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*1 A LEGAL AND EMPIRICAL PERSPECTIVE ON CRIME AND ADULT ESTABLISHMENTS: A
SECONDARY EFFECTS STUDY IN SAN ANTONIO, TEXAS

Roger Enriquez [FNa]
Jeffrey M. Cancino [FNb]
Sean P. Varano [FNc]

*2 Introduction

When Oliver Wendell Holmes Jr. wrote his seminal work The Path of Law in 1897, he argued that "the man of the future is the man of statistics...." [FN1] Holmes was a philosophical pragmatist who thought judges should assess the consequences of a decision by using relevant statistical techniques and theories. Roscoe Pound, the Dean of Harvard Law School, argued that judges had to take into consideration the sociological consequences of their decisions and advocated a broadening of legal training to include the social sciences, economics, sociology, and political science. [FN2] Both Pound and Holmes embraced the notion that judges could play a creative role in rendering decisions when the case involved special or novel circumstances.

Nearly 110 years have passed since Holmes announced that the "path of law" might lead to the doorstep of the statistician. Today, courts have shown an increasing willingness to use statistical evidence to bolster or undermine a plaintiff's claim. [FN3] For example, in a case of *3 recent vintage, the Supreme Court ruled that a municipality may regulate adult-entertainment establishments because they are concerned with the adverse "secondary effects" those establishments create. [FN4] Part I of this article discusses the development of the so-called secondary effects doctrine and the First Amendment.

I. Adult Entertainment and the First Amendment

The Supreme Court has long recognized that adult establishments have a constitutionally protected right to free expression. [FN5] In Schad v. Borough of Mount Ephraim, the Court ruled that municipalities could promulgate zoning restrictions that affect time, place, and manner of expression of adult businesses but could not ban them out of existence. [FN6] In Barnes v. Glen Theatre, Inc., the Supreme Court upheld a public nudity law, but eight of nine justices agreed that nude dancing was a form of expressive conduct worthy of First Amendment protection. [FN7] The Barnes case generated four separate opinions. However, the concurrence written by Justice Souter provides the most lucid explanation of the secondary effects rationale. Souter argued that secondary effects are "correlated with the existence of establishments offering [nude] dancing." [FN8] Whether nude dancing caused the secondary effects was not the issue, the mere presence of the correlation was sufficient to permit a municipality to regulate. [FN9] While correlation is a statistical term, the Court failed to articulate a threshold for intervention. Judges and lawyers were left without any *4 indication as to how strong or weak the correlation must be; however, the Court did hold that a study relied on by a municipality need not be local. "[L]egislation seeking to combat the secondary effects of adult entertainment need not await localized proof of those effects." [FN10] Again, while the Barnes Court did not explicitly call for empirical evidence, it does not seem plausible that a litigant could establish the presence (or absence) of secondary effects without the use of statistical data. Ironically, Justice Souter may have come to the same conclusion too late for the litigants in Barnes when the Court decided City of Erie v. Pap's A.M. [FN11] There, Souter acknowledged that he had made an error in his Barnes concurrence when he said that a governmental entity did not need localized proof of secondary effects. He commented, "[A]fter many subsequent occasions to think further about the needs of the First Amendment, I have come to believe that a government must toe the mark more carefully than I first insisted. I hope it is enlightenment on my part, and acceptable even if a little late." [FN12]

In City of Los Angeles v. Alameda Books, Inc., Justice O'Connor, in a plurality opinion, permitted municipalities to "rely on any evidence that is 'reasonably believed to be relevant' for demonstrating a connection" between adult businesses and harmful secondary effects. [FN13] It appears that the evidence adduced by the municipality provided the rationale for the adoption of the ordinance. Although O'Connor did not specifically state that statistical evidence was necessary to justify an ordinance that restrains adult businesses, it is clearly implied. After all, the word connection is nearly synonymous with the statistical term correlation. Moreover, O'Connor was quick to point out that a municipality could not get away with "shoddy data." [FN14] In so doing, she provided additional evidence that the Court at least contemplated a municipality's use of statistics to substantiate its rationale in adopting an ordinance. It is clear that the most ***5** prudent course for a municipality that wishes to regulate adult businesses should be to procure good statistical evidence that adult businesses and harmful secondary effects are correlated prior to the adoption of an ordinance regulating those activities.

Conversely, adult establishments that are adversely affected by an ordinance and wish to challenge its constitutionality must "cast direct doubt" on the rationale (or evidence) used to support the adoption of the ordinance. [FN15] Therefore, the Supreme Court has clearly placed the burden of proof on the plaintiff. The plaintiffs can shift the burden back on the municipality by (1) "demonstrating that the municipality's evidence does not support its rationale;" or (2) "by furnishing evidence that disputes the municipality's factual findings." [FN16] Under either regime, it does not appear plausible that a plaintiff could succeed in shifting the burden of proof to the municipality without the use of an expert trained in research methods or statistics to scrutinize the municipalities study or by commissioning a study of their own with findings that differ from the municipality's findings. [FN17] Once the burden is shifted, the municipality must "supplement the record with evidence renewing support for a theory that justifies its ordinance." [FN18] In the instant case, the Court found that that plaintiff failed to "offer a competing theory, let alone data" to undermine the municipality's rationale for the ordinance. [FN19] Ultimately, the Court ruled that the ordinance at issue was constitutional. [FN20]

At first blush, Alameda appears to merely affirm a line of cases where the Supreme Court has consistently upheld the constitutionality of zoning, nudity, and indecency ordinances that target adult businesses. [FN21] However, because of the way the plurality opinion was written, the practical effect on parties that wish to prevail in similar cases is that they should probably enlist the assistance of a ***6** statistician as soon as feasible.

II. What Causes Crime?

A. Human Display Establishments and Crime

Few studies have attempted to study the interaction between adult businesses and crime. In an unpublished study, Linz and Paul [FN22] used San Diego Police Department calls for service within a 1000-foot area to determine whether there was a greater incidence of crime in a 1000-foot vicinity of peep show establishments compared to 1000-foot control sites (based on census socioeconomic and demographic characteristics). The findings revealed no significant relationship between San Diego peep shows within the 1000-foot perimeter and crime. In a related study conducted in Daytona Beach, Florida, Linz, Fisher, and Yao [FN23] estimated the effects of social disorganization variables, alcohol sites, and adult cabarets on police calls for service at the census block level. The authors also matched 1000-foot perimeter control sites with those of the adult cabaret perimeters to help isolate the sources of crime. The regression analysis showed no association between adult cabarets and crime at the census block level. Rather, the results indicated that social disorganization and alcohol establishments were better predictors of crime. Using a similar methodological design and data, Linz et al. [FN24] found that adult businesses were not associated with crime in Charlotte, North Carolina. This study is the first peer-reviewed article to be published on the topic of adult establishments.

While the Linz studies are promising, they are far from dispositive. One question remains open: Does the presence of adult businesses in a particular area increase crime? If the answer is negative, then might there be other area characteristics or institutions that are responsible for increases in crime?

For well over seven decades, criminologists [FN25] have relied upon ***7** social disorganization theory to understand the causes of crime rates across urban neighborhoods. [FN26] The body of research based upon this theory consistently shows that the local community context matters.

B. Social Disorganization Theory and Crime

Social disorganization theory specifies that economically impoverished local communities characterized by residential instability and ethnically diverse populations are more likely to lack social organization than more affluent, homogenous neighborhoods with stable populations. [FN27] In short, social disorganization theory is primarily concerned with community mechanisms of social control that enable residents to realize collective norms and regulate behavior in order to improve the quality of life. Three structural characteristics are most closely associated with social disorganization theory: (1) economic status, (2) residential mobility, and (3) population composition. [FN28] Each concept merits a brief description. First, socially disorganized communities characterized by low economic status lack the necessary financial resources to effectively establish informal social control (e.g., neighborhood watch groups) over community social problems (e.g., crime). [FN29] Second, residential mobility [FN30] impedes the development of social ties among neighbors. [FN31] The inability to establish social relations promotes crime by undercutting communal prevention and problem solving. Third, researchers conceptualize population composition as recent arrivals, foreign-born persons, and those who have migrated from other parts of the country. [FN32] The connection between population composition and crime is based on the premise that a mix of racial and ethnic groups disrupts the equilibrium of neighborhood social control, which in turn leads to increased crime and delinquency. [FN33]

Based on these three concepts, most scholars hypothesized that crime rates would be higher in socially disorganized neighborhoods. [FN34] **8** Empirical evidence showed that crime was due to weakened community social organization, which resulted from structural constraints (e.g., low-economic status, high residential instability, and population composition) endemic in the environment. Ultimately, researchers concluded that community attributes explain crime patterns better than individual characteristics (e.g., an individual's race) do. [FN35] Thus, social disorganization is a theory about places, not persons, so the root causes of crime can be traced back to the characteristics of the community and not the individual. [FN36]

Recent research has gathered considerable evidence in support of social disorganization theory. Along the way, scholars have reformulated and refined the classic social disorganization model [FN37] and have applied the principles of social disorganization to explain the link between local institutions (e.g., bars and families--or lack thereof) and crime. [FN38] For example, scholars have reported that rates of family disruption (measured as divorced families), low socio-economic status, residential stability, and heterogeneity accounted for **9** much of the effect on rates of burglary. [FN39] In addition, studies show that burglary is influenced by other community characteristics, such as single parent households. [FN40]

The most robust tests of social disorganization theory examined the effects of three social disorganization concepts (concentrated disadvantage, immigrant population, and residential instability) on violent crime. [FN41] Results from their analysis showed that concentrated disadvantage (i.e., poor racially segregated residents) and residential instability were significantly related to homicide rates. In a separate study focused on non-violent crime, researchers reported that concentrated disadvantage and mixed land use were strongly associated with less serious crimes, such as physical and social disorder. [FN42] While most scholars have focused on community, social, and economic predictors associated with social disorganization, other researchers also have examined the relationship between various types of institutions (i.e., banks, libraries, recreation center, and bars) within the community that may also influence crime.

C. Alcohol Outlet Institutions and Crime

The rationale for linking the impact of local institutions with crime can be found in the tenets of social disorganization theory. [FN43] The logic behind the connection lies in the assumption that socially disorganized communities are less likely to attract and sustain so-called conventional institutions such as banks, libraries, and recreation centers that help control crime. [FN44] Conversely, bars (so-**10** called weak institutions), which are more prevalent in disorganized neighborhoods, tend to thwart crime control efforts. [FN45] Thus, researchers have characterized the presence of bars as an indirect indicator of social disorganization [FN46] and more recently as "crime generators." [FN47] In fact, scholars have found a higher concentration of alcohol outlets in 213 socially disorganized California cities than in those cities not characterized as socially disorganized. [FN48] Therefore, the combination of weak institutions like bars and social disorganization attributes are likely to foster crime. [FN49]

III. San Antonio, TX--Rationale for Enactment

Clearly influenced by recent Supreme Court jurisprudence, [FN50] the city of San Antonio passed several ordinances aimed at curtailing **11** perceived problems with area strip clubs. [FN51] The municipality's ordinances prohibit, inter alia,

nude dancing, lap dancing, and VIP rooms; require topless dancers to maintain a distance of three feet from patrons at all times; and require dancers, bouncers, and managers to apply for and wear photo ID badges while on duty. [FN52] Among the reasons for the enactment of the ordinance the "City Council [found] that there are adverse secondary effects resulting from public places where a state of nudity, semi-nudity, or specified sexual acts occur or exist." [FN53] Moreover, the "City Council [found] that prostitution, violent crimes, and crimes against persons, promotion of prostitution, indecent exposure, lewd conduct, illegal drug possession, and illegal drug dealing occur with greater frequency at or near the aforementioned public places." [FN54] The City Council also found that the "unrestricted operation of certain sexually oriented businesses may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity." [FN55] Clearly, one of the aims of the ordinance was to combat a perceived increase in crime. [FN56]

The findings presented by the City Council were the result of statistical analysis in addition to findings from other cities and counties outside the jurisdiction of San Antonio indicating that similar adverse secondary effects were linked to adult businesses. [FN57] While the City relied upon in-house statistical analysis and findings ***12** presented by other local governments to support its position, both approaches are controversial and have been criticized. An examination of previous city-studies showed severe methodological limitations that raise concerns and may warrant further investigation. [FN58] For example, scholars report that the Indiana study (1986) failed to properly match (based on key variables) study site with control site, the Phoenix study (1979) used only one year of crime data, and the Los Angeles (1977) results were biased due to a direct increase in enforcement during the evaluation period. [FN59] In short, the reliability of previous city-studies is dubious at best and most likely fatally flawed.

Moreover, the in-house studies relied upon by the City Council were just as problematic. In fact, the police department's chief statistician admitted, "crime can't be definitely linked to activity in the clubs." [FN60]

IV. Present Study

A. Research Objective

In order to ascertain the rationality of the municipality's ordinance, a study was undertaken. The primary research objective of the study was to determine the effect of human display establishments on crime after controlling for social disorganization characteristics and alcohol outlets. To accomplish this objective, multiple sources of data were used to measure social disorganization characteristics in the community, identify the unit of analysis, and identify local institutions of interest. In terms of analysis, four analytical strategies were employed.

The first strategy is more descriptive in nature. Consistent with previous adult establishment research, 500-and 1000-foot concentric zone perimeters were constructed around human display establishments and control sites. The human display establishments ***13** were matched with a control site based on similar socioeconomic and demographic census characteristics. Once the concentric zones were fitted with the census data, crime incidents occurring within the 500- and 1000-foot perimeters were mapped for analysis. Note that such preliminary analysis provides a frequency distribution of incidents per year and the averages for several crime outcomes. This rather cursory analysis is followed by a bivariate analysis. Next, an analysis of variance is conducted to help determine whether statistical differences in crime rate means among three types of block groups exist. Finally, a more rigorous multivariate stepwise regression analysis is performed. Before proceeding with the various types of analysis, a thorough review of the data and methods are provided. For the sake of brevity, only the more rigorous multivariate stepwise regression analysis will be published in this paper. [FN61]

B. Data and Methods

Four independent data sources--2000 Census data, Texas Alcohol Beverage Commission (TABC) data, adult human display establishment data, and official San Antonio Police Department crime records--were used to assess the effects of human display establishments on crime, net of social disorganization predictors, and alcohol outlets. The following subsections highlight the collection procedures for these data.

1. Defining Local Community by Block Groups

Urban sociological research is replete with controversies about the proper operationalization regarding what constitutes a

"neighborhood" or "community." [FN62]   For example, when studying crime rates and crime-related outcomes, the criminological literature shows that scholars normally select pre-constructed units from the census bureau ranging from geographically large tracts, [FN63] to small ***14** block groups, [FN64] and smaller face blocks. [FN65] There appears to be a methodological trade-off with respect to the type of aggregate chosen. When researchers do not have access to a high number of crime incidents, using a larger unit of analysis (e.g., census tract) helps to compensate for such deficiency by increasing the reliability and minimizing measurement error. [FN66] Choosing among these aggregates is convenient, but the reality is that determining the appropriate aggregate usually is dictated by characteristics of the study, data availability, and variables used. [FN67]

In the present study, there exist a relatively large number of crime incidents. Therefore, it was decided to use block groups as the unit of analysis. There is sufficient justification for using census block groups over larger tracts and smaller face blocks. [FN68] Moreover, alcohol outlets ***15** and human display establishments are not situated in the face block residential fashion; instead, such establishments are represented more accurately by a block group combination of business and residential locales. Overall, block groups are the most appropriate unit of analysis for the current research objectives and are thus used as the defining feature of the local community.

Census 2000 data was used to identify the unit of analysis--block groups (BGs) and to identify an array of socioeconomic and demographic items at the BG-level, such as total population, number of whites, number of Latinos, and the like. Note that census items are not direct indicators of social disorganization; rather, they reflect key structural conditions suggested by a long line of theorists as causes of social disorganization. [FN69] Overall, 1,016 BGs were used. Population sizes for the BGs ranged from 4 to 9,922 individuals, with a mean population of approximately 1,400.

2. Community Characteristics

The community characteristics were also derived from 2000 Census data. [FN70] The specific community characteristics include absolute values for median household income in dollars, African-Americans, Latinos, males age 15 to 29, divorced adult residents, female-headed households, vacant housing units, and renter-occupied housing units. In an effort to be consistent with scholarship in the field, these specific community characteristics were selected because research indicates that these characteristics tend to increase the relative level of crime and disorder. If social disorganization controls are not taken into account, then it is possible that any apparent effects of human display establishments on crime might be overestimated.

3. Texas Alcohol Beverage Commission (TABC) Data

Consistent with prior research that collected alcohol outlet data, [FN71] the current study obtained a list of all "on-site" alcohol serving institutions from the TABC. This entity makes such information publicly available via the Internet in a downloadable version. [FN72] The ***16** information includes, for example, the physical street address, type of license, name of business, and length of operation. Alcohol establishments were limited to locations that allow for the consumption of alcohol on-site, thereby excluding those businesses that are mere retailers of alcohol, deemed more appropriately as "off-site." The use of on-site outlets makes intuitive sense because the types of alcohol establishments specified in this analysis are conceptually similar to human display establishments. That is, businesses providing the consumption of alcohol on-site and human display establishments attract people who spend a considerable amount of time in one location.

4. Human Display Establishment Data

The physical street addresses of seven human display establishments (P.T.'s, Sugar's, Allstars, Tiffany's, Wild Zebra, Palace, and Babes) were collected. The exact addresses were verified by referencing the 2003 telephone directory, followed by calling the establishments.

5. Official Crime Data

The San Antonio Police Department (SAPD) provided official crime incident (e.g., assault, robbery, and the like) records for three calendar years, 2000- 2002. This data was obtained via the Freedom of Information Act/Texas Open Records Act. The data included several attributes of the criminal event including date, time, location (address), type of

criminal incident, and the police district in which the event occurred. Using the location where the crime occurred is informative in that it provides researchers with proximal causes of crime. [FN73] At least three years of crime data is considered sufficient to avoid annual fluctuations and increases the likelihood of having sufficient incidents to calculate reliable rates. [FN74]

*17 6. Geo-coding TABC Data, Human Display Establishments, and Crime

To perform the proposed analysis, it was necessary to import addresses from the human display establishments, alcohol outlets, and SAPD's crime incidents into the proper format for geocoding. To carry out this task, two procedures were required. First, the 2000 census block group information was downloaded from the United States Department of Census web site. [FN75] Second, each of the data sets was subsequently geocoded using Geographic Information Systems (GIS) software (ArcView 8.1). This process entails assigning the address of each crime incident, on-site alcohol outlet, and human display establishment to their respective location on a computer-generated map. The ArcView software was used to create the 500- and 1000-foot concentric zone perimeters around the human display establishment and control site.

Approximately seventy percent of crime data across the three years was successfully geocoded. Computer matching is performed using mathematical computations and indices. In some cases the GIS software could not find the exact location of crime incidents with a sufficient level of precision on the computer-generated map. There are several explanations for this problem. First, a sizable number of the incidents did not have valid addresses. For example, a visual review of the unmatched addresses reveals only the street name without a numerical identifier (e.g., Main Street, San Antonio, TX). Another possible source is errors made during the entry process by SAPD, yet there is no way to verify this. Despite these minor problems, approximately 45,000 crime incidents were successfully geocoded per year on average. Although these numbers may under represent the actual level of crime in any given geographical location, underestimation is expected to be equally distributed across geographical locations thereby not misrepresenting the results of this analysis. Overall, the geocoding process is consistent with prior research. [FN76]

*18 One additional methodological procedure is worth mentioning--the selection of control sites. After obtaining relevant socioeconomic and demographic census characteristics, the researcher drove to each human display establishment to gain some familiarity with the general surroundings. Selecting a control site that matched the human display establishment based on census data was not the only particular interest; instead, the goal was to ensure that the control site was similar in terms of broader environmental features. While the census data reflected a comparable match for the human display and control sites, discrepancies were apparent in the broader environment (e.g., apartment complex, heavy business area, large grocery stores, and a high volume of traffic in terms of people) on two occasions and therefore were not used.

7. Dependent Variables

The dependent variables (i.e., outcome of interest) were the rate (per 1,000) of crimes for several different types of criminal incidents. Some scholars argue that crime rates should be used when estimating the effects of environmental predictors. [FN77] Thus, six types of crime rates (public order, drug offenses, sex offenses, assault, robbery, and firearm offenses) and the total crime rate are specified as the dependent variables (seven variables total). Calculating crime rates involved a two-step process. The first step required computing the three year crime average (2000-2002) for each crime type across all block groups (i.e., 1,016). Once calculated, rates were determined for each census block group by dividing the total number of events by the BG population and then multiplying the result by 1,000. The computations are represented in the following formula where X refers to the specific crime group (e.g., drug offenses):

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8. Independent Variables

To capture sources of social disorganization, the 2000 census data was used to measure eight variables: (1) renter (percent BG housing units that are renter occupied), (2) Latino (percent BG population that is Latino), (3) Black (percent BG population that is Black), (4) divorced (percent BG population that is divorced), (5) median ***19** household income (BG median household income in dollars), (6) vacant (percent BG housing units that are vacant), (7) male 15-29 years of age (percent BG male population in crime prone 15-29 age category), and (8) female headed householder (percent BG household population that is female headed). Note that only a few social disorganization variables were selected in order to achieve

conceptual clarity and parsimonious statistical modeling. Moreover, scholars have used similar social disorganization predictors. [FN78]

Researchers have operationalized alcohol outlets in various ways, such as on-site, off-site, and total. Consistent with other research, alcohol density outlets are measured as the number of on-site alcohol outlets in each BG per 1000 population. [FN79] Human display establishments were dummy coded and measured as the presence and non-presence of such establishments within a BG (1 = human display establishment in the BG, 0 = no human display establishment in the BG). Only seven human display establishments were included in the present research.

V. Findings

As mentioned earlier, four analytical strategies were selected. First, crime incidents occurring within the 500- and 1000-foot concentric zone perimeters for human display and control sites were assessed. Second, bivariate analysis (the analysis of two variables simultaneously for the purposes of determining a relationship between them) was conducted among the variables to obtain a preliminary understanding of the bivariate relationships. Next, an analysis of variance was conducted to help determine whether statistical differences in crime rate means among three types of block groups exist. The final stage of analysis included a procedure known as ordinary least squares ("OLS") stepwise regression. This analytical technique helps determine which variable(s) makes a significant contribution in predicting crime. Significantly, explained variance fluctuations in the dependent variable(s) could be detected. [FN80] Stated differently, ***20** stepwise regression allows researchers to observe any significant change among variables and specified models in a systematic fashion. The central research question is: do human display establishments influence crime after controlling for social disorganization predictors and alcohol outlets, which are known to be associated with crime? Therefore, the authors will focus exclusively on the Stepwise Regression and Multivariate Models. [FN81]

To address the central research question, three models are estimated. Model 1 specifies variables associated with social disorganization. Model 2 reflects the social disorganization variables in addition to alcohol density outlets. Model 3 (the full model) includes social disorganization predictors, alcohol density outlets, and human display establishments.

Table 1 presents all models for the crime rate of public order. In Model 1, the significant F-statistic (F = 4.888) indicates that the independent variables are sufficient in explaining the variation in the dependent variable (public order). The R^2 value is .037, meaning that the proportion of variation in public order explained by Model 1 is approximately 3%. Upon closer examination, four of the eight social disorganization predictors (Latino, Black, median household income, males 15-29 years of age) are significantly correlated with public order. Moreover, the magnitude of such relationships is strong, but in the opposite direction.

Table 1. Stepwise Regression Analysis for Public Order

Variable	Model 1	Model 2	Model 3
	<<beta>>	<<beta>>	<<beta>>
Renter	-.00	-.06	-.06
	(1.50)	(1.48)	(1.48)
	[-9.79]	[-2.21]	[-2.15]
Latino	-.16**	-.15**	-.15**
	(1.24)	(1.20)	(1.21)
	[-4.64]	[-4.28]	[-4.32]
Black	-.08**	-.05	-.05
	(2.43)	(2.37)	(2.37)

	[-5.71]	[-3.75]	[-3.71]
Divorced	-.05	-.06	-.06
	(5.11)	(4.96)	(4.96)
	[-7.20]	[-9.27]	[-9.14]
Median household income	-.18**	-.15**	-.15**
	(.00)	(.00)	(.00)
	[-8.35]	[-7.03]	[-7.00]
Vacant	.08**	.06	.06
	(3.57)	(3.47)	(3.47)
	[9.34]	[6.76]	[6.60]
Males 15-29 years of age	-.08**	-.08**	-.08**
	(5.95)	(5.77)	(5.77)
	[-14.12]	[-13.63]	[-13.39]
Female-headed households	-.06	-.03	-.03
	(1.63)	(1.59)	(1.59)
	[-2.80]	[-1.56]	[-1.54]
Alcohol density outlets	-----	.30**	.26**
		(.10)	(.10)
		[.85]	[.86]
Human display est.	-----	-----	-.03
			(3.40)
			[-3.55]
Constant	9.683**	8.545**	8.508**
F Statistic	4.888**	12.128**	11.025**

R2	.037	.098	.099

Note: Standard errors in parentheses and unstandardized coefficients in

brackets.

· p < .05, ** p < .01

*22 In Model 2, the results are similar; however, after controlling for alcohol density outlets, the F-statistic (F = 12.128) increased tremendously. More interesting is the observed R2 value (.098) when compared to the R2 (.037) for Model 1. By adding the alcohol density outlet variable to the regression equation, the proportion of explained variance in public order increased 6%. This increase is reflected in the magnitude and positively significant correlation (.30) between alcohol density outlets and the crime of public order. As expected and consistent with prior research, as alcohol density outlets increase, so does the crime of public order. In Model 3 (full model), the addition of human display establishments revealed an insignificant yet inverse relationship with the dependent variable. Stated differently, the observed inverse relationship suggests that as human display establishments decrease, crime increases. The F-statistic (11.025) decreased, but the alcohol density outlet variable remained significant. In terms of R2 (.099), there was no significant increase in explained variance. Thus, Model 2 is the superior model. Overall, human display establishments are not significantly related to public order crimes. Instead, it appears that based on the full model comparison in strength of correlations and significance, alcohol density outlets (.26) are stronger determinants of crime.

Table 2 presents all models for the crime rate of drug offenses. The findings in Model 1 indicate a weak and insignificant model. For example, the F-statistic (1.370) is insignificant and the R2 value (.011) is small (i.e., 1% of the explained variance). Here, only two of the social disorganization predictors are significant (Latino and median household income). In Model 2, by adding alcohol density outlets, the model improved significantly. The F-statistic (F = 4.088) reached significance and the R2 value (.035) increased 2%. The observed relationship between alcohol density outlet and the rate of drug offenses (.17) was significant and apparently caused the significance of Latino and median household income in Model 1 to disappear. Model 3 showed no improvement in the explained variance, nor did it yield any significant variables besides alcohol density outlets. More importantly, the results showed a weak and insignificant relationship (.02) between human display establishments and drug offenses. Hence, when specified, the alcohol density outlets variable produced a strong and positive association with drug offenses across all models. The empirical evidence indicates that human display establishments do not cause drug crimes.

*23 Table 2. Stepwise Regression Analysis for Drug Offenses

Variable	Model 1	Model 2	Model 3
	<<beta>>	<<beta>>	<<beta>>
Renter	.01	–.03	–.03
	(8.94)	(8.97)	(8.98)
	[1.30]	[-6.59]	[-6.80]
Latino	–.09*	–.08	–.08
	(7.41)	(7.32)	(7.33)
	[-14.90]	[-13.55]	[-13.38]
Black	–.02	–.00	–.00
	(14.50)	(14.39)	(14.40)

	[-8.08]	[-.74]	[-.88]
Divorced	-.05	-.06	-.06
	(30.42)	(30.10)	(30.11)
	[-45.68]	[-53.42]	[-53.92]
Median household income	-.10*	-.09	-.09
	(.00)	(.00)	(.00)
	[-2.79]	[-2.30]	[-2.31]
Vacant	.03	.01	.01
	(21.26)	(21.09)	(21.12)
	[16.78]	[7.16]	[7.84]
Males 15-29 years of age	-.06	-.05	-.06
	(35.44)	(35.02)	(35.06)
	[-56.97]	[-55.14]	[-56.10]
Female-headed households	-.01	.01	.01
	(9.72)	(9.64)	(9.65)
	[-2.79]	[1.84]	[1.79]
Alcohol density outlets	-----	.17**	.16**
		(.63)	(.63)
		[3.16]	[3.10]
Human display est.	-----	-----	.02
			(20.67)
			[14.03]
Constant	45.496**	41.244**	3.868**

F Statistic	1.370	4.088**	3.724**
R2	.011	.035	.036

Note: Standard errors in parentheses and unstandardized coefficients in

  brackets.

* p < .05, ** p < .01

*24 Table 3 presents all models for the crime rate of sex offenses (e.g., rape). In Model 1, the findings indicated that four of the eight social disorganization variables were significantly related to rape. For example, a significant positive association (.09) was observed between the percentage of vacant housing units and rape. With respect to the overall model, the F-statistic (F = 4.212) shows that the independent variables explain the variation in the dependent variable. The R2 value (.032) reveals a 3% portion of the explained variance according to the current model. In Model 2, the four social disorganization variables remain significant, but the inclusion of alcohol density outlets trumps these variables in terms of magnitude of correlation. A significantly strong positive relationship (.15) is observed between alcohol density outlet and rape. The current model also shows a significant increase in the F-statistic (6.069). The R2 has also increased by 2%. In the final full model, the significance and relationship for alcohol density outlets has remained the same, and the coefficient for human display establishment is .00. Although significant, the F-statistic decreased (5.458) and the R2 value (.052) was unchanged. Once again, Model 2 is superior and human display establishments do not appear to influence sex offenses, such as rape.

*25 Table 3. Stepwise Regression Analysis for Sex Offenses (Rape)

Variable	Model 1	Model 2	Model 3
	<<beta>>	<<beta>>	<<beta>>
Renter	-.03	-.06	-.06
	(.79)	(.80)	(.80)
	[-.58]	[-1.21]	[-1.21]
Latino	-.11**	-.11**	-.11**
	(.66)	(.65)	(.65)
	[-1.75]	[-1.64]	[-1.64]
Black	-.04	-.02	-.02
	(1.29)	(1.28)	(1.28)
	[-1.38]	[-.80]	[-.80]
Divorced	-.03	-.04	-.04
	(2.70)	(2.68)	(2.68)
	[-2.55]	[-3.17]	[-3.17]
Median household	-.20**	-.18**	-.18**

income

	(.00)	(.00)	(.00)
	[-4.69]	[-4.30]	[-4.30]
Vacant	.09**	.08**	.08**
	(1.89)	(1.88)	(1.88)
	[5.29]	[4.53]	[4.54]
Males 15-29 years of age	-.08*	-.07*	-.07*
	(3.15)	(3.12)	(3.12)
	[-6.98]	[-6.83]	[-6.84]
Female-headed households	-.02	-.00	.00
	(.86)	(.86)	(.86)
	[-.41]	[-3.75]	[-3.84]
Alcohol density outlets	-----	.15**	.15**
		(.06)	(.06)
		[.25]	[.25]
Human display est.	-----	-----	.00
			(1.84)
			[.20]
Constant	5.683**	5.346**	5.348**
F Statistic	4.212**	6.069**	5.458**
R2	.032	.052	.052

Note: Standard errors in parentheses and unstandardized coefficients in

brackets.

* p < .05, ** p < .01

*26 Table 4 presents all models for the crime rate of assault. In Model 1, two social disorganization variables (i.e., Latino and median household income) are significantly related to assault. The F-statistic (F = 7.439) is significant, and the R2 value (.056) reveals a 5% portion of the explained variance for assault according to the current model. Model 2 indicates a relatively significant and strong positive association (.22) between alcohol density outlets and assaults. Here, the F-statistic (F = 12.395) almost doubled in value when compared to Model 1. More importantly, the explained variance (R2 = .100) for assault showed a 5% increase over Model 1. In other words, 10% of the explained variance in assault is attributed to Model 2. After controlling for human display establishments, Model 3 findings showed a weak (.01) and insignificant relationship with assault. As the model indicates, the only significant variables were Latino, median household income, divorced, female-headed household, and alcohol density outlets. Similar to the tables previously presented, the F-statistic (F = 11.148) decreases and the R2 value (.100) remains unchanged compared to Model 2 when human display establishments are added to the regression model. Overall, Model 2 is more parsimonious.

*27 Table 4. Stepwise Regression Analysis for Assault

Variable	Model 1	Model 2	Model 3
	<<beta>>	<<beta>>	<<beta>>
Renter	-.04	-.08*	-.08*
	(6.85)	(6.79)	(6.80)
	[-6.18]	[-14.47]	[-14.51]
Latino	-.15**	-.14**	-.14**
	(.68)	(5.55)	(5.55)
	[-20.34]	[-18.92]	[-18.89]
Black	-.05	-.02	-.02
	(11.10)	(10.90)	(10.91)
	[-14.08]	[-6.36]	[-6.39]
Divorced	-.05	-.06*	-.06*
	(23.31)	(22.80)	(22.82)
	[-36.44]	[-44.57]	[-44.66]
Median household income	-.30**	-.27**	-.27**
	(.00)	(.00)	(.00)
	[-6.09]	[-5.57]	[-5.58]
Vacant	.06	.04	.04
	(16.29)	(15.98)	(16.01)
	[31.38]	[21.28]	[21.41]

Males 15-29 years of age	-.03	-.02	-.03
	(27.16)	(26.53)	(26.56)
	[-21.50]	[-19.58]	[-19.76]
Female-headed households	-.05	-.07*	.07*
	(7.44)	(7.31)	(7.31)
	[10.06]	[14.94]	[14.92]
Alcohol density outlets	-----	.22**	.22**
		(.47)	(.48)
		[3.32]	[3.31]
Human display est.	-----	-----	.01
			(15.66)
			[2.71]
Constant	62.559**	58.091**	58.119**
F Statistic	7.439**	12.395**	11.148**
R2	.056	.100	.100

Note: Standard errors in parentheses and unstandardized coefficients in

  brackets.

* p < .05, ** p < .01

*28 Table 5 presents all models for the crime rate of robbery. In Model 1, several of the social disorganization predictors are significantly related to robbery. The F-statistic (F = 6.893) is significant, meaning that the independent variables sufficiently explain the variation in robbery. The R2 value (.052) suggests that 5% of the variation in robbery is explained by this regression model. In Model 2, many of the same social disorganization predictors remained significant (with the exception of median household income) and alcohol density outlet was significantly and positively correlated (.23) with robbery. The magnitude in correlation for alcohol density outlets surpassed those variables associated with social disorganization. The F-statistic (F = 12.195) doubled, and Model 2 accounted for a 4% (observed R2 = . 098) increase in explained variance. In Model 3, the inclusion of human display establishments produced a weak (.02) and insignificant relationship with robbery. Alcohol density outlets, however, remained statistically significant. Model 3 showed a decrease in the F-statistic (11.012) and an unchanged R2 value (.099). Thus, controlling for human display establishments does not produce any additional explained variance in robbery. Model 2 remains the superior model.

*29 Table 5. Stepwise Regression Analysis for Robbery

Variable	Model 1 <<beta>>	Model 2 <<beta>>	Model 3 <<beta>>
Renter	−.00	−.05	−.05
	(.73)	(.72)	(.72)
	[−5.28]	[−.96]	[−.97]
Latino	−.15**	−.14**	−.14**
	(.61)	(.59)	(.59)
	[−2.12]	[−1.96]	[−1.95]
Black	−.10**	−.07*	−.07*
	(1.18)	(1.16)	(1.16)
	[−3.24]	[−2.40]	[−2.41]
Divorced	−.03	−.05	−.05
	(2.48)	(2.43)	(2.43)
	[−2.54]	[−3.43]	[−3.47]
Median household income	−.10*	−.07	−.07
	(.00)	(.00)	(.00)
	[−2.17]	[−1.61]	[−1.62]
Vacant	.11**	.09**	.09**
	(1.74)	(1.70)	(1.70)
	[5.61]	[4.51]	[4.56]
Males 15-29 years of age	−.09**	−.09**	−.09**
	(2.89)	(2.82)	(2.83)
	[−8.03]	[−7.82]	[−7.90]
Female-headed households	−.19**	−.21**	.21**
	(.79)	(.78)	(.78)

	[4.31]	[4.84]	[4.84]
Alcohol density outlets	-----	.23**	.22**
		(.05)	(.05)
		[.36]	[.36]
Human display est.	-----	-----	.02
			(1.67)
			[1.08]
Constant	3.573**	3.085**	3.097**
F Statistic	6.893**	12.195**	11.012**
R2	.052	.098	.099

Note: Standard errors in parentheses and unstandardized coefficients in

  brackets.

* p < .05, ** p < .01

*30 Table 6 presents all models for the crime rate of firearm offenses. In Model 1, four of the eight social disorganization predictors (i.e., Latino, divorced, median household income, males 15-29 years of age) were significantly related to firearm offenses. The F-statistic (F = 4.004) was significant, and 3% (R2 = .031) of the variation in firearm offenses is explained by Model 1. After controlling for alcohol density outlets, Model 2 indicates a somewhat surprising result. In particular, the observed relationship between this variable and firearm offenses is weak (.02) and insignificant (the aforementioned social disorganization variables remain significant). Given such relationship, it is important to notice that the F-statistic (3.583) has remained significant but has decreased. Likewise, the R2 value (.031) is unchanged. In previous tables, Model 2 findings showed an increase in the F-statistic and R2; however, in this case it appears that including alcohol density outlets does not improve the model. The findings for Model 3 also show a weak and insignificant coefficient for alcohol density outlets (.02) and human display establishments (.00). The full model F-statistic (3.222) has decreased but has remained significant, while the R2 value (.001) is consistent with the previous models. Among the estimated models regarding firearm related offenses, Model 1 is the superior model.

*31 Table 6. Stepwise Regression Analysis for Firearms

Variable	Model 1	Model 2	Model 3
	<<beta>>	<<beta>>	<<beta>>
Renter	-.05	-.06	-.06
	(1.31)	(1.33)	(1.33)
	[-1.69]	[-1.81]	[-1.81]

Latino	-.14**	-.14**	-.14**
	(1.08)	(1.09)	(1.09)
	[-3.64]	[-3.62]	[-3.62]
Black	-.02	-.02	-.02
	(2.12)	(2.13)	(2.13)
	[-1.06]	[-.95]	[-.95]
Divorced	-.08*	-.08*	-.08*
	(4.45)	(4.46)	(4.46)
	[-10.20]	[-10.31]	[-10.31]
Median household income	-.21**	-.20**	-.20**
	(.00)	(.00)	(.00)
	[-8.14]	[-8.07]	[-8.07]
Vacant	.01	.00	.00
	(3.11)	(3.13)	(3.13)
	[.51]	[.37]	[.38]
Males 15-29 years of age	-.07*	-.07*	-.07*
	(5.17)	(5.19)	(5.20)
	[-10.76]	[-10.73]	[-10.74]
Female-headed households	-.02	-.02	.02
	(1.42)	(1.43)	(1.43)
	[-.78]	[-.72]	[-.72]
Alcohol density outlets	-----	.02	.02
		(.09)	(.09)
		[4.57]	[4.51]

Human display	-----	-----	.00
est.			
			(3.06)
			[.14]
Constant	9.756**	9.69	9.696**
F Statistic	4.004**	3.583**	3.222**
R2	.031	.031	.031

Note: Standard errors in parentheses and unstandardized coefficients in

  brackets.

* p < .05, ** p < .01

*32 Table 7 presents all models for total crime rate. The results in Model 1 show that four (Latino, divorced, median household income, and males 15-29 years of age) out of eight social disorganization predictors are significant. Model 1 also reveals a significant F-statistic (F = 5.708), meaning that the independent variables are sufficient in explaining the variation in total crime. In addition, Model 1 accounted for 4% of the explained variance. After controlling for alcohol density outlets, the F-statistic (F = 8.513) was significant and increased in size compared to Model 1. An increase of 2% (R2 = .071) in explained variance by Model 2 also was observed. With regard to the predictors in Model 2, five of the eight social disorganization variables are significantly related to total crime. Moreover, the relationship between alcohol density outlets and total crime is significant and shows a positive association (.17). In Model 3, controlling for human display establishments does not account for any increase in explained variance (R2 = .071). The F-statistic (F = 7.720) shows a slight decrease, but remains significant. More importantly, the alcohol density outlet coefficient (.17) is still significant, while the human display establishment coefficient (.02) is weak and insignificantly related to total crime. Overall, Model 2 regains supremacy.

*33 Table 7. Stepwise Regression Analysis for Total Crime

Variable	Model 1	Model 2	Model 3
	<<beta>>	<<beta>>	<<beta>>
Renter	-.04	-.08*	-.08*
	(40.72)	(40.77)	(40.81)
	[-41.62]	[-80.22]	[-81.33]
Latino	-.18**	-.17**	-.17**
	(33.75)	(33.30)	(33.33)
	[-142.44]	[-135.83]	[-134.93]
Black	-.04	-.02	-.02
	(66.03)	(65.44)	(65.46)

	[-76.22]	[-40.25]	[-40.98]
Divorced	-.09**	-.10**	-.10**
	(138.60)	(136.85)	(136.91)
	[-375.47]	[-413.36]	[-415.99]
Median household income	-.24**	-.22**	-.22**
	(.00)	(.00)	(.00)
	[-.00]	[-2.72]	[-2.73]
Vacant	.05	.03	.03
	(96.88)	(95.92)	(96.04)
	[130.04]	[82.95]	[86.47]
Males 15-29 years of age	-.09**	-.09**	-.09**
	(161.49)	(159.25)	(159.41)
	[-432.06]	[-423.11]	[-428.12]
Female-headed households	-.03	-.05	.05
	(44.27)	(43.85)	(43.86)
	[39.62]	[62.33]	[62.01]
Alcohol density outlets	-----	.17**	.17**
		(2.84)	(2.87)
		[15.48]	[15.18]
Human display est.	-----	-----	.02
			(93.98)
			[73.51]
Constant	381.526**	360.703**	361.469**
F Statistic	5.708**	8.513**	7.720**

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R2                              .043                    .071                    .071
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Note: Standard errors in parentheses and unstandardized coefficients in

    brackets.

* p < .05, ** p < .01

***34** VI. Present Study Conclusions

After controlling for socioeconomic and demographic community characteristics associated with social disorganization, weak institutional dimensions such as alcohol outlets, and the presence of human display establishments, three general findings emerged. First, several of the social disorganization predictors were significant throughout the models. Second, according to the F-statistics and R2 values, Model 2 was superior for six out of the seven crime dependent variables, and the seventh variable was best analyzed under Model 1. With this said, Model 3 (which controlled for human display establishments) was inferior for each of the seven crime outcomes. Third, when alcohol density outlet was specified in fourteen models, its coefficient was significant and the magnitude trumped other predictor coefficients, whereas the coefficient for human display establishments was consistently weak and insignificant in each of the seven models. In short, the empirical evidence tempers the San Antonio City Council's contention that the presence of human display establishments produces crime. Instead, the results point to weak institutions, namely alcohol outlets and community characteristics associated with social disorganization theory as causes and correlates of crime.

VII. Legal Implications

According to the plurality test in Alameda, [FN82] the present study would certainly cast "direct doubt" on the rationale or evidence used ***35** to support the adoption of the San Antonio ordinance. [FN83] This would then shift the burden back to the municipality. However, it is not clear what evidence a court would require from a municipality to justify the ordinance. In Alameda, the Court ruled that the municipality must "supplement the record with evidence renewing support for a theory that justifies its ordinance." [FN84] Unfortunately, the Court failed to address the issue of quality and quantum of evidence necessary to renew support. Despite the Supreme Court's failure, a number of cases have percolated through various federal courts and may prove helpful to adult establishments and municipalities alike.

In R.V.S., L.L.C. v. City of Rockford, [FN85] the Seventh Circuit Court of Appeals applied the Alameda standard and ruled that the municipality failed to carry its burden, stating that "Rockford has produced little evidence of harmful secondary effects connected to Exotic Dancing Nightclubs beyond the assumption that such effects exist." [FN86] Further, the court was willing to give a great deal of deference to a municipality's experience; however, they were not willing to accept a connection ipse dixit. [FN87] At trial, Dr. Daniel Linz, who has principally conducted many studies in the field of negative secondary effects, [FN88] provided expert testimony that found no adverse secondary effects associated with nude or semi-nude dancing. [FN89] Ultimately, the court ruled that Rockford had not adequately engaged in an empirical assessment and therefore failed to meet the burden as prescribed in Alameda. [FN90]

In Encore Videos, Inc. v. City of San Antonio, [FN91] the court ruled that the municipality failed to carry its burden to justify a regulatory ***36** ordinance because the studies it relied upon either excluded establishments that provide only take-home videos or failed to differentiate between on-site and off-site adult establishments. The court cited Alameda as support for the proposition that a "municipality's evidence must fairly support the municipality's rationale for its ordinance." [FN92] It ruled that "given the expansive reach of the ordinance in the instant case, we must require at least some substantial evidence of secondary effects." [FN93] Finding no such evidence in the record, the court struck down the ordinance. [FN94]

In G.M. Enterprises, Inc. v. Town of St. Joseph, Wisconsin, [FN95] the court ruled that the presentation of a report that found the majority of the studies relied upon by the municipality to be "fundamentally unsound" and methodologically flawed did not do enough to call into question the town's findings. The plaintiffs submitted an affidavit from Dr. Daniel Linz that critiqued the town's studies and tended to show that nude dancing at the Club did not create secondary effects. [FN96] It is clear that the plaintiff in G.M. Enterprises proffered at least as much evidence as the plaintiffs in Encore Videos and R.V.S.; however, this Court ruled differently than the others. [FN97] The G.M. Enterprises Court held that the:

[p]laintiff submitted some evidence that might arguably undermine the Town's inference of the correlation of adult

entertainment and adverse secondary effects, including a study that questions the methodology employed in the numerous studies relied upon by the Board; evidence of an increase of property values near the Club; and evidence that the majority of police calls in regards to the Club originated during periods of time when no semi-nude dancing ***37** occurred. Although this evidence shows that the Board might have reached a different and equally reasonable conclusion regarding the relationship between adverse secondary effects and sexually oriented businesses, it is not sufficient to vitiate the result reached in the Board's legislative process. [FN98] In essence, the court ruled that the "quality and quantum of evidence" produced by the municipality was enough to renew support for the ordinance and was therefore constitutional. [FN99]

In Annex Books, Inc. v. City of Indianapolis, the court found sufficient evidence to support the municipality's rationale of combating secondary effects to uphold the validity of an ordinance aimed at regulating adult businesses that rent and display adult oriented videos, magazines, and other materials. [FN100] Again, Dr. Daniel Linz provided expert testimony on behalf of the plaintiffs to show that the studies relied upon by the municipality used shoddy data and unsound methodology. [FN101] In this case, what seemed to hold sway over the court was not the evidence of secondary effects, but rather what the court dubbed "actual effects." [FN102] "Specifically, the data revealed that the police made forty one (41) arrests at Annex Books for public masturbation between December 5, 2001 and November 5, 2002." [FN103] Ultimately, the court found the number of actual arrests at Annex Books "compelling" and ruled to find sufficient evidence of adverse secondary effects to uphold the ordinances. [FN104]

In Giovanni Carandola, Ltd. v. Fox, an adult entertainment liquor regulation was challenged because it allegedly violated the First Amendment. [FN105] The court concluded that the legislature's stated purpose was reduction of secondary effects. [FN106] Therefore, the court ***38** utilized the Alameda framework to analyze the connection between regulation of liquor at adult establishments and secondary effects. [FN107]

In an effort to cast doubt on the state's rationale, plaintiffs used the expert testimony of Dr. Daniel Linz, who critiqued the studies relied upon by the legislature. [FN108] He pointed out that most of the studies could be found on a web site created by the National Law Center for Children and Families, whose stated purpose is to protect children and families from the harmful effects of illegal pornography. [FN109] The court provided, in painstaking detail, Linz's critiques of the studies specifically referred to in the preamble to the North Carolina statute at issue. [FN110] Moreover, Linz provided two studies from North Carolina to further his contention that adult businesses do not increase crime or decrease property value. [FN111] The Charlotte and Greensboro studies used similar methodologies as the present study and ultimately concluded that adult cabarets do not produce harmful secondary effects. [FN112] The court ruled that "considering the evidence presented, the Plaintiffs carried their initial Alameda Books burden by casting direct doubt on the state's evidence of secondary effects." [FN113]

Under Alameda, once the burden is shifted from the plaintiff, the state may "supplement the record with evidence renewing support for a theory that justifies the ordinance." [FN114] The State of North Carolina employed expert testimony from Dr. Richard McCleary, a professor of Criminology at University of California - Irvine, which "tended to rehabilitate the evidence relied upon by the General Assembly" in ***39** favor of finding association between negative secondary effects and adult businesses. [FN115] Moreover, Dr. Cleary specifically called into question the validity and reliability of the two North Carolina studies that Dr. Linz conducted. [FN116] His most salient criticism centered on the use of too many research methods--Dr. Linz used "different measurements of crime, different methods of choosing control areas, and different statistical analysis." [FN117] Left with conflicting expert opinions, the court held that "the evidence does not provide a substantial basis of fact to support an inference that sexually oriented businesses negatively impact property values or create urban instability." [FN118] However, the court found that it was reasonable to infer that sexually oriented business are associated with higher incidents of crime and concluded that the statute was therefore constitutional. [FN119]

The post-Alameda jurisprudence makes it clear that courts are struggling with the issue of "quantum and quality" of evidence necessary to establish an association or link between sexually oriented businesses and negative secondary effects. Although the Supreme Court has ruled that empirical studies or localized studies are unnecessary to support the rationale behind adoption of those ordinances, the likelihood of either side prevailing without them is not very good, as courts have ruled ordinances unconstitutional in cases where the municipality provides little or no empirical or local support for the rationale of ameliorating negative secondary effects. [FN120] However, it is important to note that the Alameda decision clearly placed the burden on the plaintiff to cast "direct doubt" on the municipality's rationale. In other words, all nudity or zoning ordinances that affect adult businesses should be presumed constitutional. However, cases like R.V.S. and Encore

Videos illustrate ***40** the willingness of courts to rule in favor of adult businesses when municipalities fail to provide empirical or localized proof of secondary effects.

By contrast, in cases such as Giovanni Carandola, where both parties offered expert testimony to assist the court in ascertaining the validity of empirical studies relied upon by the legislature and localized studies conducted by one of the parties, a court likely will not substitute its opinion for the opinion of the legislature as to which expert is most correct. [FN121] Therefore, it is reasonable to believe that courts will rule in favor of the municipality where both parties provide empirical data or localized proof of the existence, or lack thereof, of negative secondary effects,.

Annex Books provides a good illustration of where a court will look at so-called actual effects to bolster the rationale for passage of restrictive ordinances. In Annex Books, the court noted that police made 41 arrests for public masturbation at the Annex Books location. [FN122] Clearly, this factor was important to the court in reaching the decision that passage of the ordinance was justified. In cases where actual effects exist it is not likely that courts will give great weight to evidence that shows a lack of negative secondary effects.

Lastly, G.M. Enterprises is a good illustration of an adult business that failed to provide sufficient localized studies or empirical data to cast direct doubt on the municipality's rationale for enactment of an ordinance. [FN123] There, the evidence only tended to "undermine" the correlation and did not cast "direct doubt," which apparently meant to "vitiate" the municipality's rationale and not "undermine" the rationale. [FN124] It is a valuable lesson to adult businesses that want to challenge the constitutionality of this type of ordinance. While municipalities are not required to provide empirical studies or localized studies finding negative secondary effects, good analysis of recent case law seems to suggest that adult businesses should proffer ***41** both types of studies.

<div align="center">Conclusion</div>

Increasingly, courts are using statistical data to either bolster or undermine a plaintiff's claim. When a plaintiff attacks the constitutionality of an ordinance that targets adult businesses in an attempt to combat the secondary effects they create, courts likely will look to experts to assist in determining the existence of those secondary effects. Plaintiffs and municipalities should be aware that the likelihood of prevailing increases when good research methods are employed to produce sound empirical data and/or localized studies. However, establishments with incidents of so-called actual effects are cautioned because a court likely will weigh evidence of actual effects quite heavily against adult establishments. [FN125] As the present study demonstrates, the causes and correlates of crime are many. Social disorganization theory suggests that crime flourishes in communities that have weakened community social organization due to structural constraints like low-economic status, high residential instability, and diverse population composition. Moreover, socially disorganized communities are more likely to attract weak institutions such as bars. The combination of weak institutions and social disorganization attributes are likely to foster crime. Clearly, determining which establishments do or do not affect crime is a delicate matter. Both municipalities and adult businesses should take into consideration all of the factors before rushing to judgment. After all, as Justice Holmes said over one-hundred years ago: "the man of the future is the man of statistics." [FN126]

[FNa]. Roger Enriquez received his J.D. from the University of Iowa and is an Assistant Professor of Criminal Justice at the University of Texas at San Antonio. His research agenda includes empirical testing of anecdotal legal theories with respect to jurors, false confessions, and secondary effects. Recent publications have appeared in the Journal of Gender, Race and Justice, and Policing: An International Journal of Police Strategies and Management.

[FNb]. Jeffrey Michael Cancino is Assistant Professor of Criminal Justice at Texas State University-San Marcos. His research interests include police culture, social disorganization theory, homicide, and Latino studies. Recent publications have appeared in Policing: An International Journal of Police Strategies and Management, Homicide Studies, the Journal of Criminal Justice, and Criminal Justice Policy Review.

[FNc]. Sean P. Varano is an Assistant Professor in the College of Criminal Justice at Northeastern University. His research interests include juvenile justice policy, intervention programs for serious juvenile offenders, homicide characteristics, and aspects of technology in the criminal justice system. His recent publications involve exploring changing characteristics of homicide events, the involvement of drugs in homicide, and police-led intervention strategies for serious juvenile offenders.

[FN1]. Oliver Wendell Holmes, The Path of the Law, 10 Harv. L. Rev. 457, 469 (1897) (emphasizing the role that statistics

would play in the practice of the law in the future).

[FN2]. See generally Roscoe Pound, A Survey of Social Interests, 57 Harv. L. Rev. 1 (1943) (arguing that the training and practice of law remains overly rigid and that legal training should evolve to include varied disciplines).

[FN3]. See J. Mitchell Pickerill, Book Review, 24 Just. Sys. J. 242 (2003) (reviewing Joseph L. Gastwirth ed., Statistical Science in the Courtroom (2000)) (explaining that statistical evidence has been used in cases involving DNA evidence, environmental and toxic torts litigation, product liability, discrimination, monetary damages, warranty contracts, tobacco litigation, jury selection methods, the death penalty and deterrence, sentencing issues, pornography, fraud, and drug trafficking).

[FN4]. See City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425, 429- 30 (2002) (reversing and remanding because the City of Los Angeles could rely on a study, even one conducted years ago, of the secondary effects of adult establishments in promulgating regulations on adult establishments).

[FN5]. See, e.g., Schad v. Borough of Mount Ephraim, 452 U.S. 61, 66 (1981) ("[N]ude dancing is not without its First Amendment protections from official regulation.").

[FN6]. Id. at 76 (demonstrating that while some of the activities involved in adult establishments may fall under the aegis of free expression, municipalities are not powerless to govern when and where that expression occurs).

[FN7]. 501 U.S. 560, 565-66 (1991) (indicating, however, that nude dancing of this variety was at the outermost bounds of constitutionally protected free expression).

[FN8]. Id. at 585 (Souter, J. concurring) (hinting that a secondary effects argument would be viewed more harshly if applied to a more traditionally accepted form of expression like the theatre).

[FN9]. See id. at 585-86 (Souter, J. concurring) ("To say that pernicious secondary effects are associated with nude dancing establishments is not necessarily to say that such effects result from the persuasive effect of the expression inherent in nude dancing. It is to say, rather, only that the effects are correlated with the existence of establishments offering such dancing, without deciding what the precise causes of the correlation actually are.").

[FN10]. Id. at 584 (Souter, J., concurring) (explaining that municipalities may rely on studies conducted by other localities on the secondary effects of similar establishments in determining what regulations to place on adult establishments).

[FN11]. See City of Erie v. Pap's A.M., 529 U.S. 277, 310-11 (2000) (Souter, J., concurring in part and dissenting in part) (finding that the City of Erie's regulation was content-neutral and consistent with the First Amendment).

[FN12]. Id. at 317 (Souter, J., concurring in part and dissenting in part) (explaining that he should have required the state to have produced better evidence of their motivation for regulating in Barnes).

[FN13]. 535 U.S. 425, 438 (2002) (plurality opinion) (quoting City of Renton v. Playtime Theatres Inc., 475 U.S. 41, 51-52 (1986)) (pointing out that the Court had specifically refused to set a high bar for municipalities).

[FN14]. Id. at 438-39 ("The municipality's evidence must fairly support the municipality's rationale for its ordinance.").

[FN15]. See id. (holding that the statistical evidence is subject to judicial scrutiny for accuracy and relevance).

[FN16]. Id. (describing the burden-shifting mechanism).

[FN17]. When a plaintiff commissions a separate study, he does so at his own peril because the commissioned study may corroborate the municipality's findings.

[FN18]. See id. at 439 (citing City of Erie v. Pap's A.M., 529 U.S. 277, 298 (2000)).

[FN19]. Id. at 437 ("While the city certainly bears the burden of providing evidence that supports a link between concentrations of adult operations and asserted secondary effects, it does not bear the burden of providing evidence that rules out every theory for the link between concentrations of adult establishments that is inconsistent with its own.").

[FN20]. Id. at 442-43 (holding that the municipality could regulate adult businesses).

[FN21]. See, e.g., Pap's A.M., 529 U.S. 277; Barnes v. Glen Theater, Inc., 501 U.S. 560 (1991); Renton v. Playtime Theatres, 475 U.S. 41 (1986); Young v. American Mini Theatres, 427 U.S. 50 (1976).

[FN22]. Daniel Linz & Bryant Paul, A Secondary Effects Study Relating to Hours of Operation of Peep Show Establishments in San Diego, California (2002) (unpublished study) (on file with author).

[FN23]. Daniel Linz et al., Evaluating Potential Secondary Effects of Adult Cabarets in Daytona Beach, Florida: A Study of Calls for Service to the Police (Aug. 30, 2003) (unpublished study) (on file with author).

[FN24]. Daniel Linz et al, An Examination of the Assumption That Adult Businesses are Associated with Crime in Surrounding Areas: A Secondary Effects Study in Charlotte, North Carolina, 38 L. & Soc'y Rev. 69 (2004) (finding that the incidents of crime in areas containing adult establishments are in fact lower than similar areas without adult establishments).

[FN25]. For purposes of this paper, a criminologist is a researcher who studies the causes and correlates of crime.

[FN26]. See C.R. Shaw & H.D. McKay, Juvenile delinquency and Urban Areas: A Study of Rates of Delinquency in Relation to Differential Characteristics of Local Communities in American Cities (University of Chicago Press 1969) (1942) (establishing the history or legacy of social disorganization theory).

[FN27]. See id.

[FN28]. See id.

[FN29]. See id. at 147-52.

[FN30]. Residential mobility is a community characteristic whereby residents are continuously moving, leaving the neighborhood in a constant state of transition.

[FN31]. See Shaw, supra note 26, at 147-49.

[FN32]. See id. at 152.

[FN33]. See id at 155.

[FN34]. See id.

[FN35]. See id. at 320.

[FN36]. See id; see also R. J. Sampson & W. J. Wilson, Toward a Theory of Race, Crime, and Urban Inequality, in Crime and Inequality 37, 37-54 (J. Hagan & R.D. Peterson eds., 1995) (using community characteristics like poverty and residential instability to bolster the argument that social disorganization theory is about places not persons).

[FN37]. See Robert J. Bursik, Social Disorganization and Theories of Crime and Delinquency: Problems and Prospects, 25 Criminology 519 (1988) (recognizing the work of many researchers who have made methodological departures from Shaw's original social disorganization model when performing related research); D. Wayne Osgood & Jeff M. Chambers, Social Disorganization Outside the Metropolis: An Analysis of Rural Youth Violence, 38 Criminology 81, 81-82 (2000) (arguing the importance of performing social disorganization research outside of its traditional urban setting); Ruth Rosner Kornhauser, Social Sources of Delinquency: An Appraisal of Analytic Models 1-20 (1978) (explaining how different views on the concept of culture lead sociologists and anthropologists to formulate many theories on the best way to link social

conditions and crime); Robert J. Sampson & W. Byron Grove, Community Structure and Crime: Testing Social Disorganization Theory, 94 Am. J. of Soc. 774, 782 (1989) [hereinafter Sampson & Grove, Community Structure and Crime] (choosing as a superior research model an updated version of the classic research model that is also influenced by social-network theory, systemic theory, and macrosocial conceptualization); Sampson et al., Neighborhood and Violent Crime: a Multilevel Study of Collective Efficacy, 277 Science 918, 918-19 (1997) [hereinafter Sampson et al., Neighborbood and Violent Crime] (incorporating the measure of "collective efficacy" into social disorganization research); Robert J. Sampson & Stephen W. Raudenbush, Systemic Social Observation of Public Spaces: A New Look at Disorder in Urban Neighborhoods, 105 Am. J. of Soc. 603, 605-08 (1999) [hereinafter Sampson & Raudenbush, Disorder] (considering the importance of using direct observation for research concerning social disorganization).

[FN38]. See Ruth D. Peterson et al., Disadvantage and Neighborhood Violent Crime: Do Local Institutions Matter?, 37 J. Res. Crime & Delinq. 31, 32 (2000) (lamenting many researchers' failure to fully evaluate the importance of local institutions while investigating social correlates to crime rates); see also Maria Luisa Alaniz et al., Immigrants and Violence: The Importance of Neighborhood Context, 20 Hisp. J. Behav. Sci. 155 (1998).

[FN39]. See Sampson & Grove, Community Structure and Crime, supra note 37, at 798.

[FN40]. See James P. Lynch & David Cantor, Ecological and Behavioral Influences on Property Victimization at Home: Implications for Opportunity Theory, 29 J. Res. Crime & Delinq 335, 339 (1992) (arguing that examining the "ecological context" of crime, along with the more traditional variables of social disorganization, will provide more accurate and reliable results); Douglas A. Smith & G. Roger, Household Characteristics, Neighborhood Composition, and Victimization Risk, 68 Social Forces 621, 625-28 (1989) (contending that multi-level analysis, which combines both individual and aggregate statistics, paints the most accurate picture of crime's correlates); Pamela Wilcox Rountree, Kenneth C. Land & Terance D. Miethe, Macro-Micro Integration In the Study of Victimization: A Hierarchical Logistic Model Analysis Across Seattle Neighborhoods, 32 Criminology 387, 396 (1994) (measuring correlation between crime and characteristics, such as the number of residents that live alone).

[FN41]. See Sampson et al., Neighborhood and Violent Crime, supra note 37, at 923 (proferring that these three variables combine to create an important construct called "collective efficacy" that can be reliably linked to rates of violence in neighborhoods).

[FN42]. See Sampson & Raudenbush, Disorder, supra note 37, at 624, Table 2.

[FN43]. See Shaw, supra note 26.

[FN44]. See Peterson et al., supra note 38, at 33 (positing that social disorganization leads to economic divestment in the area, which in turn hurts positive institutions' chances of prospering).

[FN45]. See generally id. at 35 (noting that bars may encourage criminal behavior by serving as a gathering place for idle individuals whose collective judgment may suffer due to inebriation).

[FN46]. See id. (arguing that a large number of bars in a particular area is a sign of that neighborhood's inability to control the proliferation of "weak" and potentially crime-inducing institutions).

[FN47]. See Marc Quimet, Aggregation Bias in Ecological Research: How Social Disorganization and Criminal Opportunities Shape the Spatial Distribution of Juvenile Delinquency in Montreal, 42 Can J. of Criminology 135, 140-41 (1992) (pointing out that areas such as bars, malls, and subways may breed crime because they tend to place likely victims and likely offenders in the same space).

[FN48]. See R. K. Watts & J. Rabow, Alcohol Availability and Alcohol Related Problems in 213 California Cities, 7(1) Alcoholism: Clinical and Experimental Research 47-58 (Winter 1983).

[FN49]. See Robert Nash Parker & Linda-Anne Rebhun, Alcohol and Homicide: A Deadly Combination of Two American Traditions 77-101 (David Luckenbill ed., 1995); Richard A. Scribner, David P. MacKinnon & James H. Dwyer, The Risk of Assaultive Violence and Alcohol Availability in Los Angeles County, 85 Am. J. Pub. Health 335, 338-39 (1995) (finding a

significant association between the density of alcohol outlets and assaultive violence); James F. Short, Poverty, Ethnicity, and Violent Crime 54-56 (1997) (citing over a dozen researchers whose work all demonstrate the ill effects resulting from a lack of strong local institutions); Mercer L. Sullivan, Puerto Ricans in Sunset Park, Brooklyn: Poverty Amidst Ethnic and Economic Diversity, in In the Barrios: Latinos and the Underclass Debate 1, 16, 22 (Joan Moore & Raquel Pinderhughes eds., 1993) (observing crime's prevalence in Sunset Park, Brooklyn, an area with few employment opportunities and many non-traditional families); William Julius Wilson, The Truly Disadvantaged: The Inner City, the Unknown, and Public Policy 25 (1987) (finding that housing projects in Chicago, which had high rates of single parent households and poverty, as well as an abundance of minors, became hotbeds of criminal activity within the city).

[FN50]. See San Antonio, Tex., Code of Ordinances ch. 21, art. 9, ß 101002 (2006) ("WHEREAS, the City Council finds that similar adverse secondary effects have impacted the City of Jackson, Mississippi as described at J&B Entertainment, Inc. v. City of Jackson, Mississippi, 152 F.3d 362 (5th Cir. 1998); the City of Erie, Pennsylvania as described at City of Erie v. Pap's A.M., 120 S. Ct. 1382 (2000); and other cities as described in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), and City of Los Angeles v. Alameda Books, Inc., 121 S. Ct. 1223 (2001).").

[FN51]. See Laura Jesse, Badge Will be Item Dancers Can't Shed--Council Toughens Strip Club Rules--Clubs Will go to Court, San Antonio Express-News, Dec. 18, 2004, at 1B.

[FN52]. See San Antonio, Tex., Code of Ordinances ch. 21, art. 9, ß ß 100190, 101002 (2006) (prohibiting nude dancing, lap dancing, and VIP rooms, as well as requiring dancers, bouncers, and managers to wear photo badges).

[FN53]. Id. (defining adverse secondary effects as violations of the law "caused by the existence of or geographic proximity to a human display establishment").

[FN54]. Id. (listing other perceived negative effects such as reduction in surrounding property value and the threat of infection and disease from unsanitary conditions caused by bodily fluids).

[FN55]. Id. (quoting ß 243.001 Tex. Loc. Gov't Code ß 243.001 (2006)).

[FN56]. See id. (citing studies showing increases in crime associated with human display establishments). Additionally, the city was concerned with declines in property values. While the present study does not take diminution of real property values into account, the authors performed an unpublished study that shows no correlation between adult cabarets and decreases in property value. See also Jeffrey Cancino, Assessing the Effects of Human Display Establishments on Property Values: An Empirical Study in San Antonio, Texas (Feb. 27, 2004) (unpublished study) (on file with author) (assessing whether proximity to human display establishments affects property values).

[FN57]. See ß ß 100190, 101002 (relying upon the findings set forth in the legal opinions of the cities of Jackson, Miss. and Erie, Pa. as providing additional support for enacting the regulations).

[FN58]. See Bryant Paul et al., Government Regulation of "Adult" Businesses Through Zoning and Anti-Nudity Ordinances: Debunking the Legal Myth of Negative Secondary Effects, 6 Comm. L. & Pol'y 355, 367, 372-76, 385 (2001) (emphasizing that the methodology used in the most frequently cited studies is often flawed by poor selection of control areas, insufficient time periods, change in police presence, and segmented surveys preventing a study from being reliable).

[FN59]. See, e.g., id. at 379-81 (proffering that the authors of the study failed to find controls sufficiently similar in zoning mix, population, and age of housing, asserting that by only using data from one year the study could not demonstrate reliability or predictability and adding that an increase in police presence of the studied area makes the study's findings suspect).

[FN60]. See Jesse, supra note 51, at B1 (interviewing the police department's chief statistician).

[FN61]. See Cancino, supra note 56.

[FN62]. Since the early ecological studies of the Chicago School, researchers have struggled to adequately define the term

"community." For the most part, the term has been defined rather loosely. For example, researchers have defined community in three different ways: (1) social aspects, such as group solidarity, cohesion, and social interaction; (2) geographic features, such as census tracts, block groups, roads, and businesses; and (3) socio-geographic characteristics where researchers attempt to identify both social and geographic components. See generally Terance D. Miethe & Robert F. Meier, Crime and its Social Context 3, 21-22 (1994) (emphasizing the influences that the social or geographic characteristics of a community can influence crime rates).

[FN63]. See, e.g., Sampson et al., Neighborhood and Violent Crime, supra note 37, at 919 (combining census tracts in Chicago spatially to create clusters approximately the size of local neighborhoods); Pamela Wilcox Rountree & Kenneth C. Land, Burglary Victimization Perceptions of Crime Risk and Routine Activities: A Multilevel Analysis Across Seattle Neighborhoods and Census Tracts, 33 J. Res. Crime & Delinq. 147, 147 (1996) (classifying individuals within larger units according to census tracts in the city of Seattle).

[FN64]. See Denise C. Gottfredson et al., Social Area Influences on Delinquency: A Multilevel Analysis, 28 J. Res. Crime & Delinq. 197, 206 (1991) (studying data according to block groups consisting of about 10 city blocks and having a population between 1,000 and 1,200 persons and using enumeration districts of about 500 to 600 persons where Census Bureau data did not contain such blocks); see also Alaniz et al., supra note 38, at 155-174; Ora Simcha-Fagan & Joseph E. Schwartz, Neighborhood and Delinquency: An Assessment of Contextual Effects, 24 Criminology 667, 673-74 (1986) (studying neighborhoods consisting of geographically contiguous study areas that included block groups with similar demographics).

[FN65]. Compare Meithe & Meier, supra note 62, at 81 (studying the effect of proximity to high crime areas on increased victimization rates by averaging the indications of social and economic deterioration occurring within three blocks of an individual's residence), with William R. Smith et al., Furthering the Integration of Routine Activity and Social Disorganization Theories: Small Units of Analysis and the Study of Street Robbery as a Diffusion Process, 38 Criminology 489, 494-95 (2000) (finding face blocks the preferable method of analysis, but elaborating that its small size may result in higher statistical rates of interaction because they are more likely to share similar characteristics), and Ralph B. Taylor & Jeanette Covington, Community Structural Change and Fear of Crime, 40 Soc. Probs. 374, 379-80 (1993) (selecting one side of each census block randomly and choosing another side where that side did not meet the necessary criteria but refraining from using both sides of one block).

[FN66]. See, e.g., Quimet, supra note 47, at 150 (advising the use of larger areas of study where crime or delinquency rates are low to increase reliability).

[FN67]. See id. at 151 (explaining that a researcher must tailor the study to the type of analysis most suited to the information available, and finding neighborhoods most suitable for social disorganization models and census tracts best for variables from opportunity models).

[FN68]. Prior social disorganization research has used block groups: see, e.g., Michael D. Reisig & Jeffrey Michael Cancino, Incivilities in Nonmetropolitan Communities: The Effects of Structural Constraints, Social Conditions, and Crime, 32 J. Crim. Just. 15, 19-20 (2004) (constructing units of analysis based on those used for "neighborhood clusters," in conjunction with block groups); Jeffrey Michael Cancino, Breaking from Orthodoxy: The Effects of Social Disorganization on Perceived Burglary in Nonmetrpolitan Communities, 28 Am. J. Crim. Just. 1 (2003). Moreover, census face blocks are too small given San Antonio's relatively large population and are more reflective of residential areas.

[FN69]. See Eric Silver, Extending Social Disorganization Theory: A Multilevel Approach to the Study of Violence Among Persons with Mental Illness, 38 Criminology 1043, 1056-67 (2000) (indicating that census tract measures do not directly demonstrate "neighborhood social disorganization processes," but instead reveal structural conditions that theorists consider to cause social disorganization).

[FN70]. See U.S. Census Bureau, Census 2000 Gateway, http:// www.census.gov/main/www/cen2000.html (last visited July 22, 2006).

[FN71]. See Alaniz et al., supra note 38, at 155-74; Peterson et al., supra note 38, at 39-41 (studying the apparent "crime-producing influence" bars have on their surrounding neighborhoods).

[FN72]. See Texas Alcoholic Beverage Commission Homepage, http:// www.tabc.state.tx.us/ (last visited Oct. 11, 2006).

[FN73]. See, e.g., Meithe & Meier, supra note 62, at 47 (asserting that physical nearness to high-crime areas increases the likelihood of becoming a victim of crime because living in these areas increases one's risk of coming into contact with offenders); Smith et al., supra note 65, at 503 (linking the presence of criminal activities with the residential area of offenders, who go about their activities around their residence and move along nearby and often used streets); Taylor & Covington, supra note 65, at 375 (highlighting other studies demonstrating that, when individuals and particularly youths see crime rates increase in an area, they assume that residents can no longer supervise that area, leading to more frequent problems with teen groups).

[FN74]. See Peterson et al., supra note 38, at 39 (restating that researchers often use three-year average rates in order to have a sufficient number of total rates to obtain reliable results); Robert J. Sampson, Urban Black Violence: The Effect of Male Joblessness and Family Disruption, 93 Am. J. of Soc. 348, 360 (1987) (noting the practice of previous researchers to use a three-year average rate for robbery and homicide arrests that is employed for the purposes of reducing both the influence of random changes and any missing data); Robert J. Sampson et al., Race and Criminal Violence: A Demographically Disaggregated Analysis of Urban Homicide, 31 Crime & Delinq. 47, 54 (1985) (employing "a three-year average rate" of arrests for homicides in order to reduce the influence of random changes). But see Steven F. Messner & Reid M. Golden, Racial Inequality and Racially Disaggregated Homicide Rates: An Assessment of Alternative Theoretical Explanations, 30 Criminology 421, 430 (1992) (deciding to use a five year period of study because the events studied occur infrequently in some cities).

[FN75]. See U.S. Census Bureau Homepage, http://www.census.gov/ (last visited Oct. 11, 2006).

[FN76]. See Peterson et al., supra note 38, at 38-39 (using violent crime data reported by the police and broken down by census tracts to investigate the influence of local institutions on crime rates); Alaniz et al., supra note 38, at 155-74 (using census tracts as an aggregate unit of analysis).

[FN77]. See, e.g., Quimet, supra note 47, at 135 (including crime rates in an analysis of how social disorganization variables predict crime).

[FN78]. See, e.g., Alaniz et al., supra note 38, at 155; Kwabena Gyimah-Brempong, Alcohol Availability and Crime: Evidence from Census Tract Data, 68 S. Econ. J. 2, 2-21 (2001) (employing census tract data and a reduced-form crime equation to find that, in Detroit, alcohol availability positively and significantly relates to occurrences of crime).

[FN79]. See, e.g., Alaniz et al., supra note 38, at 167; Gyimah-Brempong, supra note 78, at 10 (evaluating the relationship between crime and alcohol availability by calculating "the total number of alcohol licenses of all types granted per 1000 people in a census tract").

[FN80]. See Alan Agresti & Barbara Finlay, Statistical Methods for the Social Sciences 530-31 (Prentice-Hall, Inc. 1997) (1986) (explaining forward selection and stepwise regression procedures).

[FN81]. Other tables and models are available upon request.

[FN82]. See City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425, 438-39 (2002) (holding that the municipality's statistical evidence, which is subject to judicial scrutiny, must support its rationale for the ordinance).

[FN83]. See San Antonio, Tex., Code of Ordinances ch. 21, art. 9, ß ß 100190, 101002 (2006) (asserting that restrictions on adult businesses were justified because such business caused many negative effects, including a rise in crime in the area surrounding the establishments)

[FN84]. Id. at 439.

[FN85]. 361 F.3d 402, 411 (7th Cir. 2004) (striking down ordinance that prohibited the existence of "exotic dancing nightclubs" within 1,000 feet of churches, schools, residences, or other "exotic dancing nightclubs").

[FN86]. Id. at 411.

[FN87]. See id. ("Rockford does not identifyany studies, judicial opinions, or experience-based testimony that it considered in adopting the Ordinance.").

[FN88]. See generally supra notes 22-24.

[FN89]. R.V.S., 361 F.3d at 406-07 ("Linz found no studies concerning the secondary effects of establishments where performers wear clothing.").

[FN90]. Id. at 415-16 ("Without further direction from the Supreme Court, we cannot constitutionally lower the already modest evidentiary hurdle for justifying regulations of sexually explicit but non-obscene speech on secondary effects grounds, especially in a case where mainstream speech is affected.").

[FN91]. 330 F.3d 288, 294-95 (5th Cir. 2003) (striking down an ordinance that banned the establishment of "sexually oriented businesses" within 1,000 feet of residences).

[FN92]. Id. at 295 (citing City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425, 438 (2002)).

[FN93]. Id.

[FN94]. Id. at 295 (requiring the city to provide "at least some substantial evidence of secondary effects specific to adult business that sell books or videos").

[FN95]. 350 F.3d 631, 636 (7th Cir. 2003) (upholding an ordinance that prohibited "sexually oriented businesses" from allowing its employees, entertainers, and/or performers to make physical contact with, or come within a certain distance of, the business's patrons).

[FN96]. Id. at 636 (noting that plaintiff presented evidence showing that property values near the Club had increased over time to argue that the Club had not created negative secondary effects, particularly increasing crime or diminishing the viability of the neighborhood).

[FN97]. Compare id. (upholding a town ordinance based on simple deference to the local legislature's judgment, ignoring the empirical data presented against the ordinance), with Encore Videos, Inc. v. City of San Antonio, 330 F.3d 288 (5th Cir. 2003) (rejecting a town ordinance because the local legislature failed to persuasively establish an evidentiary connection between the regulated activity and crime), and R.V.S., L.L.C. v. City of Rockford, 361 F.3d 402 (7th Cir. 2004) (rejecting a town ordinance because the local legislature failed to empirically demonstrate the existence of the claimed secondary effects).

[FN98]. G.M. Enter., 350 F.3d at 636.

[FN99]. See id. at 638-39 (resolving a discrepancy between evidence presented by plaintiffs and evidence presented by the local government through deference to the local legislature's judgment).

[FN100]. 333 F. Supp. 2d 773, 788-89 (S.D. Ind. 2004).

[FN101]. Id. at 786-87 ("Dr. Linz cites in his finding that the authors themselves often admit that they do not find evidence of adverse secondary effects associated with adult businesses.").

[FN102]. See id. at 787 (referring to data that police made forty-one public masturbation arrests as evidence of "actual effects" in the court's decision-making calculus).

[FN103]. Id.

[FN104]. Id. at 788-89 (employing the Alameda standard to determine that the city presented "a reasonable basis" for its ordinance).

[FN105]. 396 F. Supp. 2d 630, 633 (M.D.N.C. 2005).

[FN106]. Id. at 639 ("The preamble to the statute ... affirms that its intent is 'to address the harmful secondary effects of such entertainment, including higher crime rates, public sexual conduct, sexual assault, prostitution, and other secondary effects.'").

[FN107]. See id. ("[T]he legislature's stated purpose is in accord with Alameda Books ....").

[FN108]. Id. at 641-42 (noting that Dr. Linz presented five methodological questions to guide an analysis of the legislature's studies and summarily rejected the studies based on the answers to those questions).

[FN109]. Id. at 641-43 ("The NLC provides these 'canned' summaries to governments across the United States to foster more regulation of sexually oriented businesses.").

[FN110]. Id. at 643-45 (devoting a full paragraph of description to Linz's assessment of each study referred to in the North Carolina Statute's preamble) (reviewing N.C. Gen. Stat ß 18B-1005.1 (2005)) (stating that the Legislature has 'reviewed studies of the secondary effects of sexually oriented businesses that have been conducted in locations across the United States" which "fairly support" its reasonable belief that the statute will reduce the negative secondary effects of adult entertainment).

[FN111]. Id. at 645-47 (summarizing that Dr. Linz testified about studies that he conducted and found no correlation between increased crime rates and the location of sexually oriented businesses, and which he argued were "more methodologically sound than the studies relied upon by the [North Carolina] General Assembly").

[FN112]. Id. at 645-47 (describing the Charlotte study as examining twenty adult cabarets' effects on crime in surrounding 100- and 500-foot areas, and describing the Greensboro study as employing regression analysis instead of control groups to examine every adult cabaret in the city).

[FN113]. Id. at 647.

[FN114]. City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425, 441 (2002).

[FN115]. Giovani Carandola, 396 F. Supp. 2d at 647 (characterizing Dr. McCleary's evidence as attempting to associate negative secondary effects and adult businesses).

[FN116]. Id. (contending that the variables Dr. Linz used in his Charlotte study "include too many false alarms ... and leave out many crimes that are discovered by patrolling or means other than a 911 call to the police," and criticizing Dr. Linz's use of regression analysis as distorting the results in his Greensboro study).

[FN117]. Id. at 650.

[FN118]. Id. at 651.

[FN119]. Id. at 652 (declining to determine whether the evidence presented by plaintiffs or defendants had more credibility, and instead finding that the competing studies indicated that both sides had a reasonable basis for their findings and upholding the legislature's judgment).

[FN120]. See, e.g., R.V.S., L.L.C. v. City of Rockford, 361 F.3d 402 (7th Cir. 2004) (rejecting a town ordinance based on lack of demonstrated secondary effects); Encore Videos, Inc. v. City of San Antonio, 330 F.3d 288 (5th Cir. 2003) (rejecting a town ordinance for lack of evidentiary connection between the regulated activity and crime).

[FN121]. See Giovani Carandola, 396 F. Supp. 2d at 663 (deferring to the judgment of the legislature with respect to an ordinance regulating adult entertainment establishments).

[FN122]. Annex Books, Inc. v. City of Indianapolis, 333 F. Supp. 2d 773, 787 (S.D. Ind. 2004) (accepting the number of actual arrests at Annex Books as enough evidence to motivate the ordinance).

[FN123]. See G.M. Enter., Inc. v. Town of Saint Joseph, Wis., 350 F.3d 631, 636-37 (7th Cir. 2003) (deferring to the local legislature's decision to restrict adult business despite empirical data presented against the ordinance).

[FN124]. See id. at 639-640 ("Alameda Books does not require a court to re-weigh the evidence considered by a legislative body, nor does it empower a court to substitute its judgment in regards to whether a regulation will best serve a community, so long as the regulatory body has ... consider[ed] evidence 'reasonably believed to be relevant to the problem' addressed.").

[FN125]. See, e.g., Annex Books, 333 F. Supp. 2d at 787 (responding to empirical data presented against a city ordinance by noting that "the City has rebutted Plaintiffs' evidence to the contrary on adverse secondary effects [by presenting actual effects]").

[FN126]. Holmes, supra note 1, at 457.

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