offence is to be recorded where multiple offences are committed against a single victim, are broadly similar.

(c) AA includes 'attempts to kill or murder' (UCRH, 2004:24). This is not included in 5A (or 8F) (s18 or s 20) offences, in HOCR 2008/9, but in a separate category HOCR 2. There is no data available in the UCR on the numbers of attempted murders alone. Hence for comparability we add this category, HOCR 2, to s18 offences, s18 (5A). It is a small adjustment to s18 offences as the rate in 2008/9 increases by 1.3 from 51.2 to 52.4 per 100,000 of the population.

(d) Threats and/or conspiracy to murder. This is a separate (large) category in the HOCR, with 9448 offences in 2008/9, and it is not included in 5A or 8F. Nor is violence a part of such an offence. No such category is recorded in the UCRH; AAs require an assault; the only UCRH guidance ('threat to commit violence' –

---

<sup>20</sup> The recent studies of Accident and Emergency admissions (Sivarajasingam et al, 2012; Shepherd, 1990), which give valuable insights into trends in serious violence, only cover a sample of A&E units.

see UCRH, 2004:26) is that threats should be classified as simple assaults.<sup>21</sup> Hence these are excluded from our comparison.

#### 4. SERIOUS INTERPERSONAL VIOLENCE IN OTHER LIBERAL MARKET COUNTRIES

So far we have compared rates of serious interpersonal violence in the United States and England and Wales. Given that no ready comparators exist, we have done so by constructing broadly equivalent measures of violence in the two countries. The (simplified) conclusion of our analysis has been that rates of serious interpersonal violence are significantly higher in the US than in England and Wales.

This section discusses existing studies that compare levels of recorded violence in the United States with two other liberal market systems: New Zealand and Canada. The studies, conducted by the New Zealand Ministry of Justice and the Canadian Centre for Justice Statistics, reveal that levels of interpersonal violence are higher in the US than in either New Zealand or Canada.

##### *(1) New Zealand and the United States*

The New Zealand Ministry of Justice report *International Comparisons of Recorded Violent Crime Rates for 2000* compares violent crime in New Zealand with violent crime in four other nations, including the United States and England and Wales (Segessenmann, 2002). The report notes that country differences in legal definitions, and definitions used for statistical recording, make international comparisons particularly difficult (Segessenmann, 2002: 1). In order to overcome this obstacle, the report constructs measures with which to compare rates of violent crime in New Zealand to rates of violent crimes elsewhere. For example, where the US is concerned, the report uses the American definition of AA as its base line and then selects the relevant New Zealand recorded crime data (coded under 'police event type codes'). The constructed value includes attempted murder and all assaults that fall under the 'grievous assault' category<sup>22</sup> (Segessenmann, 2002: 13) such as assault with a weapon, wounding with intent or injury with intent.<sup>23</sup>

Comparisons between US AA and the New Zealand equivalent reveal that in 2000 the US rate was 323.6 per 100,000 compared to a New Zealand rate of 71.2 per 100,000 (Segessenmann, 2002: 4). Rates of serious interpersonal violence were thus approximately 4.5 times higher in the US than in New Zealand.

<sup>21</sup> Recall that threats with a weapon are recorded as aggravated assaults.

<sup>22</sup> Police event type code 1400: see Segessenmann, 2002: 14. Note also analogies with the European Sourcebook's approach (Aebi et al, 2010).

<sup>23</sup> For a full definition see Segessenmann, 2002: 1 and 13-17. See also Statistics New Zealand, 2006: 13.

The report's comparison between New Zealand and England and Wales uses a much broader category of 'violence against the person'.<sup>24</sup> For our purposes it is nonetheless significant that rates of 'violence against the person' were 1131 per 100'000 in England; 1140 in Wales; and 1099.1 in New Zealand (Segessenmann, 2002: 8). Assuming that the proportion of violent crimes in the two countries has remained unchanged between 2000 and 2008, this suggests that levels of recorded violence in England and Wales and in New Zealand are broadly comparable. This indirectly bolsters our findings that levels of serious violence are lower in England and Wales than in the United States.

## *(2) Canada and the United States*

The Canadian Centre for Justice Statistics has undertaken a *Feasibility Study on Crime Comparisons Between Canada and the United States* (Gannon, 2001a) to 'determine if police-reported crime categories could be compared' between the two nations (Gannon, 2001a: 4). The report focuses on the eight US 'index' crimes, including aggravated assault.<sup>25</sup> It concludes that comparisons can be made for seven out of the eight offences, directly (for homicide) or with some modifications.

In order to compare the US category of AA with Canadian data, a new category was constructed aggregating three Canadian offences: aggravated assault, assault with a weapon and attempted murder (Gannon, 2001a: 9). The Canadian Criminal Code defines an 'aggravated assault' as one that 'wounds, maims, disfigures or endangers the life of the complainant' (s. 268.1). As noted in the feasibility study, this definition 'is remarkably similar' to the US definition of AA (Gannon, 2001a: 8 - compare UCHR, 2004: 23). However US AA also includes assault with a weapon and attempted murder, which are recorded separately in Canada (Gannon, 2001a: 8-9). When these two categories are added to aggravated assaults, they yield a comparable Canadian category that represents 'the most serious form of assault, including actual and potential infliction of severe bodily harm' (Gannon, 2001b: 5).

A comparison of US and Canadian serious interpersonal violence (Gannon, 2001b) reveals that in 2000 the US had an AA rate of 324 per 100'000, relative to Canada's rate of 143 per 100'000 equivalent assaults. The US rate was thus 2.3 times higher than the Canadian (Gannon, 2001b: 5).

Comparisons between the US and New Zealand and Canada therefore suggest that where constructed categories of (recorded) serious interpersonal violence are compared, the United States emerges as having far higher rates of violence than comparable countries such as New Zealand, Canada and England and Wales. In 2000, US rates of violence were more than four times higher than

---

<sup>24</sup> Where the base line for England and Wales includes not just HO category 5 and 8 but also categories such as 105A (common assault). This reveals the breadth of the England and Wales category of (undifferentiated) 'violence against the person': Segessenmann, 2002: 15. Cf. Lewis, 2010: 11.

<sup>25</sup> Index crimes are criminal homicide; forcible rape; robbery; aggravated assault; burglary; larceny-theft; motor vehicle theft; arson.

rates in New Zealand and more than twice the Canadian rates. For the reasons explained above (section 3.1), comparisons between England and Wales and the United States are not readily available for the year 2000. However, on the basis of our calculations, US AA rates in 2008 were between three and seven times higher than comparable rates in England and Wales – a finding which is substantially in line with the other studies analysed in this section, and with the broad differentials suggested by homicide rates.

## 5. CONCLUSION

In conclusion, on the basis of the best evidence available, there is strong reason to think that the scale of serious violent crime in the US is significantly larger than that in not only England and Wales but also other liberal market countries such as Canada and New Zealand, confirming the basic comparative picture given by the homicide rates which have featured as the standard comparator in much of the existing literature. The fact that only about 25% of AA offences in the US involve a firearm (<http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/aggravated-assault-table>, last accessed on 21 June 2014) gives further reason to think that the comparatively high levels of fatal and non-fatal violence in the US are driven by more complex factors than simple country differences such as the use of firearms.<sup>26</sup> We should be clear that we are not claiming to have found an accurate way of capturing comparative levels of interpersonal violence in the two countries: the complexities of offence definition and the vagaries of policy, resource provision and the dynamics of the relevant bureaucracies in shaping recording practice over time in the two countries, makes any such aspiration unrealistic. What we do suggest is that our claims made on the basis of the comparative measure that we have developed with its upper and lower bounds need to be taken seriously. They are an important corrective to the misperceptions of comparative levels of serious violence which some have drawn from the ICVS. This in turn, we claim, is of real significance to the broader debate about the role of violence and perceptions of violence in shaping the development of penal policy. Without some reliable sense of the levels of serious violence in the US as compared with other liberal market countries, it is hard to see how the

---

<sup>26</sup> The question of what contribution levels of gun ownership make to the amount and seriousness of violent crime is an independent and important question that cannot fully be addressed in this paper, though we hope to work on it in future. For a thoughtful analysis of the comparative victimisation data in this area, see Van Kesteren's recent contribution to the debate (2014). Van Kesteren in effect draws the conclusion that significant forms of violent crime are higher in the US than in England and Wales, or indeed New Zealand, Australian and Canada, *even on ICVS measures*. Figure 2 of the article – mapping five-year prevalence rates for contact crimes involving firearms – schematically illustrates this conclusion (Van Kesteren, 2014: 61).

comparative analysis, which is widely recognised to be needed in criminal justice scholarship, can be achieved.



## CASES CITED

R.v. Moloney [1985] 1 All ER 1025; (1985) Crim.L.R. 378; [1985] AC 905;

R v Savage; DPP v Parmenter. [1992] 1 AC 699 HL.

R.v. Woollin [1998] 3 WLR 382

## BIBLIOGRAPHY

Aebi, MF., Aubusson de Cavarlay, B., Barclay, G., Gruszczyńska, B., Harrendorf, S., Heiskanen, M., Vasilika, H., Jaquier, V., Jehle, J.-M., Killias, M., Shostko, Smit, P., Pórisdóttir, (2010) *European Sourcebook of Crime and Criminal Justice Statistics (2010) (Fourth Edition)*. (The Hague: Bibliothek WODC).

Aebi, MF et al (2009), *Raw Data for the 4<sup>th</sup> Edition (2010) of the European Sourcebook of Crime and Criminal Justice Statistics 2003-2007*. (The Hague: Bibliothek WODC).

Baumer, E and Lauritsen, J (2010) 'Reporting Crime to the Police, 1973-2005: a Multivariate Analysis of Long-term Trends in the National Crime Survey (NCS) and National Crime Victimization Survey (NCVS)'. *Criminology* 48(1): 131-185.

Bureau of Justice Statistics, *Criminal Victimization*, Bulletin. successive issues

Cavadino M and Dignan J (2006) *Penal Systems A Comparative Approach*. London: SAGE Publications.

Downes D (1988) *Contrasts in Tolerance*. Oxford: Clarendon.

Esping-Andersen, G (1990) *The Three Worlds of Welfare Capitalism*. Cambridge: Polity Press

Farrington D, Langan P and Tonry M. (2004) *Cross-National Studies in Crime and Justice*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.

Federal Bureau of Investigation (2013) *Crime in the United States*. Washington DC: FBI, Criminal Justice Information Services Division.

[http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/1tabledatacoverviewpdf/table\\_1\\_crime\\_in\\_the\\_united\\_states\\_by\\_volume\\_and\\_rate\\_per\\_100000\\_inhabitants\\_1993-2012.xls](http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/1tabledatacoverviewpdf/table_1_crime_in_the_united_states_by_volume_and_rate_per_100000_inhabitants_1993-2012.xls). Table generated June 2013.

FBI (2004) *Uniform Crime Reporting Handbook*. Washington, DC: US Department of Justice.

Flatley J, Kershaw C, Smith K, et al. (2010) *Crime in England and Wales 2009/10*. London: Home Office Research and Statistics Directorate.

Flatley, J, and Bradley J (2013) 'Analysis of Variation in Crime Trends: A study of Trends in "Comparable Categories between the CSEW and Police Recorded Crime Series between 1981 and 2011/12"', *Methodological Note*. London: Office of National Statistics.

Gannon, M (2001a) *Feasibility Study on Crime Comparisons between Canada and the United States*. Ottawa: Canadian Centre for Justice Statistics, Statistics Canada. Reproduced on an 'as is' basis with the permission of Statistics Canada. <http://www.statcan.gc.ca/eng/reference/licence-eng>.

Gannon, M (2001b) *Crime Comparisons Between Canada and the United States*. Ottawa: Canadian Centre for Justice Statistics, Statistics Canada.

Hall P and Soskice D (eds) (2001) *Varieties of Capitalism*. Oxford: Oxford University Press.

Hillyard, P, Pantazis C, Tombs S and Gordon D (eds) (2004) *Beyond Criminology*. London: Pluto.

Her Majesty's Inspectorate of Constabulary (2009) *Crime Counts. A Review of Data Quality for Offences of the Most Serious Violence*. London: HMIC.

Home Office (2010) *Home Office Counting Rules for Recorded Crime - Violence against the Person*. London: Home Office <http://webarchive.nationalarchives.gov.uk/20110218135832/http://rds.homeoffice.gov.uk/rds/pdfs10/countviolence10.pdf> Accessed July 2013.

Home Office (2012) *Recorded Crime Statistics for England and Wales 1898-2001/2*. London: Home Office <https://www.gov.uk/government/publications/historical-crime-data> Accessed June 2013.

Hough M, Mirrlees-Black C and Dale M (2005) 'Trends in Violent Crime Since 1999/2000'. *A Report by the Institute for Criminal Policy Research, School of Law, King's College London*.

Kleiman M (2010) 'Towards Fewer Prisoners and Less Crime'. *Daedalus* 139: 115–125.

- Lacey N (2008) *The Prisoners' Dilemma*. Cambridge: Cambridge University Press.
- Lacey N and Soskice D (2013) 'Why are the Truly Disadvantaged American?'. *LSE Law, Society and Economy Working Paper Series*.
- Langan P and Farrington D (1998) *Crime and Justice in the United States and in England and Wales, 1981-86*. Washington, DC: US Department of Justice, Bureau of Justice Statistics.
- Lauritsen J and Schaum R (2005) *Crime and Victimization in the Three Largest Metropolitan Areas, 1980-2003*. Washington, DC: United States Department of Justice, Bureau of Justice Statistics.
- Lewis C (2012) 'Crime and Justice Statistics Collected by International Agencies'. *European Journal of Criminal Policy Research* 18(1): 5-12.
- Lijphart, A (1984) *Democracies: Patterns of Majoritarian and Consensus Governments in Twenty-one Countries*. New Haven, Yale University Press 1984.
- Miller L (2013) 'Power to the People: Violent Victimization, Inequality and Democratic Politics'. *Theoretical Criminology* 17(3): 1-13.
- Nicholas S, Kershaw C and Walker A (eds.) (2007) *Crime in England and Wales 2006/7. Home Office Statistical Bulletin 07*. London: Home Office.
- Office for National Statistics (2013) *User Guide to Crime Statistics for England and Wales*. London: ONS.
- Office for National Statistics (2013) *Appendix Tables - Focus on Violent Crime and Sexual Offences, 2011/12*. London: ONS.  
<http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-290621> Accessed June 2013.
- Office for National Statistics (2012) *Crime in England and Wales*. London: ONS.  
<http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/period-ending-march-2012/stb-crime-stats-end-march-2012.html> Accessed June 2013.
- Peterson, RD and Krivo LJ (2012) *Divergent Social Worlds*. New York: Russell Sage Foundation.
- Povey D and Prime J (1999) *Recorded Crime Statistics England and Wales, April 1998 to March 1999*. London: Home office Research and Statistics Directorate.

Pratt J and Eriksson A (2013) *Contrasts in Punishment. An explanation of Anglophone excess and Nordic exceptionalism*, London: Routledge.

Reiner R (2007) *Law and Order: an Honest Citizen's Guide to Crime and Control*. Cambridge: Polity Press.

Robinson P (2010) 'United States', in Heller K and Dubber M *The Handbook of Comparative Criminal Law*. Stanford: Stanford University Press: 563-592.

Robinson P and Dubber M (2007) 'The American Model Penal Code: A Brief Overview'. *New Criminal Law Review* 10(3): 319-341.

Segessenmann, T (2002) *International Comparisons of Recorded Violence Crime Rates 2000*. Wellington: New Zealand Ministry of Justice - Tāhū o te Ture. Published by the Ministry of Justice 2002 © Crown Copyright. Licenced for use under the creative commons attribution licence: [creativecommons.org/licenses/by/3.0/nz](http://creativecommons.org/licenses/by/3.0/nz)

Simmons J, Legg C and Hosking R (2003) *National Crime Recording Standards (NCRS): an Analysis of the Impact on Recorded Crime*. London: Home Office Research and Statistics Directorate.

Shepherd, J (1990), 'Violent Crime in Bristol: An Accident and Emergency Department Perspective'. *British Journal of Criminology* 30: 289-305.

Sivarajasingam V, Wells JP, Moore S, Page N, Morgan P, Matthews K, Shepherd JP, *Violence in England and Wales in 2012: An Accident and Emergency Perspective*. Violence and Society Research Group, Cardiff University.

Statistics New Zealand (2006) *Crime in New Zealand 1996-2005*. Wellington: Statistics New Zealand – Tatauranga Aotearoa.

Stuntz W (2011) *The Collapse of American Criminal Justice*, Cambridge. MA: Harvard University Press.

Tonry M (1999) 'Why Are U.S. Incarceration Rates So High?'. *Crime and Delinquency* 45: 419-137.

Tonry M (2004) *Thinking About Crime. Sense and Sensibility in American Penal Culture*. Oxford: Oxford University Press.

Tonry M (2007) 'Determinants of Penal Policy'. *Crime and Justice* 36.

Van Dijk J, Van Kesteren J, Smit P, et al. (2007) *Criminal Victimisation in International Perspective: Key Findings from the 2004-2005 ICVS and EU ICS*. The Hague: Ministry of Justice, WODC.

Van Kesteren J (2014) 'Revisiting the Gun Ownership and Violence Link'. *British Journal of Criminology*, 54(1): 53-72.

Van Kesteren J, Mayhew P and Nieuwbeerta P (2000) *Criminal Victimisation in Seventeen Industrialised Countries: Key-findings from the 2000 International Crime Victims Survey*. The Hague: Ministry of Justice, WODC.

Wacquant L (2009) *Punishing the Poor: the Neoliberal Government of Social Insecurity*. Durham [NC]: Duke University Press.

Wacquant L (2010) 'Class, Race and Hyper-Incarceration in Revanchist America'. *Daedalus* 10: 74-90.

Walker A, Kershaw C and Nicholas S (2006) *Crime in England and Wales 2005/6*. London: Home Office Research and Statistics Directorate.

Western B (2007) *Punishment and Inequality in America*. New York: Russell Sage Foundation.

Young J (2004) 'Voodoo Criminology and the Numbers Game', in Ferrell J, Hayward K, Morrison W, et al. (eds) *Cultural Criminology Unleashed*. London: Glasshouse.

Zimring, FE (2012) *The City that became Safe*. New York: Oxford University Press.

Zimring, FE and Hawkins G (1997) *Crime is Not the Problem*. New York: Oxford University Press.