

# A Critique of the New Zealand Government's Gang Legislation Amendment Bill's Banning Gang Patches in Public

*Harry Tam<sup>1</sup>, Angie Wilkinson<sup>2</sup> & Joanna Wilkinson<sup>3</sup>*

## **Abstract**

This paper provides a summary of the social and economic circumstances that have led to the proliferation of gangs in New Zealand. It also examines New Zealand public policies to manage gang behaviours and the outcomes of these policies, which in the main have contributed to the formation of gangs and their violent behaviours. The paper uses this background information to critique the coalition government's proposed Gang Legislation Amendment Bill that prohibits the display of gang insignia in public places, creating a new criminal offence, currently before Parliament. We contend that the proposed legislation will do nothing to reduce gang membership as it does not address the causes of gang membership.

## **Introduction**

On 7 March 2024, the Minister of Justice introduced the Gang Legislation Amendment Bill through a legislative statement. The Bill consists of four components:

- To Prohibit the display of gang insignia in public places, creating a new criminal offence.
- To create a new dispersal power to stop gang members from gathering in public, which requires specific people to leave an area and not associate in public for seven days.
- To create a non-consorting order to stop specific gang offenders from consorting, which requires specific people not to associate or communicate with each other for 3 years.

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<sup>1</sup> H2R Research and Consulting Ltd

<sup>2</sup> H2R Research and Consulting Ltd

<sup>3</sup> H2R Research and Consulting Ltd

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- To amend the Sentencing Act 2002 to make gang membership an aggravating factor at sentencing.

The paper is divided into four parts. Part one examines the social and economic contexts that give rise to the proliferation of gangs in New Zealand. Part two reviews previous public policy to manage gang behaviour. Part three looks at and explains the gang membership numbers. Part four critiques the lack of evidence that this Bill will achieve its policy objectives; culminating in concluding comments.

## **Part I – Economic and Social Factors**

### ***Formation of Gangs Post-World War II in New Zealand***

Gangs as we know them today have been evolving since the 1950s. This was not unique to New Zealand but part of a global trend post-Second World War, built on the growth of popular youth subculture and its commercialisation through music and the mass media. The clothing trends defining a ‘sex, drugs, and [rock-n-roll’ lifestyle](#) also provided young people with common fashion and dress codes.

New Zealand’s adoption of [Keynesian economics](#) also followed the Second World War. This led to a growth in manufacturing, which stimulated the urban labour market and increased the demand for housing in urban areas such as the Hutt Valley—Wellington’s main industrial area. The added demand for housing compounded an existing [housing shortage](#), which had developed in the main cities during the 1930s and 1940s. Such a shortage set the scene for the development of [state housing](#) communities in areas like Naenae, which at the time were heralded as modern housing suburbs. By the 1950s, however, neighbourhoods such as Naenae became the focal point of the Report of the Special Committee on Moral Delinquency in Children and Adolescents (The Mazengarb Report, 1954). This report identified communities such as Naenae as a fertile environment for juvenile delinquency. Amongst other things, this was primarily because:

- Families had been *allocated* housing in such communities instead of having their preferred choice of community, thus the families may not have had connections with their neighbours or became separated from their traditional family support mechanisms.
- The communities consisted of predominantly young families.



- The lack of community amenities such as churches, schools, halls, sports fields, parks, and reserves.
- Overcrowding.

Both parents in these households were often working so they did not finish work until 5 pm. As school finished around 3 pm, this left at least a two-hour gap where many young people were left unsupervised. When coupled with the lack of community amenities, this meant that young people would hang out together on the streets or in milk bars, and some would be involved in delinquent behaviour.

### ***The Bodgies and Widgies***

Adolescent youth hanging out together and sporting similar-fashioned clothing, listening to similar music, and pushing the boundaries of accepted social behaviour is part of the natural youth development process. Youth development takes place in the four social environments of the family, school, community, and peer group. Adolescence is a time when the peer group becomes a young person's dominant support mechanism. Pushing the boundaries within the context of social norms is part of a young person's transition to adulthood. However, due to a young person's lack of life experience and access to information, pushing the boundaries can stretch beyond legal limits. A group of young people wearing common fashion clothing can often be mistaken as a gang:

*Bodgies and Widgies were a youth subculture that existed in Australia and New Zealand in the 1950s. The culture was similar to the Rocker culture in the UK or the Greaser culture in the USA. The males were known as Bodgies. They grew their hair long and wore satin shirts. Pink was commonly worn by Bodgies, despite still being seen as feminine. Often their attire included very long keychains and later, included moccasins and American drape suits with pegged pants. James Dean was a major style influence who inspired the Bodgie fashion. Typically working class, their interests included alcohol, girls, music and cars. The females were known as Widgies. They cut their hair short and wore jeans, tight slacks, 3/4 length pants or dresses and bobby socks if they went out, like to a dance. ([Ridiculously Retro Blog](#), n.p.)*

Thus, the labels of the earlier gangs were referenced in their fashion statements, such as the Bodgies and Widgies and the Milk Bar Cowboys.

*New Zealand youths quickly emulated American popular culture, modelling themselves on figures such as James Dean and Elvis Presley. Milk-bar cowboys – also known as bodgies – congregated outside milk bars on motorbikes. The 1950s saw the emergence of New Zealand's first modern gangs, many centred on motorcycle ownership ([Milk-bar Cowboys](#), Te Ara: The Encyclopaedia of New Zealand, n.p.)*

These groups evolved into neighbourhood gangs such as the Naenae Boys and Taita Boys. They soon came under scrutiny by the Mazengarb Report, triggered after a couple of high-profile events. One event involved the disappearance of a teenage girl who turned up at the Petone Police Station to say she was unhappy at home with her stepfather, and that she had been a member of the Milk Bar Gang who met predominantly for sexual purposes. A second incident involved two teenage girls murdering the mother of one of the girls in Christchurch (the Parker and Hulme matricide) (Krzanich, 2010).

### **The Bikies**

The 1960s saw the advent of the bikie gangs influenced by movies such as *The Wild Ones*. For example, there was the formation of the Hells Angels Motorcycle Club in the United States, where those involved started wearing patches to identify their club membership. Since the 1960s the bikie gangs have evolved on a generational basis. The first generation were the likes of the Hells Angels, Twenty Five Club, The Saints, Highwaymen, Coffin Cheaters, and Antarctic Angels, to name a few. By the 1970s, most of the original bikie clubs had faded away – except for the Hells Angels – and a new generation of bikies emerged. These include the Grim Reapers, Outlaws, Outcast, Galgoffers, Satan Slaves, Epitaph Riders, and Devils Henchmen amongst others. Also evolving around the same time were the Highway 61, Huhu's, and Wairap Mob, which had larger Māori memberships. Most groups tried to differentiate themselves from the Indigenous ethnic gangs by referring to themselves as motorcycle clubs (MCs). The majority of these motorcycle clubs lasted until the early to mid-2000s when many of them were patched over (a process whereby a dominant gang takes over another



gang's members and territory) by the new generation of outlaw motorcycle clubs, such as the Hells Angels, Headhunters, Rebels, Comancheros, Out Laws, Bandidos, etc., nearly all of which had some overseas affiliations.

This new generation of motorcycle clubs was formed by ex-pat New Zealanders who were expelled from Australia, often referred to as the 501s; so named after the corresponding section in the Australian Migration Act that automatically cancels a visa if the holder is convicted of a crime. These MC clubs changed the ethos of gang membership, where the membership was much more fluid and more prone to patch over in pursuit of material gains and opportunities. Some of these clubs are heavily involved in organised crime, predominantly with the import and distribution of drugs, and money laundering.

### ***Urban Drift and the Formation of the Indigenous Ethnic Gangs***

Post-war New Zealand saw a decline in the rural sector, an increasing Māori population, and an [increasing demand for labour in the urban areas](#). This, coupled with the government's policy of assimilation of Māori, created the migration of Māori into the urban and provincial towns for work (Hunn, 1961). However, like urban drift in other developed countries, it was mainly young people who migrated to the cities and the older people were left behind. In the cities, there were very few support systems and amenities for Māori who faced [racism from landlords and employers](#). The government attempted to address these problems by establishing state housing and trade training schemes through the Department of Māori and Pacific Island Affairs. [Māori housing](#) was established in suburbs like Te Atatu, Otara, Mangere, Porirua, Stokes Valley and Wainuiomata to cater for the Māori migrants.

By the 1960s, the social problems of urbanised Māori became more prominent as they lost touch with their whānau in the rural areas and their culture. Young Māori were struggling as they faced unemployment, homelessness, loneliness, racial discrimination, and institutional racism (Ministerial Advisory Committee, 1990).

## **Part II – Public Policy to Manage Gang Behaviour**

### ***Moral Panic***

The fear of gangs in New Zealand can be traced back to the 1950s when the news media generated a public outcry and hysteria about young people and gangs. The Mazengarb Report in 1954 typifies this hysteria, which arguably

contributed to the formation of the gangs as we know them today. In her book, [The Road to Hell](#), Stanley (2017) points out:

*The alarmist and moralist Mazengarb report distributed to nearly 300,000 New Zealand homes in 1954, blamed parents who gave their children excessive freedoms and pocket money, limited discipline and undermined strong religious teachings. And then, fault lay with disparate societal changes, such as the demise of community spirit as well as growth of comic books, indecent literature, cinema and advertising [...] all had a part to play in raising a generation out of control. (pp. 30-31)*

In addition to the hysteria that Mazengarb generated, Child Welfare Officers increasingly made remarks in the media about the rising number of children involved in gangs, and in 1957 the NZ Police created the Juvenile Crime Prevention Branch to focus specifically on young people (Watt, 2003). This eventually led to a flow of young people being placed into youth institutions where staff physically, mentally, and sexually abused them. By the 1960s, a significant proportion of the young people who were systematically abused in these institutions were Māori (Royal Commission of Inquiry, 2020). The Waitangi Tribunal confirmed that many of the gang members of today have their [whakapapa](#) from these institutions, which makes them a [“unique and important part of Aotearoa’s survivor community”](#) according to Judge Coral Shaw, Chair of the Royal Commission of Inquiry into Abuse in Care.

### ***Development of Dysfunctional Behaviours and Identification with the Patch***

Within these institutions, the last remnant of [Tikanga Māori](#) was beaten out of the young people and they developed their subcultures of violence, including sexual violence. The “no narking rule” may well have evolved within these institutions as a means of protecting the perpetrators of violence and debauchery that these young people were subjected to on almost a daily basis. When these traumatised and angry young people eventually left these institutions, they became institutionalised and could not relate to others who did not share their experiences. Their bond with each other was the beginning of the likes of the ‘Mongrels’. This was a label that a Lower Hutt Magistrate bestowed on a group of young men after they



wrecked a flat. Eventually, they called themselves the Mongrel Mob and thus the patch was born.

### ***Intergenerational Trauma and Harm in Gang Communities***

Most gang members today are second or third-generation gang members; they are the sons, nephews, and siblings of older gang members whose fathers and uncles were survivors of state care, living with unresolved trauma. Their sons and daughters are the victims of intergenerational transfer of dysfunction. Because these people have unresolved trauma, they have a propensity to display extreme violence towards others as well as each other (Gerrard, Lambie & McIntosh, 2023). They also have a propensity to self-medicate through alcohol and drug abuse, and often start dealing substances to finance their addictions (Government Inquiry into Mental Health and Addiction, 2018). Some will also go on to become involved in the large-scale distribution of drugs. This can be seen in the Supreme Court case of [Jason Philip v R](#), which appealed the severity of a criminal conviction. The Court found in Philip's favour finding a direct link between his offending and his very difficult background, drug and gambling addictions, and mental health issues.

### ***Suppression vs Intervention to Address the Proliferation of Gangs***

The increase in gang numbers over the years is not surprising because, since 1989, the only policy to manage gang behaviours has been the policy of suppression. In the main, the gang members have been left to fester on their own with no or minimal assistance from government agencies to address their traumas and behaviours (New Zealand Committee on Gangs & Comber, 1981; Roper et al., 1987). It should also be noted that under the National Government of 1975–1984, Prime Minister Sir Robert Muldoon took a personal interest in the gangs, and he proactively implemented what was known as a stick-and-carrot approach that ensured gang members were engaged in work and other prosocial activities like rugby league (Smith, 2023). He was also of the opinion that the full wrath of the law should be brought to bear on those who break the law.

While gang membership grew after 1987 it was at a much slower rate, which can be attributed to gangs adopting a passive recruitment policy, meaning that gangs did not actively solicit people to join the gang but if people offered themselves as prospect members, they accepted them. The

saying at the time amongst the gangs was they wanted quality members over quantity.

It should be noted that the late 1970s to 1980s saw a rapid increase in gang membership, attributed to an unprecedented high unemployment rate because of the international oil crisis and Britain joining the European Economic Market, which meant New Zealand losing one of its major export markets (Carr & Tam, 2013).<sup>i</sup>

The increase in gang membership also led to an increase in gang disorders. The rapid recruitment meant some gang members were later considered to be unworthy of their own gang. Thus, gangs adopted longer and harder recruitment regimes to ensure greater loyalty and commitment to the gang. Further to this, the gang leadership also found larger gang membership more difficult to manage, especially concerning an increase in intra-gang rivalry. This may explain why, around 2005/2006, there was a surge in the formation and membership of youth gangs (Centre for Social Research and Evaluation, 2008). Many of these youth gang members were the children or younger relatives of members belonging to established gangs. As they were not actively recruited into the established gangs, they formed their own.

Gang membership increased again when the Rebels Motorcycle Club established itself in New Zealand in an unprecedented way. They patched over established gang members and whole chapters of some of the established gangs to form instant chapters<sup>4</sup> of the Rebels MC. The Head Hunters Motor Cycle Club, which had been around since the late 1960s but never expanded south of the Bombay Hills, reacted by establishing a network of chapters throughout New Zealand, triggering a reaction by other gangs to actively recruit to secure their turf. Gang membership increased to over 8,000 gang members as a result (Centre for Social Research and Evaluation, 2008).

The recent growth in gang numbers can also be attributed to the social and economic policies of consecutive governments that have continued with the suppression approach. New Zealand-based research indicates that a 'zero-tolerance' style of policing builds distrust in communities and risks fuelling gang membership and increasing gang dislocation and isolation (Office of the Prime Minister's Chief Science Advisor, 2023), which also

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<sup>4</sup> Instant chapters differentiate from regular chapters as they are formed without members needing to prospect before earning their place as a patched member.





denies access to government-funded prosocial activities (Gerrard, Lambie & McIntosh, 2023).

### **Part III – The Gang Membership Numbers**

#### ***The role of the news media and politicians in generating a moral panic and perpetuating the alienation of gang communities***

According to NZ Police statistics, there were just over 8,000 gang members in 2021. In the same year, the Department of Statistics estimated the NZ population to be 5.123 million (Parliamentary Services, 2022; Statistics New Zealand). This works out to be around 1.5 gang members for every 1,000 people in the general population. These statistics suggest that, unless members of the public are residing in communities with a high concentration of gang members such as Maraenui, Flaxmere, and Porirua, most are unlikely to see patched gang members regularly, if at all. These figures also suggest that members of the public are more likely to see gang members wearing patches in the mass media or on social media. We note that the coalition government's Amendment Bill aims to prohibit the display of gang insignia on social media yet excludes the news media.

The lead-up to the 2023 election included a concerted programme of misinformation generated by the National Party and the news media where 'tough on crime' was the mantra. A moral panic was created in the minds of voters, which fed off the idea that the country has a gang and a law-and-order problem. The reality on the streets was different from what was feared: as this scaremongering was happening, youth justice experts were advising the government that [youth crime had been dropping](#).

There is a plethora of evidence that media and politicians generate moral panics instead of providing effective solutions (Gilbert, 2022). More often than not, moral panics create perverse outcomes and unintended consequences, as can be seen in the outcome of the Mazengarb report outlined above. It should be noted that consecutive government reports since 1979 have consistently advised the need for greater control of the media to prevent the sensationalised reporting of gang incidents. The 1981 Report of the Committee on Gangs suggested that "[c]ontinued efforts should be made by the news media to strike a balance between the public's right to know about gang activities and avoiding coverage that unnecessarily glamorises these activities". Similarly, the 1987 Ministerial Inquiry into Violence concluded that "[t]here is probably no subject in the field of law and order

that can provoke more selective and distorted coverage from the media, or more emotive, and often ill-informed, rhetoric from those in authority, than gangs.”

If the government is serious about preventing gang intimidation of the public, then it needs to identify ways to prevent the news media from sensationalising gang incidents. One way of achieving this is to remove the exemption of news media from the proposed Part 2 of the Bill. There could also be media guidelines for reporting on gangs, drawn up by legal, policing and safety experts.

#### **Part IV – Lack of Evidence that the Bill will Achieve its Policy Objectives**

In addition to our concerns that the Gang Legislation Amendment Bill does not appropriately consider the factors driving the formation, perpetuation and proliferation of gangs in New Zealand, we are concerned that there is no empirical evidence that what this Bill proposes will achieve the policy objectives outlined in Part 1 of the Bill.

We have discussed the Australian evidence with Australian academic Associate Professor Mark Lauchs at Queensland University of Technology’s Centre for Justice (personal communication, February 9, 2024). Mark previously worked in the Queensland state government in policy and project roles associated with accountability and the justice system, and now specialises in research about outlaw motorcycle gangs. Professor Lauchs informed us that there has been no evaluation conducted on whether the anti-bikie laws, which purport to target organised crime conducted through motorcycle gangs, work or not – it simply depends on who you talk to. He suggested that the politicians and the Police might say the laws work but this is only anecdotal. This appears to be consistent with the advice the Minister of Justice received from his officials on 27 November 2023, which said:

*There is also limited anecdotal evidence that membership of Outlaw Motorcycle Clubs in some Australian jurisdictions reduced over the period 2015-2019, which coincides in time with the introduction of a greater number of suppression laws.*

#### **Infringement of Human Rights**

The Attorney General (2024) has advised that the Amendment Bill is inconsistent with the Bill of Rights Act 1990, including rights to freedom of



expression, association, and peaceful assembly. We are concerned with all these infringements on the human rights of gang members, and a key point we want to draw attention to is the background that led to gang members' strong identification with the patch, as detailed above. This demonstrates why the patch is so important to gang members and the need to protect their right to freedom of expression when every other form of identity has been stripped away from them.

### ***Potential for Unintended Consequences***

As we have outlined, the Mazengarb report exacerbated the problem it sought to address and can be directly traced to the formation of gangs. Similarly, the approach taken with this Amendment Bill reflects a similar vein of moral panic and hysteria generated by news media and politicians.

For these reasons, we consider there is significant potential for unintended consequences with the proposed approach (Attorney-General, 2024). Examples of unintended consequences may include gangs coming up with different forms of identification that will make it more difficult for law enforcement to pick up, the potential for an increased propensity for facial tattoos which arguably are more intimidating than patches, the potential to drive gangs underground, and the perpetuation of alienation into future generations.

### **Conclusion**

In conclusion, we strongly oppose this Amendment Bill as it will not fulfil its stated purpose, i.e., it will not reduce the ability of gangs to operate and cause fear, intimidation, and disruption to the public. Key reasons for this are that the Bill fails to address the drivers of the formation and perpetuation of gangs, the proposed approach lacks an evidence base of effectiveness, and it infringes on the human rights of gang members.

Instead, we recommend a programme of work that takes an intervention approach to address the proliferation of gangs, similar to the effective approach undertaken by the National Government of 1975–1984, under Prime Minister Sir Robert Muldoon. Based on our extensive experience working with gang communities, an effective approach would enable the prosocial leadership potential that exists within communities and support the active participation of 'hard to reach' communities in designing, developing and delivering services and initiatives for themselves to address their needs, build hope, and raise aspirations for the next generations.

If the Minister advances this Gang Legislation Amendment Bill, then we suggest the following changes to Part 2 to address some of our key concerns:

*Part 2, section 7(1) – revising the prohibition on the display of gang insignia in public places to only be used if Police have reasonable cause to believe three or more gang members wearing their regalia are likely to cause violence.*

Banning of gang regalia should only be used if the Police have reasonable cause to believe three or more gang members wearing their regalia are likely to cause violence. We believe this would make this law consistent with the unlawful assemblies' charge so gang members can only be charged if they are in a group of three or more. This provides more reasonable grounds than a blanket ban and provides more discretion to the Police to base their decisions on their extensive intel and experience.

Finally, the news media is a major contributor to displaying gang regalia, more so than the gang members themselves. Consecutive government reports have expressed concerns over the sensationalised reporting of gang activities. We consider that the reporting itself is a driver of public intimidation and fear, and for these reasons, we recommend that this exception be removed as follows:

*Part 2, section 8, (a)(ii) – remove exceptions for media reporting of news, observations on news, or current affairs.*

Should the coalition government be serious about changing the criminal behaviour of gangs, it must build a deeper understanding of why gangs exist and behave the way they do, as outlined in this paper. Failing to acknowledge the relevant social and economic history that has given rise to gangs is an indictment of a poor problem definition which, in short, results in legislation that only exacerbates the problem rather than solves it.

## **References**

Abuse in Care Royal Commission of Inquiry. (2020). *Tāwharautia: Pūrongo o te wā, Interim Report*. Wellington: Abuse in Care, Royal Commission of Inquiry.

Attorney-General. (2024). *Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 on the Gang Legislation Amendment Bill*.



- <https://www.justice.govt.nz/assets/Documents/Publications/Gangs-Legislation-Amendment-Bill.pdf>
- Carr, J., & Tam, H. (2013). Changing the lens—positive developments from New Zealand. *International Association of Youth and Family Judges and Magistrates Chronicle*, January Edition. [https://www.hard2reach.co.nz/uploads/1/4/2/0/142061986/chronicle\\_2013\\_jan-online.pdf](https://www.hard2reach.co.nz/uploads/1/4/2/0/142061986/chronicle_2013_jan-online.pdf)
- Centre for Social Research and Evaluation. (2008). *Youth gangs in Counties Manukau*. Ministry of Social Development.
- Gerrard, J., Lambie, I., & McIntosh, T. (2023). *Toward an understanding of gangs in Aotearoa New Zealand: Full report*. The Office of the Prime Minister's Chief Science Advisor.
- Gilbert, J. (2022). *Making gang laws in a panic: Lessons from the 1990s and beyond*. The Law Foundation.
- Government Inquiry into Mental Health and Addiction. (2018). *He ara oranga: Report of the Government inquiry into mental health and addiction*. <https://mentalhealth.inquiry.govt.nz/inquiry-report/he-ara-oranga/>
- Hunn, J. (1961). *Report on Department of Māori Affairs: With statistical supplement*. Government Printer.
- Krzanich, A. (2010). Murder, Mazengarb and a moral panic: The intersection of 'juvenile delinquency' and the media in 1950s New Zealand. *Te Mata Koi: Auckland University Law Review*, 16, 164-216.
- Mazengarb, O. (1954). *Report of the Special Committee on Moral Delinquency in Children and Adolescents*. Government Printer.
- New Zealand Committee on Gangs, & Comber K. (1981). *Report of the Committee on Gangs*. New Zealand Committee on Gangs.
- New Zealand Parliament. (2022). *New Zealand gang membership: A snapshot of recent trends*. New Zealand Parliament.
- Office of the Prime Minister's Chief Science Advisor. (2023). *Toward an understanding of Aotearoa New Zealand's adult gang environment: Key messages*. Wellington: Office of the Prime Minister's Chief Science Advisor.
- The Māori Perspective Advisory Committee. (1990). *Puoa-te-ata-tu (daybreak): The report of the ministerial advisory committee on a Māori perspective for the Department of Social Welfare*. Department of Social Welfare.
- Roper, C. (1987). *Report of the Ministerial Committee of Inquiry into Violence*. Committee of Inquiry into Violence.

Smith A. (2023). National Party vows to scrap contracts with gangs for community support. *Radio New Zealand*, August 25. <https://www.rnz.co.nz/news/political/496546/national-party-vows-to-scrap-contracts-with-gangs-for-community-support>

Stanley, E. (2017). *The road to hell: State violence against children in postwar New Zealand*. Auckland University Press.

Statistics New Zealand. (2024). *Population estimates and projections*. <https://www.stats.govt.nz/topics/population/>

Watt, E. (2003). *A history of youth justice in New Zealand*. Department for Courts.

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<sup>i</sup> Carr and Tam (2013) reported that the increase in gang membership in times of economic stress is consistent with an observed relationship in international literature between economic crises and increases in some types of crime across a wide variety of countries. See, for example: United Nations Office on Drugs and Crime, *Monitoring the impact of economic crises on crime*, 2012; S. Raphael and R. Winter-Ebmer, *Identifying the Effect of Unemployment on Crime*, UCSD Economics Discussion Paper 98-19, 2000.