Rural HotspotsThe Case of Adult Businesses

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Rural Hot Spots:

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Abstract

A recent decision of the U.S. Court of Appeals for the Tenth Circuit questions whether the routine activity theory of hotspots applies to adult entertainment businesses located in sparsely populated rural areas. Although few criminologists are interested in urban-rural differences, the Tenth Circuit decision makes this topic acutely relevant to policy-makers and courts. To address the threshold question, I demonstrate that the hotspot theory is general to urban, suburban, and rural locations. I then present the results of a case study that corroborates the theory. When an adult entertainment business opens on an interstate highway off-ramp to a small rural village, total crime in the village rises by sixty percent. Two years later, when the business closes, total crime drops by sixty percent. Alternative explanations related to uncontrolled threats to internal validity are considered and ruled out. After reporting the results of the case study, I discuss the consequences of the theory and results for policy-makers.

Introduction

Expressive activities that occur inside adult entertainment businesses, including cabarets that feature live nude or semi-nude dancing, x-rated video arcades, and bookstores, enjoy First Amendment protection. Courts have ruled that governments may regulate these businesses, nevertheless, so long as the regulations are aimed at mitigating the businesses' potential adverse "secondary effects" (Andrew, 2002).

To defend an ordinance, a government must produce evidence to show that the businesses are associated with secondary effects such as ambient noise, litter, and in particular, crime. The government's evidence need not satisfy arbitrary standards of methodological rigor. On the contrary, the 1986 U.S. Supreme Court decision in *City of Renton v. Playtime Theatres* holds that governments may rely on any evidence "reasonably believed to be relevant to the problem that the city addresses." Taking advantage of this evidentiary standard, few governments conduct local secondary effects studies; most rely on the large body of studies conducted in other places and times.

The U.S. Supreme Court reviewed the evidentiary standard sixteen years later. Though reaffirming the modest "reasonably believed to be relevant" *Renton* standard, in *City of Los Angeles v. Alameda Books*, the Court allowed adult businesses to challenge the relevance of secondary effects evidence. If a business could demonstrate that the government's evidence was irrelevant to the problem that its ordinance purported to address, the ordinance could be struck down.

Relevance challenges fall into two categories. The first centers on the fact that secondary effects studies have typically ignored salient differences among distinct adult business models. In *Encore Videos v. City of San Antonio*, an adult bookstore argued that its products were sold for "off-site" use only and, thus, that it could not have the same secondary effects as cabarets, video arcades, and other "on-site" adult businesses. Accepting part of this argument, the Fifth Circuit struck down a San Antonio ordinance whose evidentiary predicate failed to include secondary effects studies of "off-site" adult bookstores.

An ambiguous passage in the *Encore Videos* decision left the impression that the Fifth Circuit had endorsed an interpretation of criminological theory favoring the plaintiffs. Citing the ambiguous passage, "off-site" adult businesses argued subsequently that criminological theory precluded secondary effects for their business model. Four years later, however, in *H and A Land Corp. v. City of Kennedale*, the Fifth Circuit upheld an ordinance whose evidentiary predicate included studies of "off-site" adult bookstores. The three-judge panel, including one member who had participated in the *Encore Videos* decision, took the unusual step of retracting the passage that seemed to endorse an interpretation of criminological theory (McCleary and Weinstein, 2007).

The second category of Constitutional challenges centers on the fact that secondary effect studies have ignored idiosyncratic local conditions. In 2004, an adult bookstore in rural Kansas used criminological theory to argue that the sparsely-populated rural environment precluded the

possibility of secondary effects. And since the local government had not studied this issue prior to enactment, the ordinance should be struck down. Rejecting this argument, the trial court granted the defendant's summary judgment motion. On appeal, however, in *Abilene Retail #30 v. Dickinson County*, the Tenth Circuit agreed with the plaintiff's interpretation of criminological theory:

> All of the studies relied upon by the Board examine the secondary effects of sexually oriented businesses located in urban environments; none examine businesses situated in an entirely rural area. To hold that legislators may reasonably rely on those studies to regulate a single adult bookstore, located on a highway pullout far from any business or residential area within the County would be to abdicate our "independent judgment" entirely. Such a holding would require complete deference to a local government's reliance on prepackaged secondary effects studies from other jurisdictions to regulate any single sexually oriented business of any type, located in any setting (p. 1175).

Because the adult bookstore was located in an isolated rural area, and because the County had no evidence to suggest that rural adult businesses would have secondary effects, the Tenth Circuit reversed the summary judgment and remanded the case for trial.

Although the question of urban-rural generality is only one of many weighed in the Tenth Circuit's decision, it is the central question of this essay. Because most criminological research has been conducted in non-rural areas, criminological theories do not necessarily generalize to rural crime. Because relatively little crime occurs in rural areas, of course, few criminologists are interested in urban-rural questions. Following the Tenth Circuit's *Abilene Retail* decision, on the other hand, urban-rural differences are acutely relevant to policy-makers and courts.

The potential cost of the decision is staggering. In the best case, local governments will be forced to rewrite ordinances to cover businesses located in more rural areas. In the worst case, litigious adult businesses will have an incentive to relocate to rural areas, forcing trial courts to judge the relative ruralness of areas, case-by-case. In any case, extrapolating the Tenth Circuit's argument to other variables not explicitly addressed by criminological theory threatens the ability of local governments to mitigate public safety hazards associated with adult businesses.

This essay addresses the threshold question of whether criminological theories can be generalized to rural areas. Although the generalization may be difficult for some criminological theories, the relevant theory of "hotspots" (Sherman, Gartin, and Buerger, 1989) applies to any accessible area, rural or urban. After describing the relevant criminological theory, I report the results of a corroborating quasi-experimental case study. When an adult business is opened on an interstate highway off-ramp in a sparsely populated rural community, ambient crime risk rises precipitously, in effect making a hotspot of the community.

The Criminological Theory of Secondary Effects

Writing shortly after the advent of Uniform Crime Reports, Vold (1941) confirmed that a city's crime rate was inversely proportional to its population. The observed relationship had an obvious explanation: "[B]ehavior in the country in all probability comes under much greater informal control of the opinions and disapprovals of the neighbors than is the case in the relative anonymity of the city (p. 38)." The negative correlation confirmed not only grand sociological theory (e.g., Tönnies, 1963[1887]; Durkheim, 1964[1893]) but, also, the related criminological theory of social disorganization.

As proposed by Shaw and McKay (1942), the theory of social disorganization predicts that neighborhoods with low residential stability will have high rates of delinquency and vice versa. To the extent that a small town has the characteristics of a stable neighborhood, social disorganization theory would predict the low crime rates observed by Vold (1941). When a small town is disrupted by an influx of newcomers, moreover, the same theory predicts an abrupt increase in the town's crime rate.

This can occur in at least two ways. First, the newcomers may victimize the town's residents. Indeed , fear of victimization by newcomers is implicated in the rapid spread of gated communities (Blandy, Lister, Atkinson, and Flint, 2003). Second, the influx of newcomers may disrupt the town's routine activities in a way that attracts predatory criminals, creating a local "hot spot of predatory crime" (Sherman, Gartin, and Buerger, 1989).

The discovery of hotspots by Sherman, Gartin, and Buerger (1989) was anticipated by the work of Brantingham and Brantingham (1981); adult business hotspots have many of the properties associated with crime "attractors" and "generators" (see also Brantingham and Brantingham, 1993). A simpler routine activity theory (Cohen and Felson, 1979; Felson and Cohen, 1980; Clarke, 1983; Felson, 1998) is sufficient for present purposes, however. In this context, the routine activity theory of crime equates ambient crime risk, generally defined as the number of crimes within 500-1000 feet of a site, with the product of four risk factors. This can be written as:

$$Ambient\ Crime\ Risk\ =\ \frac{Targets\ \ \text{x}\ \ Expected\ Value}{Police\ Presence}\ \times\ Offenders$$

An increase (or decrease) in the number of targets at the site or in their expected value, defined in the usual way, yields an increase (or decrease) in ambient crime risk. An increase (or decrease) in police presence, on the other hand, yields a decrease (or increase) in ambient crime risk.

Targets

Adult business sites are crime hotspots because they attract potential victims, or targets,

from wide catchment areas. Adult business sites are no different in that respect than tourist attractions (Dimanche and Lepetic, 1999; Danner, 2003) and sporting events (Corcoran, Wilson and Ware, 2003; Westcott, 2006). Compared to the targets found at these better known hotspots, however, the targets found at adult businesses are exceptionally attractive to offenders. This reflects the presumed characteristics of adult business patrons. They are disproportionately male, open to vice overtures, and carry cash. Most important of all, when victimized, they are reluctant to involve the police. From the offender's perspective, they are "perfect" victims.

Offenders

The crime-vice connection has been a popular plot device for at least 250 years. John Gay's *Beggar's Opera* (1728), for example, describes the relationship between MacHeath, a predatory criminal, and the vice ring composed of Peachum, Lucy, and Jenny. This popular view is reinforced by the empirical literature on criminal lifestyles and thought processes. The earliest and best-known study (Shaw, 1930; Snodgrass, 1982) describes the life of "Stanley," a delinquent who lives with a prostitute and preys on her clients.

This simple application of the routine activity theory assumes a pool of rational offenders who move freely from site to site, choosing to work the most attractive site available. These offenders lack legitimate means of livelihood and devote substantial time to illegitimate activities; they are "professional thieves" by Sutherland's (1937) definition. Otherwise, they are a heterogeneous group. Some are vice purveyors who dabble in crime. Others are predatory criminals who promise vice to lure and lull their victims. Despite their heterogeneity, the offenders share a rational decision-making calculus that draws them to adult business sites.

Expected Value

Criminological thinking has changed little in the 75 years since Shaw's (1930) *Jack-Roller*. To document the rational choices of predatory criminals, Wright and Decker (1997) interviewed 86 active armed robbers. Asked to describe a perfect victim, all mentioned victims involved in vice, either as sellers or buyers. Three of the armed robbers worked as prostitutes:

> From their perspective, the ideal robbery target was a married man in search of an illicit sexual adventure; he would be disinclined to make a police report for fear of exposing his own deviance (p. 69).

The rational calculus described by these prostitute-robbers echoes the descriptions of other predators (see Bennett and Wright, 1984; Feeney, 1986; Fleisher, 1995; Katz, 1988, 1991; Shover, 1996).

Police Presence

With respect to the quantity and quality (or value) of the targets at a site, urban and rural adult business sites are equally attractive to the rational offender. Police presence is generally lower at rural sites, however. Some part of the urban-rural disparity is due to obvious factors. Rural police agencies protect larger areas with fewer personnel, for example, and drive longer distances in response to calls. Though less obvious, fuzzier jurisdictional lines and more complex demands for service make policing more difficult and less effective in rural areas (Thurman and McGarrell, 1997; Weisheit, Falcone, and Wells, 1999). Because police presence is relatively lower at rural sites, controlling for the quantity and quality of targets, rural sites are more attractive to the rational offender.

Montrose, Illinois: A Case Study

An unincorporated village of 250 residents, Montrose, Illinois is located on I-70 midway between St. Louis and Indianapolis. I-70 separates Montrose's residential dwellings from its businesses: a convenience store-gas station, a motel, and for a short period, a tavern. Other than gas and lodging, cross-country travelers had no reason to exit I-70 at Montrose prior to February, 2003. In that month, the Lion's Den opened on a service road within 750 feet of the I-70 off-ramp. A large, elevated sign let I-70 travelers know that x-rated videos, books, and novelties could be purchased "24/7." The store was successful by all accounts.

The residents of Montrose did not welcome the new business. Unlike the village's other businesses, the Lion's Den was located on the residential side of I-70. Complaining that the store disrupted their idyllic life-style, villagers picketed the site on several occasions. Traffic was a chronic complaint. The narrow gravel access road connecting the site to I-70 could not support the weight of big-rig trucks; it soon fell into disrepair. The Lion's Den offered to build a new, larger access road from I-70 to its site. But fearing an even larger volume of traffic, the villagers declined the offer.

Like all Illinois villages, Montrose had no adult business ordinances. The Lion's Den was located within 1,000 feet of a public park, however, in violation of an Illinois statute. When the State moved to enforce its statute, the Lion's Den sued, arguing that "off-site" adult businesses could not generate the public safety hazards associated with adult cabarets, video arcades and other on-site adult entertainment businesses. The trial in *State v. The Lion's Den et al.* lasted four days. The court upheld the statute and, in July, 2005, the Montrose Lion's Den closed its doors.

At the trial, the State presented evidence of the Lion's Den's adverse impact on the surrounding area: sexually explicit litter and decreased use of the nearby park. Neither party presented local crime data, however. Table 1 reports data bearing on the crime-related secondary effects of the adult business in Montrose. During the 1,642-day period beginning January 1, 2002, the Effingham County Sheriff's Office recorded 83 crime incidents in the Village. The most common incidents involved the theft or destruction of property. Incidents of disorder and

indecency, traffic-related incidents, and alcohol-drug offenses were nearly as common. Incidents involving danger or harm to persons (robbery, assault, etc.) were rare.

Table 1 - Montrose, IL: Crime-Related Secondary Effects

	Open		*Closed*			*Log Effect*	*λ*	*t*
Property Crimes	23	9.54	15	7.20				
Personal Crimes	3	1.24	5	2.40		Constant	-3.267	-17.60
All Other Crimes	28	11.61	9	4.32		Open	0.475	2.06
Total Crimes	54	22.39	29	13.92		$e^{0.475} \approx 1.61$		

The columns labeled "Open" and "Closed" in Table 1 break the incidents down into an 881-day segment in which the Lion's Den was open and a 761-day segment in which it was closed. Crime rates are 22.39 and 13.92 total incidents per year for the "Open" and "Closed" segments respectively. From these raw rates, it appears that crime in Montrose rose when the Lion's Den opened and fell when the Lion's Den closed. This assumes that plausible alternative hypotheses for the difference can be ruled out, of course.

Null Hypothesis

The most obvious alternative explanation is that the difference is due to chance. To rule this out, the daily total crime count series was regressed on a binary variable representing "Open" and "Closed" days (Cameron and Trivedi, 1998) . The log-parameter values reported in Table 1 were estimated with Stata 9.2 (Stata Corporation, 2007). Because the effect estimate λ=0.475 occurs with probability $p(t \geq 2.09) < 0.035$, by the conventional 95 percent confidence criterion, the chance explanation, or null hypothesis, is rejected.

Although parameter estimation requires working in the natural log metric, log-parameters are not easily interpreted. The exponentiated effect estimate is approximately equal to the ratio of the segments, however. In this instance, the value ($e^{0.475}$=) 1.61 is interpreted as a 61 percent difference. The rate of total crime in Montrose was 61 percent higher during the 29 months that the Lion's Den was open, that is, compared to the period prior to February 2003, before the Lion's Den opened, and the period after July 2005, when it closed. This is a large, statistically significant crime-related secondary effect.

Internal Validity

Another set of alternative explanations involve uncontrolled threats to internal validity. The switching regime (closed-open-closed) property of the quasi-experimental design controls

many of the most common threats to internal validity. Nevertheless, authorities on quasi-experimental design (Campbell and Stanley, 1966; Cook and Campbell, 1979; Shadish, Cook and Campbell, 2003) cite maturation, history, and instrumentation as the most plausible threats to the internal validity of time series designs.

The threat of maturation refers to the possibility that the effect reported in Table 1 may be due, not to the opening of the Lion's Den, but to a natural trend in the Village's crime rate. Because the daily time total crime time series satisfies the simple Poisson homogeneity assumption (Feller, 1968), however, the maturation hypothesis is rejected.

The threat of history refers to the possibility that the effect may be due to some event in the Village that coincided with the opening of the Lion's Den. A search of local news media found only one significant event during the 1,662-day time series. Shortly after the Lion's Den opened, the Village's only liquor-serving tavern closed permanently. If the tavern's closing had any effect on crime in Montrose, however, the expected effect would be to reduce the crime rate during the 881 days that the Lion Den was open. Accordingly, history is rejected as an alternative hypothesis.

Instrumentation refers to the possibility that the effect may be due, not to the opening of the Lion's Den, but to a coincidental change in the way that crimes are recorded in the Village. If the Effingham County Sheriff stepped up the frequency of patrols in the Village when the Lion's Den opened, for example, the effect reported in Table 1 might be a spurious artifact of heightened surveillance. Criminologists acknowledge that heightened surveillance can exaggerate "victimless" crime rates; proactive enforcement against prostitution and drugs invariably leads to higher vice crime rates. Proactive enforcement against "serious" crime does not *not* produce higher rates of homicide, assault, and robbery, however. On the contrary, criminologists generally agree that heightened surveillance reduces the rate of "serious" crime.

The detailed incident reports do not support an instrumentation hypothesis. During the 881 days that the Lion's Den was open, crime in the Village grew more "serious." Although five "Personal Crimes" were reported during the 761 days that the Lion's Den was closed, versus three when it was open, none of the five incidents involved a weapon or resulted in an injury. When the Lion's Den was open, in contrast, two of the three "Personal Crimes" reported in the Village were armed robberies, one committed by a gang of four men wearing ski masks and armed with shotguns. Both armed robberies were committed at site of the Lion's Den, moreover, and were the only robberies recorded in the Village's modern history.

The timing of the crime incidents is related to their seriousness. During the 761 days that the Lion's Den was closed, Montrose's modal crime incidents were "drive-off" thefts from the Village's gasoline station and vandalism at the Village's motel. Most of these incidents occurred during the day and required no immediate response from the Sheriff's Office; and because the businesses were separated from residences by I-70, the modal incidents attracted little attention. During the 881 days that the Lion's Den was open, on the other hand, a majority of incidents

occurred at night and demanded immediate response; as more incidents began to occur on the residential side of I-70, crime became more noticeable to Village residents.

Discussion

Following the opening of an adult business on an interstate highway off-ramp into a sparsely populated rural village, total crime in the village rose by approximately 60 percent. Two years later, when the business closed, total crime in the village dropped by approximately 60 percent. In light of the strong quasi-experimental design, artifactual explanations for this effect, including maturation, history, and instrumentation are implausible. The only plausible explanation for the effect reported in Table 1 is that, like adult businesses in urban and suburban settings, adult businesses in sparsely populated rural areas generate ambient crime-related secondary effects.

This finding was not unexpected. Although criminological theories are based largely on data collected in urban and suburban areas, the routine activity theory of hotspots (Sherman, Gartin, and Buerger, 1989) generalizes to rural settings. Put simply, adult businesses attract patrons from wide catchment areas. Because these patrons are disproportionately male, open to vice overtures, and reluctant to report victimizations, their presence attracts offenders. The spatio-temporal conjunction of targets and offenders generates ambient victimization risk – a hotspot of predatory crime. This theoretical mechanism operates identically in rural, suburban, and urban areas. Because rural areas ordinarily have lower levels of visible police presence, moreover, rural hotspots may be riskier than their suburban and urban counterparts.

The Tenth Circuit may not have found the Montrose results useful. Every case study is unique in some respect, after all; and although the U.S. Census Bureau considers both Effingham County, Illinois and Dickinson County, Kansas to be "rural," the Tenth Circuit may have focused on idiosyncratic, legally relevant factors. Nevertheless, the case study results demonstrate that, whether urban, suburban, or rural, hotspots are hotspots. In urban, suburban, and rural areas, adult businesses attract patrons who are disproportionately male, open to vice overtures, and reluctant to report victimizations to the police. This attracts offenders to the site with predictable consequences for ambient crime risk. In theory, of course, due to the relative scarcity of police in rural areas, offenders may find rural hotspots more attractive. Otherwise, the routine activity theory of hotspots generalizes to any site that is attractive to potential victims, or targets, and accessible to offenders.

Solving the problem of rural hotspots by allocating more police resources to rural areas is politically unfeasible. Governments allocate public safety resources across regions on utilitarian grounds. Per capita allocations have the greatest impact on per capita crime rates. This poses an obstacle to rural problem-oriented policing (Weisheit, Falcone, and Wells, 1999), of course, but it is a rational policy for a government. Because the targets attracted to the rural hotspot live outside the jurisdiction, and because victimizations are under-reported, ignoring the hotspot is a more realistic strategy.

The future is unclear. The relocation of adult businesses to rural areas parallels the post-war "flight" of inner-cities families. From the perspective of adult business proprietors, the urban environment has become hostile. Zoning codes force adult businesses into "ghettos" where their operations are strictly regulated and where competition with other adult businesses is fierce. Rural areas have few regulations, on the other hand, and little competition; access to interstate highway traffic is a bonus. As urban environments become more hostile, more adult businesses will relocate to rural areas, forcing state and county governments into policy decisions. The case study reported here can, hopefully, inform that debate.

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