

# Parental Licensure and its Sanction

---

Robert A. Gordon

Earlier in my career as a criminologist interested in gang delinquency, I looked over a small part of the same research on psychopathy that David Lykken has surveyed in his present article and in his 1995 book, *The Antisocial Personalities*, and I became convinced, like Lykken, that there is a category of persons who might usefully be termed psychopaths or sociopaths. Whether the distinction Lykken draws between the former, based on constitutional etiology, and the more numerous latter, based on environmental etiology with a component of biological susceptibility, is clean enough to matter is fundamental to his intervention strategy, as I shall explain. In his book, Lykken views the inadequate parenting provided by unmarried single mothers as the chief exacerbator of biological susceptibility to sociopathy, and hence the main source of the general increase in crime rates over the last three decades; consequently, he invokes black-white differences in rates of single motherhood to account for black-white differences in crime rates.

The kinds of phenotypic individuals subsumed under both labels do exist, I believe, and some effort at prevention not only seems warranted but necessary. Even if constitutional causes predominate, parental licensure is likely to discriminate statistically between psychopathic and nonpsychopathic parents (to use but one term), as Lykken himself implies by terms such as “feckless parents,” and thus the policy should lead to greater awareness of their problematic parenting behavior as a result of the visits by Child Protection case-

workers, the single “tooth” in the proposed state licensure law that he intends to back in Minnesota. In time, Lykken foresees, the experience developed by the caseworkers and registered in their compiled records of delinquency, school dropout, teen pregnancy, and so on, may lead to taking custody of newborns of unlicensed mothers for the purpose of having them reared, more successfully it is hoped, by responsible adoptive or foster parents. At the very least, adequate recording of parental malpractice would help set the agenda for redirection of national concern. My experience with black and white gang delinquents left me with the conviction that many of them experienced childrearing practices that a sensible person would not apply to training a dog. Many of those practices, however, especially in families of Catholic delinquents, occurred because of the presence of the father, not because of his absence.

The parental licensure proposal—introduced by Jack Westman in *Licensing Parents*—is the most novel aspect of Lykken’s article, and I regret that only a few brief passages are devoted to its prospects and likelihood of success if it is implemented and eventually joined with legal separation of newborns from unlicensed parents. From reading literature on epidemiology of AIDS, I discovered that epidemiologists have developed a tool for considering options for and implications of intervention programs that they call *scenario analysis*, which could usefully be applied to Lykken’s proposals. Scenario analysis involves a disciplined

consideration of the following elements: Agenda setting to gain attention for a social problem; policy preparation, especially; formulation of policy content, such as objectives, means and timing; policy execution; policy evaluation; and feedback. It involves consideration of relations between scientists and politicians and of obstacles that hamper implementation of scientifically and ethically sound policies, often a crucial element where social policy is concerned. I was grateful to learn of such an explicit development of disciplined and simultaneously open-minded analysis, because I had long grappled with similar issues myself in thinking about how to prevent crime using a checklist that was less complete.

Scenario analysis promotes consideration of insufficiently examined aspects of policy. How high does the heritability of criminality have to be before adoptive or foster parents will be reluctant to assume responsibility for rearing a child removed by law from incompetent parenting? In his book, Lykken reports estimates of heritability in the range of .3 to .4, but guesses that the proportion of criminality variance thus attributable to genetic variance might be lower in populations born of extremely incompetent parents. There certainly are saintly couples willing to adopt children with severe handicaps, physical and mental, but the supply of such parents is not apt to equal demand, especially a demand fed by new legislation with a potential for flooding the market with babies many would regard as likely to be difficult, if not unrewarding or potentially dangerous, charges. Would couples undertaking such heavy responsibilities forego having as many children of their own as they might otherwise, thereby replacing more promising with less promising offspring in future generations? Would that diminution be offset by a diminution in births of unlicensed babies once confiscation of those babies became a foregone conclusion? Heaven forbid, removing all burden of childcare and hence cause for agonizing over abortion could lead some heedless individuals to procreate ever more carelessly, secure in the knowledge that their offspring will always be given a good home.

Then there is the racial angle, not alluded to in Lykken's present article, but considered in his book. There is no question that any state assumption of guardianship would fall disproportionately, per capita, on the black population. It is reasonable to anticipate, on the basis of race-specific lifetime prevalence rates of delinquency, not to mention rates of unwed motherhood, that the disproportion would be on the order of 3:1 or 4:1, at least, blacks to whites.

Such disproportions, although often explainable scientifically as valid ones, have been routinely exploited, with the complicity of media, to block policy initiatives by raising cries of bias and racism. To borrow a term from the employment testing realm, many legitimate or constructive policies have the misfortune to give rise to "adverse impact." In consequence, whites have, in effect, often been stymied from applying policies within their own race that might be beneficial because one cannot legislate for one race alone. To give only some idea, school suspensions for unruly students, aptitude testing, tracking, and special classes for the mentally retarded have fallen under the cloud of adverse impact, not to mention imprisonment of criminals. I am not suggesting that we throw up our hands, as many in fact do, at the prospect of being accused of racism, only that we factor that likelihood explicitly into planning so that, with resolution and reason, we are better prepared to allay understandable apprehensions and dispatch demagogues with effective evidence. Before deciding what is politically possible or expedient, one should at least give forthrightness and fortitude a chance.

The menu of interventions into family life must always be studied carefully, not only for effectiveness, but also for potential for alarming the wider population that is not in fact contemplated as targets of a proposed policy. Thanks to Wenatchee and other hare-brained prosecutions of parents or childcare workers for concocted allegations of child sexual abuse, in which supposed experts and other professionals have brought the very concept of expertise into disrepute, every parent in the United States ought to view with grave concern any proposal for removing children from their families under the aegis of benevolent state intervention. Child protection and the righteousness it arouses is perhaps the most powerful of political motives, as we know from classic propaganda photographs. One must approach child protection as the goal of intervention with extreme caution, therefore. Conservatives, recall, are already up in arms over sex education in schools, school questionnaires about home activities that ask about contents of medicine cabinets, and other intrusions into family privacy that they have come to recognize, not without ample justification, as expandable beyond their original supposed intent. Thus, not only liberals might oppose family licensure and its eventual sanctions.

Moreover, every policy that has the potential for identifying true positives carries at least some risk of producing false positives. Policies that pose little danger to false positives are to be preferred, therefore,

whenever a sacrifice in effectiveness is not too great. Interventions cost the same whether applied to true positives or false positives, and so false positive rates are particularly likely to attract scrutiny when the cost of intervention is high for each individual case.

Concerns over protections for false positives would mandate attention to due process, not to mention concerns over constitutionality. Although Lykken contemplates that removal of children from unlicensed mothers might be automatic and immediate, such a policy, if national (thus frustrating escape over state lines and the driving of unlicensed mothers into other states), would run up against the occasional wealthy Hollywood actress who bears children out of marriage, and the Murphy Browns, with the ACLU not far behind. Very likely, statistics could be marshalled in court showing that a substantial proportion of children born to unwed mothers do not turn out badly. Then there are the middle-class grandparents, whose daughter comes home pregnant, who cannot be counted on to remain idle while their new grandchild is wrested from their care. What due process would mean in practice, assuming lawyers remain worth their salt, is that it ought to be possible to tie up proceedings to take custody of any child, allegedly being incompetently parented by an unlicensed mother, for an indefinite period of time, even if constitutionality were to be upheld.

All that while, the child would be growing older, and bonding with the mother. By the time proceedings were concluded, children might be so old, say three, that they are much less attractive prospects for adoption or foster care. In addition, they are liable to be considered "damaged goods" from having resided with parents now proved incompetent throughout what many regard as a critical stage of a child's life. Lawyers paid, probably by the state, to represent indigent unlicensed parents in custodial cases have only to consult their colleagues who represent illegal immigrants in deportation cases to master the tactics of accomplishing by delay what is prohibited by law. Eventually, cases might be mooted by the argument that the risk from removing bonded older children from their incompetent mothers outweighs the risk from their remaining with those mothers, even for the outcome of sociopathy, as Lykken implicitly recognizes. The child abuse literature testifies that even severely abused children usually want above all to be reunited with their parents.

Scenario analysis should be a multiparty dialogue, not a monologue, and Lykken may well have thought through some of these issues. I would like to see that dialogue expanded to consider also whether he has fingered the right variables to motivate informed inter-

vention. Without appropriate statistics that count criminals rather than crimes, I am not sure that the race-specific lifetime prevalence of criminals, the proportion who meet various operational standards of criminality by a given age, has actually increased much. I would not be surprised by some increase, but in earlier research I discovered that once race, age, sex, and the criterion of delinquency were held constant, there was little variation in lifetime prevalence over time, place, and most of the urban-rural continuum in the percentage of individuals who become delinquent by age 18. In five separate locations, for example, the percentage of white males who appear in juvenile court by 18 ranged only between 16.3 and 17.9%. For black males, it was 50%. Without this key statistic for representative samples, it is difficult to know whether crime rate fluctuations at any given time are meaningful ones, because age cohorts also fluctuate in size and in racial composition.

The rising crime (not criminal) rates that Lykken cites with justified concern, and attributes to rising rates of unwed motherhood, could be produced in part by increased severity of crimes at earlier ages due to more lethal armaments, the internecine wars among drug traders, the expansion of opportunity afforded by racial desegregation, and changes in racial composition, particularly in urban areas. More severe offenses register in statistics and public consciousness more readily than less severe offenses. The black male gang members whom I studied in Chicago in the early 1960s typically kept a gun buried underground, if they possessed one, to be dug up for special occasions. Now, they bury their guns in baggy pants. If lifetime prevalence within race has changed but little, large changes in rates of unwed motherhood over recent decades will fail to find concomitant variation in the numbers of law-breakers. Although one could still attribute changes in severity to changes in unwed motherhood, to my mind such a failure would put a deep crimp in the presumed causal efficacy of that predictor.

In my own research, I have found that black-white differences in the lifetime prevalence of lawbreakers has remained closely commensurate with differences in the black and white IQ distributions over long periods of time. This condition antedates the rise over recent decades in prevalence of single-parent families with dependent offspring maintained by mothers in both races. Indeed, the prevalence of such families, as I report in a forthcoming article in the journal *Intelligence*, has itself become commensurate with the two IQ distributions, starting about 1970. My interpretation of these results is that although both kinds of outcomes

are determined by many variables besides IQ within race, the race difference in outcomes is basically due to IQ, and the outcomes within race also depend on IQ to a greater degree than has been acknowledged. If this interpretation is correct, the two variables linked as main cause and effect, unwed motherhood and crime, by Lykken, are both determined to a large degree by a third variable, IQ, which can mimic when low, I suspect, many of the attributes called sociopathic.

Such a pattern of causality, given the much higher heritability of IQ, might suggest different forms of intervention than legal separation of newborns from unlicensed mothers that would be both more effective and less drastic. For example, opportunities for artificial insemination could be made available to a population of females, already demonstrated to be too willing to become pregnant out of wedlock by males whose paternity is now often uncertain, that are equivalent in quality to those utilized by women whose husbands are infertile. Male donors in such cases are typically medical residents, whose IQs, we know, average about 125. The enhanced life chances and greater resilience of offspring so conceived could be an important source of satisfaction to the mothers and would produce lasting benefits in succeeding generations, on average, with no cost to false positives. Once the benefits became documented as well as apparent among mothers themselves, interest in and demand for such opportunities would be likely to expand. The voluntary nature of such a program would mean that no race could exercise veto power over its use by members of another race.

Although not always a concern in epidemiology, a proper scenario analysis must take into account the projected consequences of inaction or inadequate intervention. It is at this point that a failure to consider race differences is particularly unfortunate, because the organization of causes and outcomes by race gives them a salience and an impact on society that is qualitatively different than if they were distributed throughout a racially homogeneous population. In 1986, black journalist Wiley Hall, 3rd, observed, correctly, "Crime probably is the most potent and troubling racial issue facing the country today." In Baltimore, the density of victimization in some neighborhoods is so great that one reads of a young girl who has been accidentally shot in the street for the second time in a matter of weeks, and of youngsters gunned down while at play so often that the previous such incident is still always fresh in mind.

Although I consider myself street-wise for an academic and of a pessimistic turn of mind, it is clear to

me in retrospect that even when crime was shocking in the past I consistently underestimated how much worse it would become. I never anticipated that innocent children would be shot down in the street, and in their beds through windows and walls. I failed to imagine plentiful guns made affordable by the drug trade, not to mention fully automatic weapons. If I had boldly predicted such outcomes, many would have said I was paranoid, and I would have suspected they were right. What awful eventualities can I, can we, not begin to imagine today, I now wonder, that will arrive tomorrow as surely as ever?

It was with such density of victimization in mind that many years ago I made, on the spur of the moment, what I thought would be an at least mildly outrageous remark to a group of academics chatting at a convention. If the density of crime commonly found in black lower class neighborhoods were to appear in white middle class neighborhoods, I said, pulling a figure out of the air, there would be a revolution in this country within six months. No one demurred, not even the several journalists in the group. To my astonishment, all heads nodded. Since then, I have from time to time provocatively repeated the same statement, and I have yet to encounter a single disagreement. What makes my statement ominous is that it may be only a matter of time, the way things are going, before such crime rates do encroach on all neighborhoods. Economists like to point out that if something cannot go on forever, it will stop. This observation strikes many people as a boring truism, but it is more than that. It is a wake-up call to the fact that what we ought to be concerned about is the conditions under which an ultimately intolerable trend will end. Will those conditions be ones over which we exercise some control, or will they be revolutionary ones not of our choosing, not even of our wildest dreaming?

David Lykken is to be commended for courageously suggesting a bold intervention directed at halting an unmistakably terrible trend short of catastrophe. I have critiqued his proposal with the respect it deserves, without invoking, I wish to point out, abstract notions of its relation to democratic and other values. First we need to know what will work. Second, what is the boundary between tolerable and intolerable. Third, what are our choices, tolerable or not. The purest form of democracy is simple majority vote, which experience suggests is capable of anything. Democratic values, therefore, may have little relation to democracy as practiced in its purest form. If abstract values are to be brought to bear, I prefer they be those of "deliberative democracy," as described by Jürgen Habermas. *Society* has afforded

Lykken what I hope will prove an example of what Habermas calls an "ideal speech situation," one devoted to the civil exchange of reasons under deliberative democracy. I have given my reasons; let others give theirs.

---

*SUGGESTED FURTHER READING*

- Gordon, R. A. (1976). Prevalence: The rare datum in delinquency measurement and its implications for the theory of delinquency. In M. W. Klein (Ed.), *The juvenile justice system* (pp. 201–284). Beverly Hills: Sage Publications.
- Gordon, R. A. (1986). Scientific justification and the race-IQ-delinquency model. In T. F. Hartnagel & R. A. Silverman (Eds.), *Critique and explanation: Essays in honor of Gwynne Nettler* (pp. 91–131). New Brunswick, NJ: Transaction Books.
- Gordon, R. A. (1987). SES versus IQ in the race-IQ-

delinquency model. *International Journal of Sociology and Social Policy*, 7, 30–96.

Habermas, J. (1996). *Contributions to a discourse theory of law and democracy*. Cambridge, MA: MIT Press.

Jager, J. C., & van den Boom, F. M. L. G. (1994). Scenario analysis, health policy, and decision making. In E. H. Kaplan & M. L. Brandeau (Eds.), *Modeling the AIDS epidemic: Planning, policy, and prediction* (pp. 237–252). New York: Raven Press.

---

*Robert A. Gordon is professor of sociology at Johns Hopkins University, where he studies the sociology of intelligence. His interests have ranged from crime and delinquency to the question of intelligence test bias. He is a fellow of the American Psychological Association and in 1974 he shared the American Association for the Advancement of Science Socio-Psychological Prize for research on opiate addiction.*

Transaction Publishers Mourns the Loss of a Close Friend and Long Standing Supporter

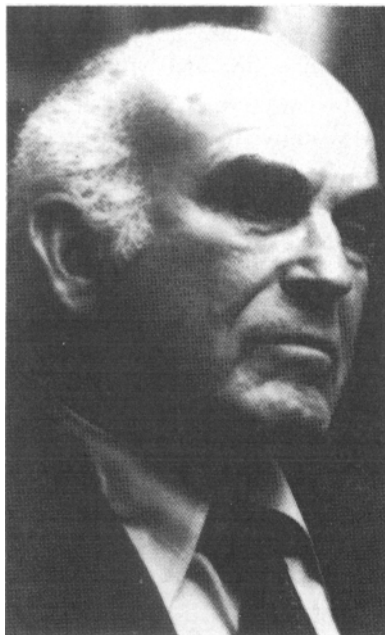
# ROBERT A (LEXANDER) NISBET

September 30th, 1913 — September 9th, 1996

AUTHOR OF

- *The Degradation of the Democratic Dogma*
- *History of the Idea of Progress*
- *The Sociological Tradition*
- *Teachers and Scholars*

*"If a new idea system does appear, to give new life and impetus to the realities of contemporary Western society, it will not be the consequence of methodology, much less computers, of mass data gathering and retrieval, or of problem definition however rigorous, or research design however aseptic. It will be the consequence of intellectual processes which the scientist shares with the artist: iconic imagination, aggressive intuition, each given discipline by reason and root by reality. So it has always been and so it is now in those contemporary intellectual areas of most intense creativity." (Conclusion T/A edition of The Sociological Tradition)*



TRANSACTION PUBLISHERS  
RUTGERS UNIVERSITY  
NEW BRUNSWICK, N.J. 08903