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The Sociological Expert Witness in a Case of Collective Interracial Violence

Leonard Gordon
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ABSTRACT

In a case in which riot-melee felony charges were brought against five teenage members of an all-black church in southern Arizona, the legal defense team requested a sociological expert witness. This paper presents 1) the nature of the request; 2) the definition of the situation to determine if serving as a sociological expert witness was an appropriate role; 3) excerpts from the recorded testimony, demonstrating the use of symbolic interactionist emergent norm theory, as an explanation for the defendants' behavior; 4) the disposition of the case; 5) the inherent interventionist advocacy role in expert witnessing; and 6) the implications of sociological intervention by means of the sociological expert witness role, long the primary province of psychology and psychiatry.

This writer's career has involved a mix of basic research on intergroup conflict and conflict resolution processes (e.g., Gordon 1969, 1983) and applied research analysis involving public policy implications (e.g., Gordon 1965, 1978). Late in 1982 a formal request was made by a legal defense team, which would involve a different professional role, that of serving as a sociological expert witness. The request was to serve as an expert witness in a felony court case in order to influence its outcome in a specific way, that of innocence rather than guilt for the defendants (Kerley, 1982).

The case involved a riot on the local high school grounds. Riot-melee felony charges were made against five teenage male members of the all-black Miracle

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Valley Church located in the southern Arizona community of Sierra Vista in Cochise County. The Church had transplanted from Chicago several years earlier. Since the move, church members had had a series of conflicts with white residents and police prior to this case. The resultant community tension was such that a change in venue was court ordered so that the jury selection and the disposition of the case occurred in the city of Tucson in an adjacent county (Varn, 1983b:A).

The case touched both my interracial research interests and my personal value commitment to racial justice. The latter interest related to my humanist commitment, influenced by the works of longtime colleague Thomas Ford Hoult (1975), Lee (1973), Lynd (1939), and others who advocate humanistic sociological intervention. In recent years, this focus has coalesced increasingly into the practice of clinical sociology (Straus, 1979). Yet, with no prior expert witnessing experience, I was not initially clear why I had been asked to serve in the capacity of sociological expert witness for the defense. In this respect I pointed out to the defense attorneys that there were highly capable sociologists with expertise in race relations and collective behavior at the University of Arizona. One of the attorneys, James Kerley, noted that his inquiries of faculty and students at Arizona State University resulted in the request to me.

Before making the commitment to serve as an expert witness I requested background material to help determine if the alleged facts in the case warranted—from both sociological expertise and value orientation perspectives—my entering the case. For this purpose I requested and received a number of available materials on the case including 1) Grand Jury testimony and other depositions supportive of both the defense and prosecution positions; 2) newspaper accounts of the case from the time of the April 20, 1982, riot on the high school grounds; 3) a computer printout on the latest census data for Cochise County, the locale, including racial composition; and 4) flyers which had been known to circulate in the community depicting church members in racially derogatory terms.

Given my ongoing administrative research and instructional commitments, there was not time for field work investigation at the riot site in Cochise County, located about 140 miles from my university. I was able to interview a white former resident of the county who represented a text book company and visited the Arizona State campus. She noted in some detail a number of interpersonal conflicts between members of the Miracle Valley, all-black, Church and Anglo members of the county. As noted in newspaper accounts, she confirmed the emotionally charged negative view of the fundamentalist church held by many Anglos in Cochise County.

I had to rely initially on the supplied materials which documented a number of conflict situations between members of the church and other community residents. Beyond information directly involving the case or its immediate background, I also employed statistical analysis as suggested by Loewen in his *Social Science in the Courtroom* (1982). This included a review of U.S. census and

state data on Cochise County. It was of interest that the economic and educational level in the county of the black Miracle Valley Church members was similar to Hispanics in the county and below not only the predominant Anglo population but also below that of several hundred other blacks who had lived in the county for a longer time. Other statistical data employed in preparation for the trial related primarily to the literature on racial stereotyping, covering over a half century from the early studies of the 1920s and 1930s (e.g., Bogardus, 1968; viz., Katz and Braly, 1933) to recent summary assessments (e.g., Simpson and Yinger, 1972:139–164; Vander Zanden, 1983:19–30). The stereotyping trends showed diminished but continuing pejorative perceptions of blacks, and particularly low-income blacks.

Following several weeks' review of the supplied and available materials, including details of the riot, it appeared to me that the charges against the five black young men were ill founded and constituted an injustice. Consequently, I agreed to the request to serve as a sociological expert witness. This was done not without some degree of concerned awareness that this would generate considerable local media coverage on a controversial matter and place me in a courtroom situation in which I had no prior experience. With a supportive wife and children, who thought this was an interesting topic of occasional discussion with their friends, I forwarded my professional vita to the defense attorneys, who sent it to the court for expert witness review. With the court approval which followed, I was committed to officially becoming part of the court proceedings.

Defining the Situation: Considerations and Constraints

My review of the materials led to an assessment that the riot on the high school grounds was precipitated by actions of school officials and police more than that of the five black teens as charged. However, there were cautions in this assessment, including the limited time available to me to review the material prior to the March 1983 trial. As I noted to the defense attorneys, continuing collection of relevant materials could potentially alter my assessment of the riot. My testimony, while likely to support the defendants' positions, would involve a sociological interpretation of the underlying and precipitant causes of the riot-melee just as though I were in a classroom attempting to present and assess all sides.

Along the lines delineated by Straus (1984), based on the materials available to me, it was my definition of the situation which determined my agreement to engage in a sociological intervention effort as an expert witness on behalf of the defendants. The sociological task appeared similar to the one experienced by Kai Erikson, detailed in *Everything in Its Path: Destruction of Community in the Buffalo Creek Flood* (1976). He was called upon by attorneys for flooded out Buffalo Creek miners in a case in which it was alleged that the mining company practices precipitated the destructive flood. Unlike the usual sociolog-

ical approach in which a study area is selected to shed light on a subject of interest to support or to put into question a larger generalization, the opposite process occurred. As Erikson noted: "My assignment on Buffalo Creek . . . was to sift through the store of available sociological knowledge to see what light it might shed on a single human event, and this, clearly, reverses the normal order of social science research" (1976:12). Similarly, my task was to draw upon sociological theoretical insights, based upon empirical research on the nature of human response in collective intergroup conflict situations, and apply these to this Miracle Valley church members case.

About three months preparation time was available before the scheduled trial. It was time to develop a viable strategy before my expert witness testimony, which would include cross examination by defense and prosecuting attorneys before judge and jury. A strategy session was arranged in the Tucson offices of two of the defense attorneys, Armand Salese and James Kerley, where they would have ready access to any needed documentary materials.

An initial topic was my expert witness fee. At the suggestion of an attorney friend I requested, and it was agreed, that I receive compensation prior to my courtroom testimony. The point of my request and concern was to avoid the implication, should the issue ever arise in or out of court, that my being compensated was tied to the nature and effectiveness of my testimony for the defense. Once this matter was resolved we proceeded to the substantive case strategy.

The attorneys noted that the state prosecuting attorneys would call a psychologist. While they noted that sociologists served less frequently as expert witnesses, we agreed that the interracial collective conflict nature of the case lent itself to the saliency of a sociological interpretation. The judicial legitimacy of sociological research had been established in the 1954 *Brown* decision. In that benchmark case extensive use was made of social scientific, including sociological, research findings in the Supreme Court's reversal of the 1896 *Plessy* "separate but equal" doctrine.

The attorneys informed me that no written statement could be read by witnesses nor could any notes be taken onto the stand. They noted that it was important to communicate effectively with the jury as a small attentive audience. In this they stressed a generic point made by Dorran that an expert witness had to appear both knowledgeable and credible in her or his interpretation of the case facts (1982:29).

The attorneys noted that a central problem was credibility before the jury. They observed that the jury was likely to be initially more impressed with such prosecuting witnesses as school administrative officials and police officers. They further noted that this credibility would likely be the case even with white high school student witnesses than with the defendants and other black student witnesses, all of whom were members of the Miracle Valley Church and one of whom had been suspended from the high school where the riot took place.

This raised the issue of jury “overbelief” in established authority, whereby there is a tendency to believe such authorities independent of contradictory evidence or statements (Egeth and McCloskey, 1984; Loftus, 1979). Given the conflicting eye witness testimony, and my not having been on the scene of the events, the task in court was to present what Wells (1984) refers to as a credible “probabilistic” case that the school ground rioting was not precipitated by the five defendants. The strategy designed to accomplish this included planned efforts to denote what Lofland (1976) refers to as the differing subcultural “worlds.” These very different social worlds would affect the differing interpretations of the riot events by the black students in contrast to the school and police authorities or of the large majority of white students on the scene.

Before beginning systematic preparation for my expert witness testimony, the attorneys stressed that to be an effective expert witness a well grounded theory that could apply to explaining the events in the case was necessary. My response related to what Gusfield (1978) aptly describes as the cafeteria of sociological paradigms from which to choose. I noted that the nature of the case lent itself to a micro symbolic-interactionist situational case interpretation rather than more macro, and for the jury more abstract, conflict or functional interpretive explanations. After discussion, the attorneys concurred that a theoretical interpretation of the riot events would best focus on the situational communications and other symbolic interactions that appeared to have occurred on the scene. I noted that this approach would not negate bringing to bear larger cultural, institutional, and historical influences on the behavior of the defendants.

On the Stand: Point-Counter-Point

The task of sociologically interpreting the cause of the high school riot-melee was performed in the few months prior to my court testimony in a Pima County Superior Court, March 25, 1983. There was no dispute that a riot-melee had in fact occurred, but there was a dispute on what precipitated it.

In general terms, the relatively low income, fundamentalist, all-black nature of the church, originally from the distant urban setting of Chicago, was viewed as likely having the effect of stirring among white residents long-held stereotypical fears of blacks. Such fears among whites in American society had long been documented in the social distance studies of Bogardus (1968), extending back to the 1920s, and the racial and ethnic stereotyping studies of Katz and Braly (1933), Gilbert (1951), Karlins et al. (1969), and others. More specifically, statements by church members and of white residents indicated that the church members tended to view themselves as morally superior to most of those in the predominantly white community. A local *Arizona Daily Star* (Tucson) news article referred to the settlement of the Miracle Valley Church as akin to being “invaded by aliens” (Varn, 1983a). Hand printed flyers had been reproduced

and distributed widely in the community in which church members were characterized in pejorative terms such as "coons." Defense attorneys had photos of a "Children at Play" sign placed by the government in the road before the church, on which the standard depiction of a young girl playing was painted in bright colors with large lips and other stereotypical Negroid features.

Given this background, two major sociological theories were drawn upon for interpretation of the events. These were 1) the Thomas Theorem self-fulfilling prophecy on false beliefs leading to real consequences (Thomas, 1931); and 2) Turner's emergent norm theory on how prior values and attitudes can influence the emergence of norm activation in cases of collective behavior, including collective conflict (Turner 1964, 1967; Turner and Killian, 1972). Thus, my approach was not so much to draw upon macro conflict or functional sociological perspectives but rather to concentrate on the Cooley-Mead-Blumer school of symbolic interactionism (Blumer, 1969).

The testimony lasted from 9:40 a.m. until noon with a 15-minute recess during that period. The jury consisted of six women and four men, with the only ethnic differentiation being that one of the men appeared Hispanic. The pattern of cross-examination established by the judge was to begin with a defense attorney followed by a prosecuting attorney and ending again with a defense attorney with a final few questions again by a prosecuting attorney. Initial unease at being in such an unusual formal court setting was alleviated when the defense attorney began the cross-examination by asking basic biographical background information such as residence, educational degree, and university employment, and noting a number of my publications in the areas of interracial relations and conflict analysis.

Drawing on the recorded court record (Superior Court, Pima County, 1983:5-6), the strategy of employing the Thomas Theorem and the emergent norm process to interpret the riot event can be seen in the defending attorney's cross-examination.

Q: Sir, can you tell me whether there are generally accepted explanatory theories dealing with behavior of individuals in a riotous or melee situation?

A: Yes, there is a well established theoretical framework called symbolic interaction, which is now over three-quarters of a century old. It began initially at the University of Michigan under Charles Horton Cooley, but became part of the Chicago School, sociological school, early in the century and, as it has developed over the years, part of symbolic interaction theory that relates to crowd behavior, [in] unstructured situation[s], is referred to as emergent norm theory, and part of that is related to what is called the Thomas . . . theorem . . . related to W.I. Thomas, who died about 40 years ago. He was a sociologist at the University of Chicago, and based his studies on the Polish community, but there have been many studies since [his]. The

emergent norm theory has been codified and employed in many [collective] situations by Ralph Turner, who is out of the Chicago School; he is at UCLA, and past president of the American Sociological Association.

The defense attorney then reviewed the case in which a black teenage member of the Miracle Valley Church had been suspended from high school and upon coming onto school grounds during the lunch hour did not leave the campus immediately upon being requested to do so by the Assistant Principal. When police were then called and some of the black student's friends convened along with other students, a crowd developed. Conflicting testimony was reviewed on when and how pushing and shoving began the riot process. The defense attorney concluded with the following statement and question which afforded a sociologically interpretive response about the relevance of emergent norm theory to the case situation (Superior Court, Pima County, 1983:9-11):

Q: The defendants have testified to a fear of the police, a fear of the situation. Based upon your training and experience, and expertise in the area of race relations, riot control, or riots, can you give any explanatory theories that you are aware of in the field of sociology to help the jury understand the behavior of the participants in the riot-melee?

A: I believe so . . . What emergent norm theory does, and it has been tested . . . in many different situations involving crowd behavior, melees, other kinds of confrontations, and a great deal of that literature would suggest, given the set of circumstances, there would be high probabilities of certain actions flowing, and basically what the theoretical framework would hold is that when the routine of easy interaction is broken, and people are not moving along in normative expectations of behavior, then what occurs, just as if a fire broke out . . . [it] would be a situation in which people would have to develop a normative response to this unstructured situation. Clearly the routine was broken in the school grounds and the nature of the school authorities' social control mechanism that was used [initially calling in the police] appeared to be quite unusual, which would have influenced the kind of emergent norm, that is, what kinds of attitudes and behaviors would be elicited once the police came onto the scene.

I am quite sure this (the riot) isn't what the principal . . . or assistant principal . . . meant in terms of [desired] consequences, but in terms of emergent norm theory, if you communicate to individuals in such a way that there is a break in the normative routine, the values that come into play are based on their past experiences.

At this point the prosecuting attorney entered the beginning of several objections, arguing that as the expert witness was not present during the riot-

melee, he could not interpret the actual riot events (p. 11), a point not stressed when the prosecuting team later brought a psychologist expert witness to interpret the riot events. The questioning by the defense turned on what basis I held the view that the principal's office's call initially to the police rather than to parents or church authorities was not normal school control behavior. The defense asked, in respect to an immediate call to police when there was no violent confrontation rather than to parents or guardians (p. 13), "How would these individuals react to that, how would they view it?"

A: In my research in Oak Park [Michigan], which involved integration with . . . Carver . . . which was an all black district at the time . . . in the early 1960s . . . It was integrated into the Oak Park high school system, which was a middle class system that never had any blacks there before. When there were incidents that occurred that were of concern to the [high] school authorities, the principal, assistant principal, school teachers, given the polarization and the community hostility to these blacks . . . would . . . attempt to . . . diffuse the situation [by] initially attempt[ing] to contact parents or other guardians or authorities, because by doing that they took the necessary steps . . . to diffuse the situation, which they did successfully there . . . by engaging in that approach they had symbolically communicated to the black students that . . . the authorities were making an attempt to resolve issues and only at the end of that . . . procedure did police come in . . . the black student response tended to be cooperative . . . As I understand it, based on both the [research] literature and police practice and school authority practice . . . that is the general approach . . . and if . . . not taken initially . . . the consequences are very likely to increase the probability of some kind of confrontation . . . in trying to control an interaction with school authority and these black students.

Q: Why, absent that kind of normative contact from the school officials to either responsible people for the kids or parents, how then do the students view that break from the norm [i.e., contacting police before contacting parents or other guardians when no violence is occurring]?

A: Well, that gets into the . . . Thomas Theorem . . . [on] . . . "Stereotyping and Self-Fulfilling Prophecies" [sic] . . . there is nationally documented stereotyping data on the general negative images that whites often have towards blacks about being aggressive, about being ignorant, about being dangerous, and unless there are communication steps that have been taken to short-circuit that . . . imagery, it would be highly unusual for blacks to view [police] authorities in a crowd situation . . . in anything but a threatening . . . way . . . increasing the probability of a panic reaction . . . it appeared to me that is what was precipitated. (pp. 13-16)

This line of questioning continued with documented reference by the defense attorney that out of the predominantly white teenage crowd of about 500 had come pejorative shouts including “nigger” and “kill them,” to which the defendants had responded in kind heightening crowd tensions among the several black teens, police, and others. The riot, according to police testimony, began when first one and ultimately four more black teens resisted arrest (Miscellaneous Offense Report, 1982). The escape efforts resulted in shoving, pushing, and what was charged to be a riot-melee. Continuing the questioning and my drawing upon Turner’s emergent norm theory:

- Q: In other words, the actions of trying to get away, of backing up, of even using offensive terminology, was protective as opposed to aggressive?
- A: That is what appears to me, and I think it was precipitated by the view that there was high probability of being under attack. That would be more likely to occur in a homogeneous racial or ethnic grouping that is in context of what they perceive to be a hostile environment. That is not unusual to blacks . . . and in the history of ethnic relations, there have been rioting of Irish Catholics in New York, and of Jews, Greeks, Italians and others over the last century, so that is a fairly common kind of response.” (pp. 17–18)

Prosecution Counter Cross-Examination: Attacking the Emergent Norm Defensive Reaction Thesis and Setting the Case for An Individual Aggressive Behavior Thesis

The prosecuting attorney had the task of attempting to negate the relevance of the Thomas Theorem and emergent norm theory to the case with its accoutrements of identifying past attitudes and behaviors as instrumental in the behavior of the black teens. On the table next to the prosecuting attorney were two of my books, *A City in Racial Crisis* (1971) about the 1967 Detroit race riot and *Sociology and American Social Issues* (1978), a text about national social issues and policy options.

The cross-examination began by attempting to denote that these books and other witness publications, and sociological research generally, were not about blacks living in Cochise County in southern Arizona where the riot-melee had occurred. He further attempted to characterize sociology, in contrast to psychology, as concerned with social behavior rather than individual behavior and as such irrelevant to this case of specific charges against five individuals. Thus, my first task as a sociological expert witness was to try to establish the relevance of sociology to such a criminal case. From the testimony:

- Q: Okay. Let’s talk about sociology a little bit. Isn’t it true that sociology is the study of group behavior and group interactions? Is that true?

- A: It is . . . and it [sociology] often involves groups, but it gets involved in interpersonal relations. It could be a dyadic relationship, . . . involved in mass public opinion and collective behavior, which is beyond a group, but certainly groups are one of our major areas of focus, that is correct.
- Q: You are not a psychologist or psychiatrist?
- A: No . . . I am a sociologist.
- Q: So, primarily, you do not study individual behavior, is that correct?
- A: There is a branch of sociology that [involves] symbolic interaction . . . This particular area, which is one of my theoretical specialties, overlaps with an area called social psychology. For example, emergent norm theory and the Thomas Theorem are employed by psychologists, Mark Schneider [whose stereotyping work had been cited] . . . is a psychologist . . . he used the Thomas Theorem. Thomas was a sociologist. The Princeton [stereotyping] studies by Katz and Braly, those were conducted by psychologists . . . We have courses in our department on social psychology. That is one of our examination areas . . . it involves individual behavior in a social context. It is what is called microtheory, focusing on individuals in often small group situations. (pp. 20–21)

After several more attempts, addressing me as “Doctor” consistently, to denote that sociologists were not qualified to judge individual behavior as normal or abnormal—in respect to the “normative” in emergent norm theory—the prosecuting attorney went on:

- Q: Okay. Sociologist, you are a social scientist, is that true?
- A: Yes.
- Q: You deal with statistics?
- A: That is one technique. There are other methodological techniques I employ . . . interviews and observations and field analysis as well . . .
- Q: Would you say it is a precise science?
- A: . . . like economics . . . we deal in probabilities and we can predict many behaviors with a high degree of accuracy, but within a margin of error . . .
- Q: Okay. Doctor, so what you’re saying is that your analysis of this particular situation on April 20 is . . . based upon sociological theory and probabilities? Is that correct?
- A: And over a half century of research findings in similar situations.
- Q: Isn’t it true that many social scientists, sociologists, may have different opinions as to particular group interactions as applied to fact situations?
- A: You can find in any discipline . . . trained people who will dissent from the general theoretical and research finding consensus . . . but Jonathan Turner, no relation to Ralph Turner, has a widely used . . . theory textbook. He cites Ralph Turner’s emergent norm theory . . .

Q: Doctor, you are not answering my question.

Defense: I object, he is answering the question. [This was one of a series of objections and cross objections.]

The Court: Let him finish.

A: Professor [Jonathan] Turner, University of California at Riverside, cites this as one of the most widely used theories and accepted theories because it is so well established empirically . . . in terms of theoretical acceptance, Robert Merton, who is at Columbia University, and a member of the National Academy of Sciences, in his social problems textbook . . . cited the Thomas Theorem as the most influential [sociological] theoretical [concept] we have developed in the 20th century, and it applies to emergent norm theory and symbolic interactions, so it is a widely accepted theoretical framework. (pp. 24–26)

After a series of questions about not being witness to the riot-melee, the prosecuting questioning shifted to why other minorities—Jews, Poles, among others noted—have not rioted as have blacks:

Q: Okay, Doctor, what I would like to do is ask you precisely why it is that you talk about white/black relationships in a situation that happened on Fry Boulevard, as opposed to other minorities?

A: Situations with other minorities have not nearly the history or the extensiveness of the black experience in American society. We made tremendous changes in attitudes and laws in the last 20 years approximately, but there really is a history of over 300 years of official hostility toward blacks. That isn't changed in terms of socialization within one generation, and the depth of confrontation is much deeper in relationship to black/white relationships than to most other minority groupings. (p. 31)

The prosecuting attorney turned to the potential for violence and asked why school authorities have to wait for violence to occur before calling in police. My response, employing the emergent normative process and citing a source familiar to school authorities:

A: That gets back to a point I was raising before . . . if the initial communication had been with parents or church authorities, even if there had been no response, if that had been communicated to the [black] students, in this kind of situation, I think . . . the likelihood of . . . panic . . . would have been quite different. In terms of school authorities, there is a great deal of literature that has been widely used, the Carnegie Foundation report called *Crisis in the Classroom* came out in 1970 . . . by Charles Silberman . . . and there is a great deal of treatment [in it] of polarized interracial situations in school

settings. I cite that because that became a best seller and has been standard usage in school systems around the country. (p. 42)

The prosecuting attorney then personalized the questioning by referring to the delinquent school record of one of the suspended black students and inquired about how I would react if my family was in the situation:

Q: Do you have any children, Doctor?

A: Three.

Q: Would you want your children going to a school where the school administrator would wait to call the police before [violence occurred]. (p. 45)

A: [Drawing upon prior sociological points of analysis:] I would want school authorities to take the most effective action to make sure that they contacted the home and church authorities. I would not want my children in a situation where there is a high probability of a major confrontation that could produce violence . . . I would feel much more secure if my children were in a school where school authorities understood and went through what I believe to be the normal procedures. I think what occurred here appeared to me a more dangerous approach. (pp. 45–46)

After additional questions, the prosecuting attorney concluded by challenging the application of sociological theory to the unobserved riot-melee:

Q: Doctor, when we're talking about [sociological] theory, aren't you really just speculating as to what happened on April 20?

A: No, there are speculative theories that are not research based . . . Symbolic interaction theories, which is the large framework, and emergent norm theory are much more grounded in actual observations of many different crowd situations. (p. 56)

This ended the main prosecuting cross-examination. The defense team was afforded the opportunity to reexamine.

Defense Counter Cross-Examination: Attempting to Reestablish the Saliency of the Sociological Emergent Norm Defensive Behavior Thesis

The first question by a defense attorney member, a second member of the defense team, and my response set the tone for a stream of questions and responses denoting the defensive, escape nature of the black teenagers' behavior rather than being aggressive riot-melee behavior as charged:

Q: Dr. Gordon, there were some questions asked, I believe in cross-examination, about your testimony about a panic situation developing here. I would ask

you if you could explain that in terms of what you understood from the police reports that you have read in the development of the situation, the development of the melee up to and including the leaving in the car, going off at high speeds to Miracle Valley [by the five charged black teens], with an emphasis on what you mean and why the panic?

A: Yes. There is a specific part of the research literature on panic. That is why under certain circumstances people are likely to panic and why they are not [under other circumstances]. In a way, it goes back to, I think, what Justice Holmes noted in famous terms, that one can't yell "Fire" in a closed theatre when there is no fire, because of the recognition that might induce panic . . . Since that statement there has been a lot of research on why people do or don't panic, because we know in some kinds of situations . . . no panic occurs . . . panic generally occurs when either there is no fearful situation in terms of . . . an unstructured . . . if a mine collapses and people . . . realize that all they have to do is just walk out of an open space there is no panic. There tends to be no panic when people are caught in a totally helpless situation where there doesn't appear to be any avenue of escape . . . It is between these two polar situations that you have a high probability of panic occurring . . . [after citing instances] . . . [people may] panic when they believe they are in a state of threat or very likely to be, and that the only way to get out of that situation is if they escape and they see some circumstances in which it may be possible to escape. (pp. 58-59)

[Note: The charged students had confiscated an auto and had driven it back toward their church in Miracle Valley.]

The last set of defense attorney questions attempted to counter the prosecuting argument that application of theory to an unobserved phenomenon could be scientifically, including sociologically, justified:

Q: Doctor, I have one last question. Do you know if anybody, any human being has landed on Mars or Venus?

A: We have landed on the moon.

. . .

Q: Do you know whether astronomers study Mars and Venus without ever having been there.

A: Oh, yes, certainly.

Q: And obviously you haven't landed on [defendants] Lonnie Hayes and Ricky Lamar, and you can still talk about theories, can't you?

A: Yes, sir. (pp. 69-70)

Case Disposition and Expert Witness Implications for Sociological Intervention

The five black teenage defendants were found innocent of felony-rioting charges by the jury, but three were convicted of assaulting police as they resisted arrest and attempted escape (Varn, 1983c). It was the assessment of defense attorneys that the two and a half hours of sociological expert witness testimony was an influencing factor on the jury's negation of the most serious charges, with the potential of long years in prison for the defendants. It is also possible that the testimony of the prosecuting expert witness, psychologist Al Silberman, influenced the finding of conviction on resisting arrest, even though there was no finding of felonious conduct that would have justified arrest of the teens.

In a brief meeting with the expert witness psychologist after our case testimony, we both concurred in empathizing with the black teens who were caught in a strained and hostile environment. His court testimony included the assessment that the charged assault behavior by the black students "could have been protective behavior, but against an officer of the law, it's criminal behavior" (Varn, 1983a:B1). Our differences were in the relative weighting of provocation which precipitated their escape behavior and which became the focus of jury judgment.

The case pointed up some difficulties and future prospects for sociological intervention to influence behavioral outcomes by means of the sociological expert witness role. First, an expert witness authorizes the contending side to do the same. Thus, a situation is created in which expert witnesses compete for persuasiveness. Potentially, this could involve two or more sociologists contending with each other. Second, while psychiatrists and psychologists have long been accepted in the courtroom as expert witnesses, this is a relatively new role for sociologists. This appeared to be part of the nature of the prosecuting cross-examination challenging the relevance of sociological research to criminal charges against individuals in specific unobserved cases. Further, the judge in the case finally instructed the jury to disregard all expert testimony that dealt with any aspects of the case beyond the riot-melee. Still, this was after allowing a total of five hours of such testimony.

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