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The Republican ideal?

National minorities and the criminal justice system in contemporary France

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Abstract

In recent years, worsening economic conditions have led to growing tensions between native-born French and a rising tide of immigrants, largely from North Africa and other parts of the developing world. The French criminal justice system has responded to perceived levels of social disorder and delinquency in these ethnic neighborhoods by increasing police surveillance, widening court jurisdiction, and imposing harsher penalties for offenders. In part as a result, France's foreign and immigrant residents, who comprise only about six percent of the population overall, now represent nearly thirty percent of the French prison population. Though the rise in reported crime has no doubt influenced recent trends in crime control, there is reason to believe that the formal orientation toward crime control is more than simply a function of crime itself. Little attention has been given, however, to the broader social and political context in which crime control strategies are developed. In this project, I conduct a comparative analysis of punishment regimes across local jurisdictions (*departements*) in order to assess the relationship between concentrations of national minorities and the institutional response to crime. By exploiting geographic variation in the concentration of national and ethnic minorities across France, I find strong associations between increasing population heterogeneity and the functioning of the local criminal justice apparatus.

Key Words

France • immigrants • punishment • regional variation

In the fall of 2005 the world's attention was focused on an outbreak of riots in urban areas throughout France. The riots were sparked by the death of two young men of North and West African descent who were fatally electrocuted after climbing into a power substation in an effort to flee from a police patrol. Though the police denied allegations of a chase, the incident sparked long-simmering resentments over police harassment and abuse in the immigrant and second-generation communities in the outskirts of France's largest cities. The three weeks of rioting that ensued, primarily

involving young men of North African descent, made widely visible the profound challenges of integration and assimilation facing France today.

In contrast to allegations by minority residents of targeted harassment, many in France perceive minority communities to be the sites of rising crime and pervasive social disorder. Calls for more police and stricter surveillance have led to new crime policy initiatives intended to manage the rising threat of crime. In light of these competing claims, it is difficult to assess whether particular high-profile police incidents are revealing of broader patterns of unequal treatment, or whether the added security emphasis in minority communities is rather a straightforward response to higher rates of crime in these areas. Unfortunately, very few analyses have attempted to investigate factors that influence local crime control strategies. Moreover, due to France's restrictions on collecting ethnic statistics, it is difficult to assess the degree to which local crime enforcement strategies may be shaped by the ethnic composition of the resident population. In this study, I bring unique data to bear in an investigation of criminal justice practices in France and their relationship to the changing cultural landscape. More specifically, I provide a comparative analysis of punishment regimes across local jurisdictions (*départements*) in order to assess the relationship between concentrations of national minorities and the institutional response to crime.¹ By exploiting geographic variation in the concentration of national and ethnic minorities across France, we can attempt to isolate the effect of increasing population heterogeneity on the functioning of the local criminal justice apparatus.

NATIONAL MINORITIES AND ETHNIC TENSION IN FRANCE

The composition of France's immigrant pool has shifted dramatically in recent decades from neighboring European countries to those south of the Mediterranean. With a majority of recent immigration originating in North Africa and other developing countries, France has confronted a culture shock as its once largely 'homogenous' nation becomes a multiethnic society composed of peoples with vastly different cultural and historical traditions. Though France has had high levels of immigration since the mid-19th century, it is commonly argued that today's immigrants – either because of changing economic conditions or because of their more distant cultural origins – remain more separate from mainstream French society and have greater difficulty (or present more resistance) in the process of assimilation. From heated protests over the wearing of the veil to the recent urban riots, the struggles of contemporary immigration have called into question the longstanding French model of immigrant incorporation (Bowen, 2004).

Friction around issues of immigration has provided abundant fodder for political mobilization. Indeed, the 2002 presidential elections in France caught the world's attention after the surprising victory in the primaries of extreme-right leader Jean-Marie Le Pen. Le Pen was infamous for his strong xenophobic statements and overt hostility toward immigrants. Though Le Pen's supporters represented a mere 20 percent of the population, and though he was defeated by a landslide in the final vote, the building tension around economic insecurity, crime, and immigration resonated in Le Pen's political platform.

In fact, current anti-immigrant sentiments are by no means limited to those at the extreme right. Rather, a majority of French citizens express some degree of dissatisfaction

with the presence or level of immigrants. In a survey conducted by the *Commission Nationale Consultative des Droits de l'Homme* in 2000, nearly two-thirds of respondents said that there were too many foreigners in France. More specifically, 63 percent of respondents said there were too many Arabs, compared to 43 percent who said there were too many blacks and 21 percent who said there were too many Asians. Note that this survey was conducted in the year 2000, before 9/11 and the recent wave of anti-Arab sentiment had set in. Clearly the issue of immigration – in particular the immigration of Arabs – represents a sensitive subject for a majority of French citizens.²

The pervasiveness of current anti-immigrant sentiment must be understood in the context of France's recent social and economic circumstances. France has experienced a sustained period of economic depression, with the unemployment rate quadrupling in the past three decades. Likewise, crime rates have been on the rise, with an associated increase in perceptions of insecurity (Robert et al., 2001; Robert and Pottier, 2006). These problems of economic instability and social disorder are often blamed on immigrants and their descendants, with immigrant neighborhoods viewed as sites of pervasive crime and social disorder (Mucchielli, 2003).³ Indeed, according to a recent Eurobarometer survey, 54 percent of French respondents believe that the presence of people from minority groups increases unemployment (SORA, 2001). Likewise, more than half of French respondents agreed that the presence of people from minority groups is a cause of insecurity (51%, up from 46% just 3 years earlier) (SORA, 2001), with an earlier survey reporting nearly a quarter of respondents agreeing that immigrants are 'the cause of delinquency and violence' (Eurobarometer 30, 1988).

The strong link in public perceptions between immigrants and social problems has likewise infiltrated political discussions and policy development. Beyond the inflammatory statements of the far right, moderate and left political leaders have likewise shown inclinations toward tightening controls on immigration and increasing security measures in immigrant neighborhoods. According to Body-Gendrot (2001: 922), 'In 1998, it was decided at the national level that the police and the *gendarmes* would be redeployed to "sensitive" urban neighborhoods to combat the prevailing fear of crime'. In this context, the reference to 'sensitive' neighborhoods most often represents a politically correct code word for poor neighborhoods with high concentrations of immigrants and their descendants. Likewise a series of laws have been put into place that strengthen the punishment for lower order offenses, similar to the zero-tolerance policies of New York's former Mayor Giuliani (Rashbaum, 2002). While not directly targeting immigrants or ethnic minorities, these laws disproportionately affect those living in poor neighborhoods or with unstable housing, which correspondingly affects large numbers of immigrants and/or national minorities (Body-Gendrot, 2001). The 'problem' of immigration in France, therefore, has become a central focus of popular and political discussions of contemporary social problems.

NATIONAL MINORITIES AND THE CRIMINAL JUSTICE SYSTEM IN FRANCE

Perceptions of crime and disorder in immigrant neighborhoods certainly have some basis in reality. Indeed, the association between immigrants and crime is largely supported by trends in criminal justice statistics, which show an extremely disproportionate

representation of foreign citizens at each stage of the criminal justice system.⁴ In 1999, non-citizens represented just under 6 percent of the population, relative to 19 percent of all suspects, 16 percent of those convicted, 30 percent of those sentenced to closed prison terms, and 52 percent of those sentenced to prison terms of 5 years or more (Ministere de la Justice, 1999; Ministere de l'Interieur, 2002; see also Tournier and Robert, 1991; Jackson, 2005).⁵ In the aggregate, therefore, foreigners are far more heavily represented in the criminal justice system than their presence in the general population would predict.

These national averages provide important information about the disparities that exist between foreigners and nationals in criminal justice involvement. At the same time, however, aggregate statistics leave a great deal of important information unknown. It is difficult, for example, to determine whether the observed disparities are due to higher rates of criminal activity among immigrants, harsher enforcement of criminal activity among immigrants, or some combination of the two (Levy, 1987). Likewise, while national averages present a fairly clear picture of the overrepresentation of foreigners in the criminal justice system, these aggregate data typically provide no information about the social, economic, and political context in which these relationships emerge.⁶ Given that foreigners are more likely to be unemployed, to be young, and to live in precarious conditions, it is difficult to discern the degree to which their overrepresentation is the result of citizenship status itself as opposed to an array of contextual factors that may be correlated with both nationality and criminal involvement. In the present study, I offer two new strategies for improving our understanding of these complex processes. First, in my analysis I calibrate measures of criminal justice interventions with corresponding levels of crime in order to isolate and examine institutional variation in the response to crime. It is not merely the frequency or severity of punishment that I wish to measure therefore; it is the frequency or severity of punishment relative to a given amount of crime. Second, I include extensive controls for social, demographic, economic, and political characteristics that may be correlated with criminal justice intervention. In this way, we can attempt to gain a more direct measurement of how criminal justice responses may be shaped by social factors other than crime; in particular, I emphasize the concentration of national minorities.

REGIONAL VARIATION IN THE JUDICIAL PROCESS

The judicial system in France is governed by a highly centralized state bureaucracy within the Ministry of Justice. Public prosecutors and judges are recruited and trained by this centralized agency, and then deployed throughout the country according to staffing needs. Despite the fact that all relevant judicial actors are trained by and accountable to the same central authority, however, substantial regional variation has been found at the local level. Judges and prosecutors enjoy high levels of discretion in the handling of cases, with the decisions to pursue or dismiss charges, to detain suspects, to assign alternative mediation, or to pursue criminal prosecution differing widely across jurisdictions (Hodgson, 2002a). Unlike the American 'adversarial' system in which prosecutor and defense attorney are pitted against one another in the gathering and presentation of evidence, France relies on an 'inquisitorial' approach in which the public prosecutor and/or investigating judge manage all aspects of the

investigation, with the responsibility of representing the rights of both the victim and the accused (Tomlinson, 1983). While some argue that this system promotes greater equality by reducing the influence of disparities in legal counsel (because lawyers play a very small role in the investigative process), others have pointed to the arbitrary or discriminatory decisions by police, prosecutors, and judges that go largely unchecked.

For example, Hodgson (2002b) reports from interview data with public magistrates one prosecutor who emphasized the degree to which individual discretion can affect the handling of cases:

‘The fact that evidence must all be in writing does not prevent us from having a significant amount of leeway . . . I am not at all tolerant of sexual offenses, but I had a colleague who just didn’t give a damn. It depends on your personality.’ (2002b: 250)

Another respondent acknowledged making systematic judgments based on the ethnicity of the defendant. In the interview, he states, “‘He was an Arab. Of course I asked for a prison sentence’” (Hodgson, 2002b: 251).

While ethnographic and observational studies have provided extraordinary insights into the local dynamics of judicial processes (McKillop, 1998; Hodgson, 2002b), there has not, to date, been a systematic investigation of variation in judicial proceedings at the local level.⁷ In this study, I seek to redress these deficiencies by conducting an analysis of criminal procedure at the level of the *departement*. The *departement* is the primary local administrative unit of the State, and represents the smallest unit of analysis for which systematic data can be obtained. In this analysis, I investigate the outcomes of several stages of criminal justice proceedings as a function of the social, economic, demographic, and political characteristics of the local area, with particular attention to the influence of national minorities on the severity of criminal justice interventions.

MEASURING SOCIAL AND ECONOMIC CONTEXT

Social science and the Republican ideal

In the United States, race and ethnicity represent highly salient political identities and a common basis for collective action. Recognized as strong and enduring sources of identity, these categories form the basis of comparisons in assessing inequalities and special needs within the population. Consistent with the privileging of these identities, Federal OMB Directive 15 *requires* that all federal statistics (in addition to private sector records in compliance with equal employment standards) be gathered with identifiers for five racial and two ethnic categories (Federal Register, 1997).⁸ It is intimately woven into the fabric of the American consciousness, therefore, to think and act in terms of racial or ethnic communities.

In France, by sharp contrast, the State has chosen a markedly different path. Influenced by the Enlightenment ideals of the 18th century, France holds a longstanding inclusive orientation to the diversity of its citizenship, encouraging active assimilation and integration of newcomers toward the preservation of a national unity. These principles, referred to as ‘the Republican ideal’, support the recognition of all citizens as equal in the eyes of the State without differentiation on the basis of race, ethnicity,

religion, or country of origin. As is commonly emphasized, '*Il n'y a que des citoyens*'. As a direct enactment of this Republican ideology, the State prohibits the collection of public statistics on the race, ethnicity, or religion of individuals (Simon, 1998). The registration of such information, it is argued, directs attention to the differences across groups and maintains salient distinctions among various peoples. Instead, France maintains a strongly assimilationist stance on immigration and ethnic diversity, seeking to facilitate the rapid and complete integration of immigrants into a common French society. As a result, there exist no official estimates of the ethnic (or religious) composition of France (though varying estimates are widely cited), let alone how each group fares relative to others (see Kaltenbach and Tribalat, 2002). For researchers interested in inequality, therefore, issues of race/ethnicity can rarely be systematically addressed.⁹

Because of these logistical, and in fact, normative barriers to studying ethnic differences in France, researchers have, to a large degree, shied away from investigations of ethnic inequality (Zauberman and Levy, 2003). While there exist ethnographic case-studies focusing on the plight of ethnic minorities (especially minority youth) (e.g. Jobard, 2002), very little evidence is available to assess the degree to which minorities experience systematically different outcomes within the social and institutional context of French society.

The only relevant distinction available in French administrative records and survey data is that of citizenship. As citizenship is the primary criterion for access to the Republic, many public statistics provide separate tabulations by nationality and country of origin. These data provide useful information concerning the status of the first generation of various groups (and, in some cases, their young children); the adult children of immigrants, however, and those of later generations are largely lost in French social surveys (Alba and Silberman, 2001).

In the present study, I make use of the available data to focus on national minorities in France in order to view differences in the administration of criminal justice procedures by ethnicity and national origin. It is important to note, however, that the problems of assimilation and ethnic inequality may persist or increase across later generations, despite the lack of data to formally investigate such claims (see, for example, Tribalat, 1995; Mucchielli, 2002, 2003).

DATA AND METHODS

National sample data and local-area statistics are not easy to access in France. Some data, like the national population census, are 'officially' publicly available; but only certain variables or crosstabulations are available in electronic format. Other variables from the census must be copied by hand from published tables or accessed electronically only with special permission. Other data, like local area criminal justice statistics, are not made public at all. Considered sensitive data by the Ministry of Justice, most department level criminal justice statistics are kept out of the public domain. Moreover, even for those with special access to the data, few records are available in electronic format. The majority of these data, even in restricted format, are available only in published tables, and must be copied by hand before any multivariate analysis becomes possible. Not surprisingly, given the barriers to access and analysis, very few studies of the French criminal justice system have made use of these data.

Fortunately, by virtue of my institutional affiliation in France, I was able to obtain access to restricted local-area criminal justice data. After copying relevant tabulations by hand from detailed published tables into a machine-readable format, I merged these data with social, political, and demographic local-area data from the census and other official statistics. Though by no means perfect, these data allow for the first systematic analysis of local variation in systems of punishment and its relationship to the concentration of national minorities.

Key data on ethnic origin come from census tabulations for each local department. As noted earlier, this measure includes all those of North African nationalities (Algerian, Moroccan, and Tunisian); in most cases those individuals of North African origin who were born in France and/or have acquired French nationality are not included in this variable. Adding complication, this measure is not limited only to the first generation; because many children born in France to foreign parents do not acquire French nationality until age 18, at least a portion of the second-generation will be included in this measure. Thus, the indicator used in the present analysis is not a clean measure either of immigrants or of ethnic minorities more generally. It is, however, the best available measure of the North African population, and one that can serve as an adequate proxy for the overlapping populations of interest.

In the analyses presented below, I separately estimate the effects of four categories of national minorities, each with differing levels of specificity: (1) percent foreign (all origins); (2) percent North African; (3) percent young North African males (between ages 15 and 24); and (4) percent non-North African. Each of these analyses provides insight into the specific subgroups most implicated in criminal justice proceedings.¹⁰

Indeed, at the national level, there is some evidence to suggest that patterns of foreign overrepresentation in the criminal justice system are not homogenous across subgroups. Though most criminal justice statistics are limited to basic comparisons of foreigners versus citizens, studies including additional detail indicate that trends in criminal justice intervention are strongly associated with country of origin, age, and gender.¹¹ For example, among those foreigners in prison, roughly 50 percent are from North Africa relative to 39 percent of all foreigners in France (Ministere de la Justice, 1999; INSEE, 1994).¹² Likewise, relative to the roughly 25 percent of all men incarcerated in 1999 who had North African fathers, among those between the ages of 18 and 24, nearly 40 percent were of North African ancestry (INSEE, 1999). Thus, while foreigners overall are overrepresented in prison, it is young North African males who appear most heavily affected by criminal justice interventions.¹³ In the present analyses, therefore, I present models in which the influence of North African nationals and young North African males are estimated separately from other national minorities, as a means of assessing the age-, gender-, and ethnicity-specific associations between national minorities and the criminal justice system. Data on national minorities and other contextual variables (except where otherwise noted) are taken from the national Census of 1999.¹⁴

Of course, the proportion of national minorities in a local area is also correlated with many other demographic, social, economic, and political characteristics that may themselves influence the severity of crime control. For this reason, each model also includes a wide range of contextual characteristics that may be associated with these processes (see Table 1). In terms of demographic characteristics, I first control for the age structure of the population in each department. Given that youth are most often implicated

TABLE 1 Contextual variables

	MEAN	MIN	MAX
<i>Ethnic context</i>			
Percent national minority (non-citizens)	4.52	0.61	18.72
Percent North African	1.58	0.09	7.06
Percent young North African males	0.11	0.01	0.63
Percent non-North African national minorities	2.95	0.52	11.66
<i>Economic context</i>			
Unemployment rate	12.48	7.50	19.50
Male youth unemployment rate	21.89	11.23	36.62
<i>Social context</i>			
Percent working class	12.59	5.48	17.14
Percent single parent families	11.71	7.03	17.54
Racist acts (0/1)	0.41	0.00	1.00
<i>Demographic context</i>			
Total population size (1000s)	610	74	2554
Percent ages 15 to 24	12.40	9.31	15.47
<i>Political resources</i>			
Departmental expenditures (per capita)	0.40	0.27	0.74
Social Aide expenditures (per capita)	0.20	0.11	0.35
<i>Criminal context</i>			
Immigration offenses (per 1000 residents)	0.90	0.02	9.57
Suspects (per 1000 residents)	12.38	6.21	37.44

N = 96 departments.

in delinquent behavior and social disorder, I specifically control for the percent of the population between the ages of 15 and 24 (Aubusson et al., 2002; Mucchielli, 2003).¹⁵ Second, I include a measure of the overall population size of the department, capturing the influence of urban density on processes of crime control.

In terms of the economic context of the department, I control for the overall unemployment rate as well as the percent of the population in working-class occupations. Given that economic hardship and poor employment prospects are associated with criminal activity (and criminal repression), these variables help to capture this variation across local areas (Freeman, 1983; Godefroy and Laffargue, 1991; Mucchielli, 2003). In certain models, I include additional controls for the rate of male youth unemployment (representing those between 15 and 24 years of age), as a more precise indicator of the criminogenic presence of idle young men (Good et al., 1986; Lagrange, 2001a).

To represent social context, I first include a local area measure of family structure, which represents the proportion of all families in a department that are headed by a single parent. In metropolitan France, roughly 12 percent of households are headed by single parents, varying from 7 to 18 percent across departments. This variable tells us something about the level of social resources available to a region that might be

mobilized toward the informal control of delinquency (Sampson, 1987). As a separate indicator of social context, I measure the presence of racist acts within each department, a measure reported by the Government Commission on Human Rights. This variable tells us something about the presence of racial/ethnic tension in a local area, which may mediate the relationship between national minorities and the severity of crime control.

In addition to the aggregate individual-level characteristics of the residents of each local area, the political resources of a department can likewise have an influence on the problems of crime and approaches to crime control (Hodgson, 2002a). In the following analyses, I include measures of the overall level of per capita spending (from the departmental budget) and, more specifically, the level of per capita spending on social aid. We might expect that the more resources a department is able to mobilize, particularly targeted toward the social needs of its residents, the less it would rely on repressive measures (i.e. criminal justice intervention) as a primary means of containing social problems.¹⁶

Finally, it is of course important that in assessing the level of criminal justice intervention within a particular area, we must likewise take note of the level of crime. Activity of the police and courts is both a function of the frequency and severity of the criminal acts to which they respond, as well as to the internal dynamics, leadership, and social context of the criminal justice agencies. In an attempt to parse out the institutional influences from the behavioral (criminal) ones, I include a series of controls for the crime rate of each region: the number of suspects, the number of cases under investigation, and the rate of specific types of offenses (and in particular, immigration offenses) Ministère de l'Intérieur, 2002. Of course, it is important to recognize that any official indicator of crime cannot be fully separated from its institutional context. The number of crimes recorded by the police, the number of suspects under surveillance, and the number of cases retained for investigation are each influenced by the initiative of the police and/or the courts, reflecting a substantial degree of variation and potential bias (Robert et al., 1994; Aubusson de Cavarlay, 1996).¹⁷ To the extent that these measures are endogenous to the effects under investigation (the association between national minorities and crime control activity), they will exert a conservative bias on the results.

Using the contextual variables described earlier, I seek to explain variation in the severity of criminal justice proceedings across French departments. As key indicators of punitiveness, I focus on three stages of judicial proceedings: the likelihood of pretrial detention; the likelihood of judicial control; and the likelihood of criminal conviction. Each of these measures represents one part of the institutional response to crime; and each can tell us something important about the functioning of the local apparatus of crime control and its social and economic context.¹⁸

Statistics from the Ministry of Justice concerning each of these outcomes are recorded, not at the level of the department, but at the level of the *parquet*, or public prosecutor's office (corresponding to the local judicial jurisdiction). Data from these *parquets* were thus matched with their corresponding department to provide geographic consistency in the analyses. There exist anywhere between one and seven *parquets* per department (mode = 2). Data from the police and gendarmerie (concerning the crime rate and number of suspects), by contrast, are provided at the level of the department, as are socioeconomic data from the Census.¹⁹

Models have been estimated using OLS regression for the cross-section of data from 1999. Some outcome variables are averaged across three years (1998–2000) to provide more stable estimates.

RESULTS

Pretrial detention

France has one of the highest per capita rates of pretrial detention in Western Europe (Aebi and Stadnic, 2007). Indeed, over 70 percent of all prison admissions in France in 1999 were those serving pretrial detention (Ministere de la Justice, 1999). An estimated 300,000 people are placed in pretrial detention each year (Hodgson, 2002a). The use of pretrial detention represents one of the most controversial elements of the criminal justice system, provoking serious criticism from the European Council and other observers (Trouille, 1994; Bell, 1999). Indeed, these criticisms have resulted in a series of legislative reforms aimed at reducing its frequent and arbitrary use; nevertheless, pretrial detention remains an important tool for managing suspects in the eyes of prosecutors and judges.²⁰ Though the use of pretrial detention has decreased since 1985, its average length has not (Robert, 1994). In fact, the average duration of pretrial detention has followed a fairly steady upward trajectory, increasing from 2.9 months in 1980 to 4.2 months in 1999 (Ministere de la Justice, 1999). Given that the *average* prison sentence in 1999 was eight months, the experience of pretrial detention indeed represents a major aspect of punishment, despite the fact that it is imposed prior to the pronouncement of guilt.

Legally it is the *juge d'instruction* or the *juge des libertes et de la detention* who has the power to decide whether pretrial detention is warranted in a particular case; in reality, however, the initial decision of the police to detain a suspect is typically reinforced through subsequent decisions by the prosecutor and judges (see Hodgson, 2002a; Aubusson, 1987). Officially there are three motivating factors behind the decision to impose pretrial detention. These include: (1) securing the safety of the community; (2) securing the integrity of evidence or witnesses; and (3) preventing the suspect from absconding. In the latter case, factors that determine the likelihood of absconding include being unemployed, without a stable residence, and without local family ties. For these reasons alone, foreigners – who generally have weaker economic and social ties in France – are more likely to be deemed high risk.

There is reason to believe, however, that the decision to impose pretrial detention is based on factors beyond those officially recognized by law. In fact, because the decision to impose pretrial detention allows such high levels of discretion, there is much room for the expectations and biases of individual actors to influence outcomes. Indeed, the role of nationality and ethnicity can become a central determinant of the defendant's treatment at this stage. For example, Hodgson (2002b) reports an interview with a prosecutor concerning her decision to place a suspect in pretrial detention on the basis of his ethnic name:

'I had imagined someone dirty, hairy, foreign and all that. I did the paperwork before they brought him in. And then when I saw this blonde boy, all clean. If I had seen him before I would not have asked for a remand in custody.' (Hodgson, 2002b: 251)

According to this respondent's description, the decision had little to do with the type of offense or conditions of the arrest, but rather assumptions about the suspect himself based on an assumed nationality. More generally, Tournier (1997) shows at the national level that foreigners are substantially more likely to receive pretrial detention relative to French citizens. Though much of this disparity can be explained by the types of crimes foreigners are most likely to be suspected of (which themselves tend to receive harsher treatment), the evidence suggests that foreigners are more likely to receive pretrial detention for any category of crime (Tournier, 1997: 554).²¹

This analysis focuses on pretrial detention under the supervision of the *juge d'instruction*, representing roughly 70 percent of all such detentions in 1999.²² There is tremendous variation in the use of pretrial detention across jurisdictions. In the present data, the use of pretrial detention as a proportion of all those formally charged varies from 19 to 65 percent. In the following analysis, I attempt to explain this variation with the wide range of social and demographic characteristics discussed earlier. Above all, I seek to assess the degree to which the presence of national minorities in a local area is associated with the frequency of this punitive intervention.

The results of the analyses are presented in Table 2. The dependent variable in all models is the rate of pretrial detention, calculated as the frequency of pretrial detention in a department relative to the number of individuals brought under formal charges. By calculating this rate as a function of criminal charges, the measure calibrates the use of detention to the overall caseload of a department, with those formally charged representing all those at risk of detention. It is not the case, then, that departments with higher rates of pretrial detention are merely those with more crime.²³

The first model presents the effect of the percent national minorities (all origins) on the rate of pretrial detention, with extensive controls for the social, demographic, economic, political, and criminal context of the department. In this model, the coefficient for the concentration of foreigners is not statistically significant. In fact, the only two variables that significantly predict the rate of pretrial detention are the unemployment rate and the level of a department's per capita spending on social aide. Both of these variables operate in the expected direction. As the rate of unemployment in a department increases, so too does the rate of pretrial detention. Given that joblessness is one factor in evaluating a suspect's likelihood to abscond (and therefore warranting confinement), this relationship is not surprising. The level of social aide spending shows a strong effect in the opposite direction: the higher the per capita level of social aide, the lower the rate of pretrial detention. Though it is not possible to identify the precise nature of this relationship, it is suggestive of a general trade-off in political strategy between investing in social welfare versus investing in social control.

By contrast, other social and demographic variables – such as the percent working class, the percent single-parent families, and the size and age structure of a department – are not significantly related to the rate of pretrial detention. Likewise, the various controls for criminal context – including the rate of immigration offenses and the overall number of suspects per capita – do not appear related to the use of pretrial detention (at least after controlling for the overall number of individuals charged with crimes, included in the denominator of the dependent variable). Other models, not shown here, included controls for the rate of other specific infractions, such as drug crimes, property

TABLE 2 National minorities and the frequency of pretrial detention in French departments^{a, b}

	MODEL 1		MODEL 2		MODEL 3		MODEL 4	
	BETA	STD. ERROR	BETA	STD. ERROR	BETA	STD. ERROR	BETA	STD. ERROR
<i>Concentration of national minorities</i>								
Percent national minority	0.008	0.005						
Percent North African			0.026	0.012**	0.297	0.125**	0.005	0.008
Percent young North African males								
Percent non-North African national minorities								
<i>Economic context</i>								
Unemployment rate	0.015	0.005***	0.013	0.005***	0.642	0.238***	0.014	0.006**
Male youth unemployment rate								
<i>Social context</i>								
Percent working class	0.626	0.590	0.597	0.578	0.737	0.562	0.705	0.595
Percent single parent families	-0.005	0.013	-0.008	0.012	-0.005	0.011	0.002	0.013
Racist acts	-0.001	0.023	-0.004	0.022	0.003	0.022	0.000	0.023
<i>Demographic context</i>								
Total population size	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Percent ages 15 to 24	0.005	0.009	0.002	0.009	-0.003	0.009	0.004	0.010
<i>Political resources</i>								
Departmental expenditures	0.193	0.220	0.098	0.220	0.011	0.215	0.208	0.225
Social Aide expenditures	-0.530	0.266**	-0.441	0.263*	-0.433	0.262*	-0.540	0.271**
<i>Criminal context^b</i>								
Immigration offenses, per capita	7.981	10.862	10.885	10.807	13.603	10.674	5.921	10.861
Suspects, per capita	0.001	0.004	0.000	0.004	0.000	0.004	0.001	0.004

p* < .10; *p* < .05; ****p* < .01.

^a The dependent variable in this model is calculated at the ratio of pretrial detentions to the number of arrests in each department.

^b Other specifications of this model included controls for the overall rate of crime in each department, as well as individual controls for the rate of drug offenses, property offenses, economic offenses, and assault offenses. None of these coefficients was significant in predicting the rate of pretrial detention.

offenses, economic offenses, and violent crimes (assault). None of these variables demonstrated a significant relationship with the rate of pretrial detention.

In the second model, we move from an analysis of the effect of all foreigners to the effect of those of North African origin in particular. Using this indicator in Model 2, we see that there is a strong and statistically significant relationship between the percent of a department's population that is of North African nationality and its use of pretrial detention. Thus, while the overall foreign population is not related to this indicator of criminal justice severity, a more specific focus on the North African population demonstrates that indeed there is a strong relationship between the ethnic/national composition of a population and its crime control strategies. Even after controlling for a host of contextual variables, North African nationality stands out as one of the strongest predictors of pretrial detention.

In the third model, we focus more specifically on young North African males. This group has been the focus on some of the most sensationalized media attention about crime-ridden immigrant neighborhoods (*les banlieues chaudes*), and has likewise had some of the most frequent contact with the police and criminal courts. Because most national data cannot be broken down by nationality, gender, and age within the same tables, however, few analyses have investigated the targeted impact of the criminal justice system on this group. Again, it is important to recognize that this variable does not represent all male youth of North African origin; in fact, some of the greatest concern has been expressed over the youth of North African origin who were born in France and possess French nationality. Nevertheless, this variable does capture an important subset of the North African population, and it includes members of the second generation who have not yet acquired French nationality.

The results of Model 3 demonstrate the very large and significant effect of this variable. The percent young North African males in a department has an extremely strong positive relationship with the rate of pretrial detention, even controlling for extensive social, demographic, and economic characteristics of the department.²⁴ Clearly there is a very strong association between gender, age, national origin and the use of this particular mechanism of crime control.

Finally, Model 4 presents the results for non-North African foreign nationals. As expected, there is no relationship between the proportion of foreigners from non-North African countries and the rate of pretrial detention. Rather, North Africans represent a special category of foreigners with a unique relationship to the criminal justice system. Despite the reluctance among French politicians to recognize an ethnic dimension to criminal justice interventions, one clearly exists in these data. North African nationals, and in particular, young North African males, are associated with a substantial increase in the use of pretrial incarceration. Though the specific mechanisms underlying this association cannot be directly identified, these results do suggest that an important relationship exists between ethnicity, nationality, and detention that warrants serious consideration.

Pretrial detention represents a significant deprivation of liberty, particularly in light of its extensive use before any pronouncement of guilt. Further, there is reason to believe that the consequences of pretrial detention may be even more severe than the loss of liberty for the duration of detainment. According to research on the disposition of cases, there is evidence suggesting that pretrial detention represents one of the strongest

predictors of whether a defendant will ultimately be sentenced to a prison term. According to Robert (1994: 3), 'detention at the time of the court decision is an encouragement to pronounce a sentence to prison, if only to cover the time spent in pretrial detention and not disavow the examining judge'. Indeed, available evidence suggests that foreigners convicted of crimes are more than twice as likely to receive unsuspended prison sentences relative to French nationals for virtually any category of crime (Mary-Portas and Tournier, 1998). To the extent that the decision of pretrial detention plays a role in these subsequent sentencing disparities, the ethnic and national inequalities in criminal justice sanctions may become increasingly magnified at each stage.

JUDICIAL CONTROL

Like pretrial detention, judicial control represents an additional tool available to prosecutors and judges for monitoring suspects before trial. Representing a kind of pretrial probation, judicial control provides the opportunity for judges to keep close watch over suspects while allowing them to return to the community. There is some evidence to suggest that, as pretrial detention has come under greater scrutiny in recent years, judicial control is becoming an increasingly dominant tool for monitoring and regulating those under suspicion. Indeed, between 1996 and 2000, while the proportion of official suspects placed in pretrial detention remained relatively constant at 40 percent, the proportion of official suspects placed under judicial control increased from 36 percent in 1996 to nearly 50 percent in 2000 (Ministere de la Justice, 2000).²⁵ Thus, judicial control is becoming increasingly used as a mechanism for surveillance of those under criminal investigation.²⁶

In the present sample, an average of 38 percent of all individuals formally charged with crimes were placed under judicial control, with rates ranging widely from 4 to 66 percent across departments.²⁷ Table 3 presents the results of models attempting to explain this variation. The first model estimates the effect of the proportion of national minorities (from all origins), in addition to the extensive set of controls. Once again we see that there is no relationship between the overall proportion of foreigners and the use of judicial control. Instead, the two variables that significantly predict the use of judicial control are the measures of political resources: The overall department budget is positively associated with the use of judicial control, perhaps suggesting additional resources available for the processing and monitoring of cases.²⁸ Per capita spending on social aide, by contrast, has a significant negative effect. Once again, these patterns are suggestive of the political trade-off between investing in social needs versus investing in social control.

In contrast to the first model, when we focus specifically on the proportion of North African nationals, as presented in Model 2, we do in fact see a strong and significant positive relationship between the presence of national minorities and this mechanism of social control. Again, these results point to the specificity of national origin in criminal justice processes, with the North African population consistently demonstrating a unique position in the distribution of crime control.

Similar results are found in Model 3, focusing on young Magrebin males. In fact, we see a much stronger relationship between the relative size of this group and the use of judicial control, suggesting that young North African males may be particular targets for formal surveillance. Given the choice between pretrial detention and judicial control,

TABLE 3 National minorities and the frequency of judicial control in French departments^{a, b}

	MODEL 1		MODEL 2		MODEL 3		MODEL 4	
	BETA	STD. ERROR	BETA	STD. ERROR	BETA	STD. ERROR	BETA	STD. ERROR
<i>Concentration of national minorities</i>								
Percent national minority	0.000	0.006						
Percent North African			0.022	0.012*	0.311	0.135**	-0.009	0.009
Percent young North African males								
Percent non-North African national minorities								
<i>Economic context</i>								
Unemployment rate	-0.004	0.006	-0.003	0.005				
Male youth unemployment rate					-0.141	0.265		
<i>Social context</i>								
Percent working class	0.354	0.626	0.146	0.613	0.173	0.598	0.487	0.617
Percent single parent families	0.006	0.015	-0.006	0.013	-0.010	0.012	0.016	0.014
Racist acts	0.012	0.025	0.007	0.025	0.007	0.025	0.013	0.025
<i>Demographic context</i>								
Total population size	0.000	0.000	0.000	0.000	0.000	0.000	0.000	0.000
Percent ages 15 to 24	0.004	0.010	0.003	0.010	0.002	0.010	0.001	0.010
<i>Political resources</i>								
Departmental expenditures	0.696	0.242***	0.609	0.242**	0.601	0.239**	0.660	0.242***
Social Aide expenditures	-0.620	0.291**	-0.571	0.287**	-0.547	0.289*	-0.572	0.292*
<i>Criminal context</i>								
Suspects, per capita	0.000	0.003	0.000	0.003	0.001	0.003	0.000	0.003

* $p < .10$; ** $p < .05$; *** $p < .01$.

^a The dependent variable in this model is calculated at the ratio of the number of individuals placed under judicial control relative to the number of arrests in each department.

^b Certain variables from previous estimations found to be insignificant were deleted from these models.

the latter is perhaps seen as a more appropriate form of monitoring for this younger group.

The final model, examining the effects of non-North African foreigners, shows no relationship with the use of judicial control. In fact, the sign of this coefficient is in the opposite direction. The specificity of national origin is thus reinforced, providing indirect evidence of the ethnic dimension to criminal justice interventions.

In all models, as described earlier, we see significant (opposing) effects of overall departmental resources and spending on social aide. Clearly the allocation of public funds makes a large and systematic difference on the local strategies of crime control.

CRIMINAL CONVICTIONS

As a final indicator of criminal justice severity, I measure the rate of criminal convictions.²⁹ This indicator was constructed as a ratio of the number of convictions in each department relative to the caseload of the local courts (*poursuites*).³⁰ That is, the measure takes into account the overall caseload in determining the likelihood that criminal charges are successfully realized. It is important to note, however, that this is not a true 'rate' in that cases that are initiated in one year may result in conviction several years later. By averaging this variable across three years (1998–2000), however, I am able to achieve greater stability in this general measure of 'flow'.

In the present data, an average of 48 percent of all cases resulted in convictions, with a range from 27 to 66 percent across departments. Once again, therefore, we see that the implementation of criminal justice interventions is far from uniform across local jurisdictions.

Table 4 presents the results for these models. For this indicator, we see general consistency in the effects of national origin, with the aggregate category of national minorities, the specific category of North African nationals, and the category of non-North Africans each demonstrating a significant positive effect on the likelihood of criminal convictions. The only category not associated with this outcome is the indicator for young North African males.

Generally, these models indicate that rate of conversion of cases into convictions is higher in areas with high concentrations of foreigners; this relationship exists among foreigners of all nationalities. It is possible that foreigners receive less adequate representation in court, and are therefore more likely to be convicted. Without data on legal resources, however, this hypothesis remains speculative. In any case, the strength and consistency of the effects suggest a relationship warranting further investigation. The high level of variability in the application of punishment is one concern; the fact that this variability may be systematically linked to the concentration of national minorities represents a much larger political dilemma.

CONCLUSIONS

This project has sought to shed light on the sources of local variation in criminal justice practices. Several important lessons can be learned from the results of this research. First, the analyses presented earlier point to the tremendous degree of variation in the use of pretrial detention, judicial control, and criminal convictions across local jurisdictions. Despite the highly centralized structure of France's criminal justice system,

TABLE 4 National minorities and the likelihood of criminal conviction in French departments^{a, b}

	MODEL 1		MODEL 2		MODEL 3		MODEL 4	
	BETA	STD. ERROR	BETA	STD. ERROR	BETA	STD. ERROR	BETA	STD. ERROR
<i>Concentration of national minorities</i>								
Percent national minority	0.007	0.003**	0.014	0.006**	0.123	0.076	0.010	0.004**
Percent North African								
Percent young North African males								
Percent non-North African national minorities								
<i>Economic context</i>								
Unemployment rate	0.005	0.003*	0.003	0.003	0.129	0.163	0.006	0.003**
Male youth unemployment rate								
<i>Social context</i>								
Racist acts	-0.026	0.016	-0.026	0.017	-0.022	0.017	-0.024	0.016
<i>Demographic context</i>								
Total population size	0.000	0.000	0.000	0.000*	0.000	0.000**	0.000	0.000
Percent ages 15 to 24	0.001	0.006	-0.001	0.006	-0.003	0.006	0.001	0.006
<i>Political resources</i>								
Social Aide expenditures	0.076	0.160	0.003	0.003	0.086	0.167	0.074	0.161

* $p < .10$; ** $p < .05$; *** $p < .01$.

^a The dependent variable in this model is calculated at the ratio of the number of individuals convicted relative to the number of cases being pursued in each department.

^b Crime rate measures were deleted from this model as they are highly collinear with the denominator of the dependent variable; other non-significant variables have also been removed to increase statistical power.

the implementation of criminal justice procedures at the local level remains extremely sensitive to local context.

Second, rarely can the variation in local crime control procedures be explained by standard indicators such as population size or overall crime rate; instead, social context variables emerge as primary suspects in the attempt to explain institutional responses to crime. In particular, the results point to the prominent role that national minorities play in the changing landscape of crime control. No other variable more consistently or powerfully predicts the severity of criminal justice interventions than those measuring nationality and country of origin. Of course, not all national minorities demonstrate the same relationship to criminal justice practices. In fact, in several analyses, indicators for the overall foreign population demonstrated no relationship to the outcomes of interest. Rather, it is the North African population that reveals the strongest association with local crime control. While ethnicity cannot be directly measured using the available data, these results are suggestive of a strong ethnic component in the local fashioning of punishment.

Finally, the analyses reveal an important relationship between investment in social aide and the severity of crime control. While high per capita spending on social aide could indicate a high prevalence of social need (typically associated also with higher rates of crime), these results point to an opposite effect. Departments that invest more in social aide for their residents are less likely to invest in mechanisms of criminal surveillance such as pretrial detention or judicial control.³¹ These results suggest that political decisions about resources (and/or the broad orientation toward managing social disorder that are reflected in these decisions) can indeed have significant influence on crime control practices.

The insights from this research must of course be conditioned by its limitations. First, in these analyses, I have attempted to provide adequate controls for variation in overall rates of criminal activity, as measured by the total number of suspects relative to the population size, the total case-load, and/or the types of specific infractions. It is important to acknowledge, however, that these indicators are far from perfect measures of the nature and severity of crime. Unobserved differences in the crime patterns across departments could account for some of the variation in punishment used.

Second, the absence of nationality-specific independent variables may result in some degree of measurement error. Because the mean and/or variance of one or more independent variable may differ for North Africans and French nationals, unmeasured differences between groups in these indicators may affect our estimates.

Finally, due to the absence of nationality-specific dependent variables (e.g. the rate of pretrial detention for national minorities versus French citizens), we are unable to make strong statements about the underlying process by which the presence of national minorities affect crime control. One hypothesis is that higher concentrations of North Africans elicit stronger feelings of group threat, reflected in harsher treatment of North Africans within the criminal justice system (see, for example, Liska et al., 1981). A second hypothesis is that high concentrations of North Africans lead to greater perceptions of crime, reflected in a more generalized crack-down affecting foreigners and citizens alike (see, for example, Quillian and Pager, 2001). Without nationality-specific dependent variables, we are left unable to assess whether the presence of national minorities affects criminal justice interventions for all residents or only North African ones.

Despite its limitations, this study represents an important first step in analyzing the links between national minorities and strategies of crime control. Exploiting regional variation in the institutional response to crime, it becomes possible to explore the many contextual factors that influence punishment, apart from the influence of crime itself. Social scientists would be well served to pay more attention to such institutional variation, and to the social factors that explain it.

The results from this study may become even more relevant in light of current social and political developments in France. The current president, Nicolas Sarkozy, built his reputation as Minister of the Interior with a 'tough on crime' agenda and has been actively scornful of those youth associated with the riots of 2005. Moreover, as economic conditions remain stagnant, tensions over immigrant communities continue to fester. To the extent that perceptions of the crime problem remain linked to foreigners and their descendants, trends in upcoming years may reflect much stronger relationships than those reported here.

France faces some difficult challenges ahead, as it struggles to reconcile its progressive orientation toward immigration with the demand for increasing security. The French state has long relied on its public institutions to facilitate the process of assimilation; unfortunately, the expanding reach of the criminal justice system may produce just the opposite effect. As the recent riots suggest, increasing surveillance within minority communities may provoke oppositional identities that stall or disrupt the process of assimilation rather than promoting integration and cultural cohesion.

At the very least, given the consistent evidence of an association between national/ethnic composition and criminal justice interventions, the very norms around data dissemination in France are worth reflection. As noted earlier, the Republican ideal dominating political thought in France rejects the measurement of race/ethnicity on the grounds of its potentially divisive influence on the political unity of France. While an admirable ideal, the existing evidence suggests that political equality is far from a reality; the lack of systematic measurement merely makes these problems easier to ignore.

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Notes

- 1 'National minority' refers to an outgroup defined by its association with a distinct national culture or heritage. In the analyses presented later, this measure is operationalized according to citizenship status and country of origin.
- 2 See also comparative studies by Quillian (1995) and Duster (2006) who find the French to score among the highest on measures of xenophobia or anti-immigrant sentiment relative to other western European nations. For more recent trends, see

- La Commission Nationale Consultative des Droits de l'Homme (2008) and Eurobarometer (2008).
- 3 Public attention has become increasingly focused on the problem of crime and unrest in immigrant neighborhoods over the past two decades. A series of high-profile riots in the 1980s, provoked by acts of police violence, gave the *banlieue* the association of a place of instability and danger (Brubaker, 1992: 154; Rey, 1996). (In France, poor and immigrant residents are most likely to reside in the *banlieue*, or suburbs, in stark contrast to their American inner-city counterparts.) Likewise, there has been a great deal of media attention focused on gangs of North African youth, implicated in vandalism, petty theft, and the drug trade.
 - 4 The slippage in usage here between *immigrant* and *foreigner* in part represents a disconnect between public discussions of these issues and the available data. While public discourse is typically framed in terms of 'the immigrant problem', most public statistics are reported using the distinction between foreigner and national. Though few people recognize the difference between these terms, they represent overlapping but not identical populations. In France, anyone who does not hold French citizenship is termed *etranger*, or foreigner. In some cases, these individuals may have been born in France, as French citizenship typically becomes eligible near the age of maturity to those who were born to immigrant parents. The status of *etranger* can vary over the life course as individuals acquire French citizenship. The overlapping category of *immigré*, or immigrant, includes anyone born outside of France; this category includes both those who are currently *etrangers* as well as those who are French citizens. The status of immigrant does not vary over the life course. While these terms are often used interchangeably, there remains a significant fraction of each group that is non-overlapping. For example, in 1999 roughly 16 percent of *etrangers* were born in France (and therefore not considered *immigrés*); likewise, 36 percent of *immigrés* had acquired French citizenship and therefore were no longer *etrangers* (see INSEE, 1994: 15, 1999).
 - 5 It is important to note that a non-trivial part of the disproportionate representation of foreigners in the criminal justice system is specifically the result of immigration offences. Tournier (1997) notes that one-third of the disparity in the number of suspects is the result of immigration offenses and a majority of the increasing gap in imprisonment can be explained similarly. Nevertheless, even excluding immigration-specific offenses, foreigners remain two to five times overrepresented at various stages of the criminal justice system relative to their native counterparts.
 - 6 Social context is indeed an important element of foreign representation in the criminal justice system. For example, an innovative study by Hugues Lagrange (2001b) analyzed crime rates among youth of French and foreign origins within two local areas. Ethnic origins were imputed based on a coding of last names from a sample of delinquents identified by the police in each town. Lagrange found wide variation in the disparities in criminal involvement by ethnic origin. In one area, youth of African/North African origin were vastly overrepresented among police investigations; in the other, there was relative parity in rates of police involvement. The results of this study point to the importance of local context – both in terms of the criminogenic characteristics of a particular region as well as the attitudes and approaches of local criminal justice agents (see also Mucchielli, 2003).

- 7 For one noteworthy exception, see Aubusson de Cavarlay (1996) which presents a descriptive geographic overview of variation in several criminal justice indicators.
- 8 The OMB Directive 15 outlines the minimum standard collection categories to be utilized for record keeping, collection, and presentation of data on race and ethnicity in federal program administrative reporting and statistical activities. The reporting of these minimum categories is required as a standard course of action among the following activities: (1) for civil rights compliance reporting and equal employment reporting for both the public and private sectors and for all levels of government; (2) for administrative reporting or record keeping requirements which include racial or ethnic data; and (3) for federally sponsored statistical data collection where race and/or ethnicity is required.
- 9 A survey conducted by Michele Tribalat in 1992 stands out as a unique and highly controversial exception. This survey included questions about the national origin of respondents' parents in order to measure the patterns of socioeconomic assimilation among second generation immigrants (Tribalat, 1995, 1996). While providing important information about the sources of persistent inequality among ethnic minorities, this survey has received virulent criticism for its essentializing of ethnic categories. An active debate is currently taking place among researchers in France over the degree to which the 'ethnicization' of statistics is necessary or desirable (see Peer & Sabbagh, 2008; Schnapper, 2006; Cusset, 2006; Mucchielli, 1999; Simon, 1998; Le Bras, 1998).
- 10 Unfortunately, it is not possible with the Census data publicly available to create separate categories for 'other Africans' or 'West Africans', though potentially interesting relationships may obtain for these groups as well.
- 11 In 2000, only 3.7 percent of French prisoners were women (Ministere de la Justice, 2001).
- 12 Individuals of North African origin represent 18.6 percent of prison admissions overall (Tournier, 1997) relative to just over 2 percent of the population.
- 13 Of course the correlations between ethnicity, gender, and age reported in existing research cannot provide the basis for causal claims, or even claims about the direction of causality. In the present study, as discussed later, I attempt to control for overall rates of offending as a means of separating the institutional response from the behavioral one; nevertheless, however, without individual-level data on crime and punishment, it remains difficult to definitively address issues of causality within this context.
- 14 While Census measures give us the best possible estimates of national minorities living in France, there are reasons to believe that these counts underestimate those at risk of criminal justice intervention (Ministere de l'Interieur, 1996: 110). First, the Census does not include illegal immigrants, seasonal workers, or short-term visitors, despite the fact that individuals from each of these groups can and do wind up in criminal justice statistics. Second, as is the case with the US Census, there is a general undercount of foreigners in the French Census even among those long-term legal residents (due to less stable residence, distrust of official enumeration, etc.). Measurement error in this variable should downwardly bias the estimates, thus leading to more conservative conclusions.
- 15 Indeed, the proportion of minors among all suspects has increased by 33 percent in the past 30 years, growing from 15.5 percent in 1974 to 21 percent in 2000.

- This increase has in part resulted from recent changes in the ways the police and the courts process crime among juveniles (Aubusson et al., 2002).
- 16 Resources for the criminal justice system are provided by the State whereas the level of social aid is determined at the departmental level. In this sense there are not explicit trade-offs between spending in one domain and the other. At the same time, however, areas that choose to invest heavily in social services may ultimately require less of their criminal justice budget for punitive means. Of course it may be the case that areas with many social problems (including crime) are those that devote large amounts of spending on social aid. This would lead to conservative estimates of the relationship between public welfare and crime reduction.
 - 17 Mucchielli (2002) notes two ways in which the ethnic composition of an area may produce disparities in criminal justice involvement in the absence of differential offending. First, most crimes are recorded only once the victim makes a complaint, an event that may become more likely when the assailant is a foreigner. Second, only about one-fourth of reported acts are elucidated through formal investigations, thus leaving room for a tremendous amount of variation based on police discretion or initiative.
 - 18 For a novel investigation of ethnic discrimination in the imposition of prison sentences in one Parisian district, see Jobard and Nevanen (2007).
 - 19 Note that, while for the most part, crimes, criminals, victims, and criminal prosecution are located within the same geographic unit, in some cases this is not so. A suspect may live in one department while being arrested in another; the criminal procedure may take place in the jurisdiction of the victim rather than that of the assailant, etc. Thus, the social and demographic characteristics of department residents do not always correspond perfectly to the processing of criminal justice statistics (see Aubusson de Cavarlay, 1996).
 - 20 Leigh and Zedner note that 'while nothing in French law requires the overuse of detention, a tendency to do so seems deeply ingrained in the legal culture and doubtless derives from a desire not to release a suspect until the truth has been ascertained' (quoted in Bell, 1999: 363–4).
 - 21 Given the available data, however, Tournier is not able to control for the socio-economic characteristics of individual detainees as possible mediating factors.
 - 22 The remaining 28 percent of pretrial detention cases are decided by a procedure called *Comparution Immédiate*, a form of summary judgment. These detentions are typically much shorter in duration (average = 0.5 months). Pretrial detention under the *juge d'instruction* lasts an average of 5.8 months for *delits* and an average of 23.6 months for *crimes* (Ministere de la Justice, 2001). According to French law, a *delit* represents any infraction punishable up to 10 years, and a *crime* represents an infraction punishable for 10 years or more.
 - 23 The likelihood of pretrial detention is substantially higher in the case of a *crime* relative to a *delit* in the French system, a difference that I am unable to capture using the present data. Given that *crimes* represent a very small fraction of cases, however, this fact is unlikely to have a significant effect on the analyses presented later.
 - 24 The measure of unemployment included in this model is the unemployment rate for youth aged 15–24 (corresponding to the age-group represented by the key independent variable). A model including indicators for both the overall unemployment

rate and the youth unemployment rate produces an almost identical coefficient for young North African males, while the two unemployment variables become insignificant (due to colinearity).

- 25 In this case, 'official suspect' refers to those who have been brought up on formal charges, corresponding to the French category of *mis en examen*.
- 26 It is important to note, by contrast, that the overall number of arrests declined from 65,317 in 1996 to 56,973 in 2000, and thus the rise in the proportion under judicial control is steeper than the rise in the actual number (23,383 in 1996 to 28,031 in 2000) (Ministere de la Justice, 2001).
- 27 Judicial control can be imposed instead of pretrial detention or following pretrial detention. In the following analyses, I use a measure of the total number of individuals placed under judicial control (with or without pretrial detention); the results are similar, irrespective of which measure is used.
- 28 As mentioned earlier, the departmental budget does not include resources for criminal justice activity, as these are financed directly by the state. Nevertheless, the overall department budget may be reflective of the general level of resources allocated to a local area.
- 29 The models predicting criminal convictions are somewhat more sensitive to changes in specification relative to the earlier outcomes discussed. For this reason, I wish to be cautious about the claims I make here and encourage further research on this question.
- 30 The conceptualization of this variable is not entirely straightforward, as it makes use of different units of analysis in the numerator and denominator. The numerator, measuring the number of convictions, refers to the number of individuals, whereas the denominator, measuring the number of cases, refers to the number of dossiers. Because several individuals can be convicted based on a single dossier, this is not a perfect match. In reality, however, the conflation of these two units of analysis does not have a substantial effect. At the national level, the ratio of the number of convictions and acquittals relative to the number of dossiers is about 1.05. Thus there is very close to one person judged for each dossier.
- 31 The effects are similar whether this variable is measured as an absolute per capita amount or as a proportion of the total department budget.

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