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## Food Justice as Crime Prevention

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# FOOD JUSTICE AS CRIME PREVENTION

*Avi Brisman\**

## I.

In December 2008, Governor David Paterson (D-NY) proposed an 18 percent tax on nondiet sodas and fruit drinks containing less than 70 percent natural fruit juice.<sup>1</sup> While the tax was part of a broader budget proposal designed to address New York State's fiscal crisis<sup>2</sup>—a plan that that included new taxes and tax hikes on 137 items and services<sup>3</sup>—state officials promoted the “obesity tax,” as the soft drink levy came to be called, as a public health measure.<sup>4</sup>

In February 2009, Governor Paterson backed away from the soda tax, indicating that he did not expect the New York State Legislature

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1. Sewell Chan, *A Tax on Many Soft Drinks Sets Off a Spirited Debate*, N.Y. TIMES, Dec. 17, 2008, at A36; Brendan Scott, *Spend Shocker*, N.Y. POST, Dec. 17, 2008, at 7.

2. See Fredric U. Dicker, *Paterson Dishes Up Same Old Me\$\$*, N.Y. POST, Dec. 17, 2008, at 6; Nicholas D. Kristof, Op-Ed., *Miracle Tax Diet*, N.Y. TIMES, Dec. 17, 2008, at A43.

3. Governor Paterson's proposal included an “iTunes tax” of four percent on videos and music downloads from the internet; a four percent tax on taxis, limos, and bus rides; a four percent tax on movies, concerts, and sporting events; a four percent tax on cable television and satellite services; a four percent tax increase on “personal services,” such as haircuts, pedicures, massages, and gym memberships; a four percent sales tax on clothing and shoes under \$500; as well as higher fees for vehicle registration and new or renewed drivers' licenses. Scott, *supra* note 1, at 7.

4. Chan, *supra* note 1, at A36.

to pass his proposal.<sup>5</sup> In March 2009, Governor Paterson dropped the proposal due to public, industry and legislative opposition.<sup>6</sup>

Whether this tax on sugary sodas and fruit drink “-ades,” which have been linked to obesity in children and diabetes in women,<sup>7</sup> would have improved New Yorkers’ health the way the cigarette tax helped reduce instances of lung cancer and heart disease<sup>8</sup> was the source of much debate. Some nutritionists argued that it was a worthwhile experiment given the extent of the “obesity epidemic.”<sup>9</sup> Others were more tepid, maintaining that taxing food does not change long-term behavior, and that combating obesity requires better education and lifestyle changes. Still others maintained that the measure did not go far enough and that what was needed were “Twinkie taxes,” as well as agriculture reforms that ended subsidies for corn that winds up as high fructose corn syrup in sodas.<sup>10</sup>

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5. Nicholas Confessore, *Paterson Lowers Expectations on Soda Tax, Calling Approval Unlikely*, N.Y. TIMES, Feb. 14, 2009, at A17.

6. Nicholas Confessore, *Paterson Reaches Deal With Legislative Leaders to Drop Soda Tax and Other Fees*, N.Y. TIMES, Mar. 12, 2009, at A22; Anemona Hartcollis, *City’s Health Commissioner, in a Medical Journal Article, Calls for a Tax on Soda*, N.Y. TIMES, Apr. 9, 2009, at A22; see also Sewell Chan, *New Targets in the Fat Fight: Soda and Juice*, N.Y. TIMES, Sept. 1, 2009, at A22.

7. Chan, *supra* note 1, at A36; Kristof, *supra* n.2, at A43; Theresa A. Hastert, Susan H. Babey, Allison L. Diamant, and E. Richard Brown (UCLA Center for Health Policy Research), *Low-Income Adolescents Face More Barriers to Health Weight*, Health Policy Research Brief 1, 1 (Dec. 2008), available at [http://www.healthpolicy.ucla.edu/pubs/files/Teen\\_Barriers\\_PB\\_1208.pdf](http://www.healthpolicy.ucla.edu/pubs/files/Teen_Barriers_PB_1208.pdf) (citing Malik VS, Schulze MB, Hu FB. *Intake of Sugarsweetened Beverages and Weight Gain: A Systematic Review*, 84 AM. J. CLIN. NUTR. 274, 274-288 (2006)).

8. Chan, *supra* note 1, at A36; Kristof, *supra* note 2, at A43.

9. See Chan, *supra* n.1, at A36; see also Kelly D. Brownell & Thomas R. Frieden, *Ounces of Prevention—The Public Policy Case for Taxes on Sugared Beverages*, 360(18) N. ENG. J. MED. 1805, 1805-08; Susan Dominus, *Mother’s Fight Against Junk Food Puts a School on Edge*, N.Y. TIMES, June 16, 2009, at A15; Editorial, *Selling Obesity at School*, N.Y. TIMES, Apr. 27, 2009, at A22; *Fast Food: Protecting the Poor from Big Macs*, THE WEEK, Aug. 15, 2008, at 19; FAIDRA PAPAVALIOU, CHRISTA ESSIG, PEGGY BARLETT & ALICE ROLLS, ATLANTA LOCAL FOOD INITIATIVE, IS HEALTHY EATING POSSIBLE IN DEKALB COUNTY? AN ASSESSMENT OF FOOD AVAILABILITY, ACCESS, AND COST IN TWO NEIGHBORHOODS. (2007). [on file with author]; Kim Severson, *Calories Do Count*, N.Y. TIMES, Oct. 29, 2008, at D1, D9; Julie Steenhuysen, *Lovin’ It: McBranding hooks preschoolers, study finds*, REUTERS, Aug. 6, 2007, available at <http://www.reuters.com/article/topNews/idUSN0642878120070806>; Nareissa Smith, *Eatin’ Good? Not in this Neighborhood: A Legal Analysis of Disparities in Food Availability and Quality at Chain Supermarkets in Poverty-Stricken Areas*, 14 MICH. J. RACE & L. 197, 205 (2009); Rachel L. Swarns, *Michelle Obama’s Agenda Includes Healthful Eating*, N.Y. TIMES, Mar. 11, 2009, at D1, D2.

10. See Kristof, *supra* note 2, at A43; see also Lewis Friedman, Letter to the Editor, N.Y. TIMES, Dec. 19, 2008, at A26 (arguing that taxing only nondiet beverages

Opponents, such as the American Beverage Association (the lobby for the nonalcoholic beverage industry), contended that the measure was simply a “money grab” that would have hurt jobs<sup>11</sup>—a perspective that was shared by some lower income individuals who were already feeling the stresses and constraints of the current recession.<sup>12</sup> Others couched their opposition in the language of rights and individual freedom, asserting that “government intrusion in citizens’ private lives could damage our liberties in the same way that high-fructose corn syrup may have had on our body-mass measurements.”<sup>13</sup> And some were simply unconcerned, claiming that “soda always sells.”<sup>14</sup>

Governor Paterson’s soda tax did not represent the first sortie in the “war on obesity.”<sup>15</sup> Nor has it been the last.<sup>16</sup> Congress is currently considering a proposal to tax sugary soft drinks at a rate of a penny an ounce.<sup>17</sup> The last few years have also borne witness to a

sends the message that other beverages, which contain aspartame and phosphoric acid, are not harmful).

11. Chan, *supra* note 1, at A36 (noting that “the beverage industry accounts for 160,000 jobs that generate \$6.7 billion wages in New York State . . .”).

12. See Erin Calabrese & Jen T. Tse, *Working Class: We’re at Breaking Point*, N.Y. POST, Dec. 17, 2008, at 6; see generally Editorial, *A Health Tax*, N.Y. TIMES, June 3, 2009, at A26 (stating that Governor Paterson dropped the eighteen percent tax on sugary drinks “after lobbyists charged that a tax would land unfairly on lower-income individuals”).

13. Mark A. Kellner, Letter to the Editor, N.Y. TIMES, Dec. 20, 2008, at A26.

14. Chan, *supra* note 1, at A36.

15. Eduardo Porter, *About That Doughnut*, N.Y. TIMES, Aug. 30, 2008, at A18; see also Robin Marantz Henig, *Losing the Weight Stigma*, N.Y. TIMES MAG., Oct. 5, 2008, at 24 (claiming that “[t]he public-health crusade of the moment is a no-holds-barred war on obesity.”). Henig notes, however, that some object to the depiction of obesity as a medical emergency requiring a crusade. The “fat-acceptance” movement asserts that one is not unhealthy just because one is fat and that it is possible to be healthy no matter how fat one is. *Id.* See also Deborah L. Rhode, *The Injustice of Appearance*, 61 STAN. L. REV. 1033, 1052 (2009) (claiming that “[d]iscrimination based on obesity is particularly problematic from a class standpoint”); Rachel P. Wildman, et al., *The Obese Without Cardiometabolic Risk Factor Clustering and the Normal Weight With Cardiometabolic Risk Factor Clustering*, 168 ARCH. INTERN. MED. 1617, 1617-24 (2008) (finding that “a considerable proportion of overweight and obese US adults are metabolically healthy, whereas a considerable proportion of normal-weight adults express a clustering of cardiometabolic abnormalities”); see generally LINDA BACON, *HEALTH AT EVERY SIZE: THE SURPRISING TRUTH ABOUT YOUTH WEIGHT* (Benbella Books 2008).

16. See, e.g., Jesse McKinley, *Cost of Cigarette Litter May Fall on San Francisco’s Smokers*, N.Y. TIMES, May 19, 2009, at A14 (noting San Francisco Mayor Gavin Newsom’s ongoing efforts to tax drinks with high levels of fructose corn syrup).

17. See, e.g., Editorial, *A Healthy Tax*, *supra* note 12; William Neuman, *Tempest In a Soda Bottle*, N.Y. TIMES, Sept. 17, 2009, at B1, B4; Mike Stobbe, *Fight obesity? Add*

number of measures aimed at reducing the country's soaring rates of obesity and diabetes<sup>18</sup>—rates that are higher in low-income, urban neighborhoods populated by African-Americans and Latinos.<sup>19</sup> Examples include the Los Angeles City Council's unanimous decision to impose a one-year moratorium on the opening of new fast food restaurants in the poor, minority area of South Los Angeles,<sup>20</sup> New

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*sales tax to soda tab*, ASSOCIATED PRESS, Sept. 17, 2009, available at [http://news.yahoo.com/s/ap/20090916/ap\\_on\\_he\\_me/us\\_med\\_soda\\_tax](http://news.yahoo.com/s/ap/20090916/ap_on_he_me/us_med_soda_tax).

18. Nicholas Bakalar, *More Americans on the Road to Obesity*, N.Y. TIMES, Aug. 11, 2009, at D7; Roni Baryn Rabin, *Bad Habits Asserting Themselves*, N.Y. TIMES, June 9, 2009, at D5; William S. Eubanks II, *A Rotten System: Subsidizing Environmental Degradation and Poor Public Health with Our Nation's Tax Dollars*, 28 STAN. ENVTL. L.J. 213, 284 (2009); MARK WINNE, *CLOSING THE FOOD GAP: RESETTling THE TABLE IN THE LAND OF PLENTY* 110-36 (Boston: Beacon Press 2008). *see generally* Elisabeth Rosenthal, *Fast Food Hits Mediterranean; a Diet Succumbs*, N.Y. TIMES, Sept. 24, 2008, at A1, A12 (reporting that in 2004, 66% of adults older than twenty years of age were overweight and that 31.9% of children ages 2-19 were overweight in 2006).

19. David S. Freedman, et al., *Racial/ethnic Differences in Body Fatness among Children and Adolescents*, 16 OBESITY 1105, 1105-1111 (2008); Andrea Freeman, *Fast Food: Oppression through Poor Nutrition*, 95 CAL. L. REV. 2221, 2228 (2007); Henig, *supra* note 15, at 24; Tracie McMillan, *The Action Diet: The Food Justice Movement Aims to Change More Than What New York Kids Eat*, CITY LIMITS, July/Aug. 2004, available at <http://www.citylimits.org/content/articles/articleView.cfm?articlenumber=1156>; Tracie McMillan, *Urban Farmers' Crops Go From Vacant Lot to Market*, N.Y. TIMES, May 7, 2008, at F1; Terry Pristin, *Fresher Food, With Some Help*, N.Y. TIMES, June 17, 2009, at B6; *see also* Lisa Bralts-Kelly, *Creating a People-Powered Food System*, in *A CALL TO FARMS: CONTINENTAL DRIFT THROUGH THE MIDWEST RADICAL CULTURE CORRIDOR* 11, 11-12 (Heavy Duty Press 2008), available at [http://www.heavyduty.com/books/farms\\_pdf](http://www.heavyduty.com/books/farms_pdf).

20. *Fast Food: Protecting the Poor from Big Macs*, THE WEEK, Aug. 15, 2008, at 19. Like Governor Paterson's proposed tax on nondiet sodas and sugary fruit drinks, this type of endeavor has also proven divisive. *Compare* Marice Ashe, Lisa M. Feldstein, Mary M. Lee & Montrece McNeill Ransom, *Land Use Laws and Access to Tobacco, Alcohol, and Fast Food*, 35 J.L. MED. & ETHICS 60, 60 (2007) (comments by Feldstein) (describing how "land use planning tools can maximize access to healthy foods and establish restrictions on the density and location of fast food stores"), and Erica Barnett, *How to Fertilize Urban Food Deserts*, WORLD CHANGING, <http://www.worldchanging.com/archives/007372.html> (last visited Apr. 11, 2009) (maintaining that "[o]ne possible way to cut the high rates of disease in food deserts is an outright ban on fast food restaurants, which tend to proliferate in areas where other food options are limited."), *with* *Fast Food: Protecting the Poor from Big Macs*, THE WEEK, Aug. 15, 2008, at 19 (reporting that some consider the Los Angeles City Council's one-year moratorium on the opening of new fast food restaurants in poor areas to be "paternalistic," "infantiliz[ing]," and "racist."). For a study finding that South Los Angeles, like other African-American communities, "have disproportionately been the objects of increased marketing and advertising for unhealthy foods while also receiving less targeted marketing for healthy products," *see* David C. Sloane, et al., *Improving the Nutritional Resource Environment for Healthy Living*

York City's ban on trans fats in frying at food service establishments,<sup>21</sup> as well as requirements in New York City and California requiring restaurants to post calorie counts on their menus<sup>22</sup>—initiatives that have spurred Congress to propose legislation to make calorie listings uniform nationwide.<sup>23</sup> While such efforts could well be part of the solution to the crisis of obesity and its risk of chronic medical conditions,<sup>24</sup> the operative word here is *part*. Just as soda

*Through Community-based Partnership Research*, 18 J. GEN. INTERN. MED. 568, 568-75 (July 2003).

21. Keith Bradsher, *A New, Global Oil Quandary: Costly Fuel Means Costly Calories*, N.Y. TIMES, Jan. 19, 2008, at A1, A9.

22. Editorial, *2,000 Is Really Enough*, N.Y. TIMES, Oct. 20, 2008, at A30 [hereinafter *2,000 Is Really Enough*]; Porter, *supra* note 14, at A18; Severson, *supra* note 7, at D1, D8. For a discussion of California's efforts to forbid the sale of sodas and junk food in schools, see Betsy Taylor, *How Do We Get From Here to There?*, in SUSTAINABLE PLANET: SOLUTIONS FOR THE TWENTY-FIRST CENTURY 233, 233-51 (JULIET B. SCHOR & BETSY TAYLOR, EDs., Boston: Beacon Press, 2002).

23. Severson, *supra* note 9, at D8, D9 (discussing the Labeling Education and Nutrition Act (LEAN) and the Menu Education and Labeling Act); *see also 2,000 Is Really Enough*, *supra* note 19, at A30 (critiquing LEAN). For other examples of efforts, initiatives, measures, and proposals to reduce the rising rates of obesity and other weight-related disorders, *see, e.g.*, Jane E. Brody, *America's Diet: Too Sweet by the Spoonful*, N.Y. TIMES, Feb. 10, 2009, at D7; Jane E. Brody, *Sweeteners: Real Aid or Excuse to Indulge?*, N.Y. TIMES, Feb. 17, 2009, at D7; Kelly D. Brownell & Thomas R. Frieden, *Ounces of Prevention—The Public Policy Case for Taxes on Sugared Beverages*, 360(18) N. ENG. J. MED. 1805, 1805-08; Susan Dominus, *Mother's Fight Against Junk Food Puts a School on Edge*, N.Y. TIMES, June 16, 2009, at A15; Maureen Dowd, *Hold The Fries*, N.Y. TIMES, June 17, 2009, at A27; Editorial, *Cool Way to Lose Weight?*, N.Y. TIMES, Apr. 12, 2009, at WK7; Editorial, *Selling Obesity at School*, N.Y. TIMES, Apr. 27, 2009, at A22; Julia Moskin, *Another Push for Better Nutrition for the City*, N.Y. TIMES, Feb. 7, 2009, at A16; William Neuman, *For Your Health, Froot Loops*, N.Y. TIMES, Sept. 5, 2009, at B1, B5; Tara Parker-Pope, *How the Food Makers Captured Our Brains*, N.Y. TIMES, June 23, 2009, at D1, D6; Tara Parker-Pope, *Kid Goes Into McDonald's and Orders . . . Yogurt?*, N.Y. TIMES, June 16, 2009, at D5; Tara Parker-Pope, *Study Zeroes In on Calories, Not Diet, for Loss*, N.Y. TIMES, Feb. 26, 2009, at A16; Kim Severson, *Once-reviled sugar makes a comeback*, INTERNATIONAL HERALD TRIBUNE, Mar. 23, 2009, at 5; Helene Stapinski, *They Scream Against Ice Cream*, N.Y. TIMES, Aug. 19, 2009, at D1, D7; Alice Waters & Katrina Heron, *No Lunch Left Behind*, N.Y. TIMES, Feb. 20, 2009, at A31; WINNE, *supra* note 18, at 115-16; Kate Zezima, *Food Stamps, Now Paperless, Are Getting Easier to Use at Farmers' Markets*, N.Y. TIMES, July 20, 2009, at A10.

24. Obesity increases the risk of many diseases and health conditions, including coronary heart disease, Type 2 diabetes, cancer (e.g., endometrial, breast, colon), hypertension, dyslipidemia, stroke, liver disease, gallbladder disease, sleep apnea, respiratory problems, osteoarthritis, and gynecological problems (such as abnormal menses and infertility). U.S. Dep't of Health and Hum. Servs., Ctr. for Disease Control, *Overweight and Obesity: Introduction*, available at <http://www.cdc.gov/nccdphp/dnpa/obesity>; *see also* J.L. Baker, L.W. Olsen & T.I. Sorensen, *Childhood Body-Mass Index and the Risk of Coronary Heart Disease in Adulthood*, 357 N. ENGL. J. MED. 2329, 2329-2337 (2007); Pam Belluck, *Another Potential Benefit of Cutting Calories:*

taxes, fast food moratoria, and calorie count requirements represent *part* of the recipe for addressing this growing public health concern affecting children, adolescents, and adults in the United States, especially African-Americans and Latinos, obesity and its risk of other diseases and health conditions represent only *part* of the problem. In other words, solving the obesity predicament entails the aforementioned legislation and policy measures geared towards reducing the consumption of fast food and soda. But it also involves (or should involve) efforts to encourage regular family meals, as well as measures unrelated to diets of unhealthful foods, such as reducing the number of hours spent watching television and playing video games, and increasing levels of physical activity (including participation in organized sports)—all of which have been connected to the healthy body weights.<sup>25</sup> More significantly, reducing the disproportionate prevalence of obesity in low-income, minority populations necessitates conceptualizing the problem as more than just one of weight and body mass or even public health, for that matter. It demands conceiving of obesity as a *symptom* of the structural oppression that results in racial and economic injustice,<sup>26</sup> as well as “food

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*Better Memory*, N.Y. TIMES, Jan. 27, 2009, at D3; Robert Roy Britt, *Obesity Caught Like Common Cold*, LIVESCIENCE, Jan. 26, 2009, available at <http://www.livescience.com/health/090126-obesity-virus.html>; CL Ogden, MD Carroll & KM Flegal, *High Body Mass Index for Age Among US Children and Adolescents, 2003–2006*, 299 JAMA 2401, 2401-2405 (2008); Eubanks, *supra* note 18, at 284-93; Michael Pollan, *Big Food vs. Big Insurance*, N.Y. TIMES, Sept. 10, 2009, at A43; Roni Caryn Rabin, *Obese Teenagers Are as Likely to Die Prematurely as Heavy Smokers, Study Finds*, N.Y. TIMES, Mar. 4, 2009, at A15; Norbert Stefan, et al., *Identification and Characterization of Metabolically Benign Obesity in Humans*, 168 ARCH. INTERN. MED. 1609, 1609-1616 (2008); *see generally* Rosenthal, *supra* note 15, at A1 (describing how obesity and related maladies, such as diabetes, high blood pressure, high cholesterol, heart disease, and cancer, have become more prevalent in the Mediterranean as a result of the growth of chocolate shops, pizza places, ice cream parlors, soda machines, and fast-food joints, which have come to replace the Mediterranean diet).

25. Hastert et al., *supra* note 7, at 1-4; *see also* Henig, *supra* note 15, at 24 (reporting that “[p]overty, minority-group status, too much fast food, a sedentary lifestyle, lack of access to health insurance or to [sic] nonjudgmental medical care—all are more common among fat people, and all are linked to poor health outcomes at any weight.”); *see generally* McMillan, *supra* note 19 (stating that “[p]ublic recreational space is not only scarce but shrinking; schoolchildren have lost significant playground real estate to portable classrooms. Physical education is mandatory in New York State public schools, but precious little class time is actually spent engaging in physical activity. Where there are parks, many are still not safe to ramble in.”).

26. *See generally* Freeman, *supra* note 19, at 2222 (contending that although the harm caused by over-consumption of fast food cuts across race and class lines, its pronounced and extreme effect on low-income people of color represents a form of

injustice”—“[u]nequal access to foods that are good for both you and your body, and that help to sustain life.”<sup>27</sup>

“Food justice”—the inverse of “food injustice”—is the idea that no individual, group of people, or community should live without an adequate supply of nutritious, affordable food because of economic constraints or social inequalities.<sup>28</sup> The food justice framework treats the lack of food sources in poor communities as a human rights issue and seeks fairer distribution of food, regardless of the recipient’s ability to pay. Frequently, food justice movements and coalitions operate on local and community scales (e.g., by promoting urban-grown food, by linking directly with farmers in the region to develop regional food systems, by encouraging buy-local campaigns, and by advocating for fair wages for those who grow, cook, and sell food), but still seek to affect broader regulatory and policy changes in the state and global food systems—systems that have become increasingly subject to corporate control.<sup>29</sup>

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structural oppression that activists must incorporate into a struggle for racial and economic justice. . . . Food oppression is structural because it is not the product of individual acts of discrimination, but stems rather from the institutionalized practices and policies of government and the fast food industry. Government policies engendering food oppression range from providing public assistance insufficient to cover the cost of fresh food to collaboration with the fast food giants to ensure that their products dominate lunch-room counters and dinner tables.); McMillan, *supra* note 19 (explaining that a “founding premise” of food justice is “that bulging waistlines and unhealthy living aren’t just symptoms of an individual’s lack of discipline, but of broader structural concerns: food access, consumer culture, lack of open space.”).

27. *February Newsletter* (People’s Grocery), Feb. 2008, at 1, 3, available at <http://www.peoplesgrocery.org/find/files/February%20Newsletter-%20English.pdf>.

28. See Avi Brisman, *It Take Green to Be Green: Environmental Elitism, “Ritual Displays,” and Conspicuous Non-Consumption*, 85 N.D. L. REV. 329, 360-61 [hereinafter *Green*]; Guadalupe T. Luna, “Women in Blue Jeans:” *Connecting the Past with Agricultural Transformations in the Present*, 23 WIS. J.L. GENDER & SOC’Y 313 (2008); People’s Grocery, *Why We Call It “Food Justice,”* available at <http://peoplesgrocery.org/bram/peoples-grocery/why-we-call-it-food-justice>; see also Urban & Environmental Policy Institute, Occidental College, Los Angeles, CA, <http://departments.oxy.edu/uepi/cfj/lafjn.htm> (stating that food justice means “everyone having enough to eat; healthy food for our children; food that doesn’t contain harmful things that we don’t know about; freedom to grow our own food; ability to buy food directly from farmers; fair wages for those who grow, cook and work with food.”).

29. See Gerda R. Wekerle, *Food Justice Movements: Policy, Planning, and Networks*, 23 J. PLAN. EDUC. & RES. 378, 378-86 (2004) (citing AMORY STARR, *NAMING THE ENEMY: ANTI-CORPORATE MOVEMENTS CONFRONT GLOBALIZATION* (Zed Books 2000)); see also War on Want, *Food Justice*, available at <http://www.waronwant.org/overseas-work/food-justice> (discussing how food justice entails fighting neo-liberal interna-



While food justice represents a more capacious approach to attacking obesity and its risk of morbidity and mortality—as well as a framework for making inroads in the (related) struggles for racial and economic justice—this Article argues for food justice on different grounds: crime prevention and crime reduction. In other words, while working for food justice may be important for public health reasons, this Article maintains that certain food justice initiatives may help to prevent and/or reduce crime.

This Article begins with a brief description of (the food injustice of) “food deserts”—whole neighborhoods and communities where the only food shopping options are “fringe” retailers—businesses whose sole purpose is not selling foodstuffs—such as convenience stores, liquor stores, gas stations, drug stores, small bodegas, and fast food restaurants.<sup>30</sup> Building on ethnographic research in the neighborhood of Red Hook, Brooklyn, where this author has been conducting fieldwork since June 2007, this Article describes how one neighborhood non-profit organization, Added Value, sought to address its “grocery gap.”<sup>31</sup> This Article then suggests how the various programs, projects, and initiatives of Added Value implicate some criminological theories about the causes of crime. In so doing, this Article calls for food justice advocates to join forces with criminologists, policymakers, and criminal justice practitioners to bring about initiatives that may help to eliminate food deserts and reduce food injustice, as well as prevent and/or reduce crime.

## II.

### A. Overview of Food Deserts

As noted above, food deserts are residential areas that lack convenient access to the components of a fresh and healthful diet.<sup>32</sup>

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tional trade policies that adversely affect small farmers’ abilities to grow and sell food—especially those farmers in Brazil and Sri Lanka).

30. See Brisman, *Green*, *supra* note 28; *infra* Part II, note 36 and accompanying text.

31. JOHN DICKER, *THE UNITED STATES OF WAL-MART* 185 (Penguin Books 2005) (defining the grocery gap as “a pervasive lack of quality, affordable food in low-income communities”).

32. See, e.g., Linda F. Allwitt & Thomas D. Donley, *Retail Stores in Poor Urban Neighborhoods*, 31 J. CONSUMER AFF. 139, 139-164 (1997); Marice Ashe, Lisa M. Feldstein, Samantha Graff, Randolph Kline, Debora Pinkas & Leslie Zellers, *Local Venues for Change: Legal Strategies for Healthy Environments*, 35 J.L. MED. & ETHICS 138, 141 (2007); Marice Ashe, Lisa M. Feldstein, Mary M. Lee & Montrece McNeill Ran-

They are overwhelmingly concentrated in low-income areas,<sup>33</sup> far from supermarkets with affordable, healthful food.<sup>34</sup> Residents of

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som, *Land Use Laws and Access to Tobacco, Alcohol, and Fast Food*, 35 J.L. MED. & ETHICS 60, 60 (2007) (comments by Feldstein); Steven Cummins & Sally Macintyre, "Food Deserts"—Evidence and Assumption in Health Policy Making, 325 BRIT. MED. J. 436, 436-438 (2002); Steven Cummins & Sally Macintyre, *The Location of Food Stores in Urban Areas: A Case Study in Glasgow*, 101 BRIT. FOOD J. 545 (1999); Nanci Hellmich, *Study: Black Neighborhood Stores Have Poor Food Choices*, USA TODAY, Aug. 5, 2003; Phil R. Kaufman, *Rural Poor Have Less Access to Supermarkets, Large Grocery Stores*, 13 RURAL DEV. 19, 19-25; Daniel T. Lichter & Martha L. Crowley, *Poverty in America: Beyond Welfare Reform*, 57 POPULATION BULL. 1, 1-36 (2002); Luna, *supra* note 28; Tracie McMillan, *Urban Farmers' Crops Go From Vacant Lot to Market*, N.Y. TIMES, May 7, 2008, at F1, F8; Jon Mooallem, *Guerrilla Gardening*, N.Y. TIMES MAG., June 8, 2008, at 76, 79; Pristin, *supra* note 19, at B6; MARK ROBERT RANK, ONE NATION, UNDERPRIVILEGED: WHY AMERICAN POVERTY AFFECTS US ALL 41 (Oxford University Press 2005) (citing Chanjin Chung & Samuel L. Myers, Jr., *Do the Poor Pay More for Food? An Analysis of Grocery Store Availability and Food Price Disparities*, 33 J. CONSUMER AFFAIRS 139, 139-164 (1999)); Rhode, *supra* note 15, at 1052; *West Oakland, California's First Farmers' Market*, NPR radio program (Feb. 1, 2005). For a discussion of history of the usage of the term, "food desert," see, e.g., Steven Cummins & Sally Macintyre, "Food deserts"—evidence and assumption in health policy making, 325 BRIT. MED. J. 436-38 (2002).

33. Troy C. Blanchard & Todd L. Matthews, *Retail Concentration, Food Deserts, and Food-Disadvantaged Communities in Rural America*, in REMAKING THE NORTH AMERICAN FOOD SYSTEM: STRATEGIES FOR SUSTAINABILITY 201, 201-215 (C. Clare Hinrichs & Thomas A. Lyson eds., Univ. of Neb. Press 2007); Benjamin Fried, *For the Health of It*, MAKING PLACES (Oct. 2005), available at [http://www.pps.org/info/newsletter/october2005/markets\\_health](http://www.pps.org/info/newsletter/october2005/markets_health); see generally Eubanks, *supra* note 18, at 296 (describing "food deserts" as places "where food is difficult to come by and the food that is available consists of saturated fats and little to no nutrition"); Nancy D. Perkins, *Livability, Regional Equity, and Capability: Closing in on Sustainable Land Use*, 37 U. BALT. L. REV. 157, 167 (2008) (citing Kimberly Morland & Steve Wing, *Food Justice and Health in Communities of Color*, in GROWING SMARTER: ACHIEVING LIVABLE COMMUNITIES, ENVIRONMENTAL JUSTICE, AND REGIONAL EQUITY 171, 173 (Robert D. Bullard ed., 2007)) (describing how "[s]prawl contributes to nutrition disparities as well, the result of grocery store flight from inner-city areas. Poor minority residents have witnessed the departure of large retail grocers and their replacement by small convenience stores and mom-and-pop operations.").

34. See Erica Barnett, *How to Fertilize Urban Food Deserts*, WORLD CHANGING, <http://www.worldchanging.com/archives/007372.html> (last visited Apr. 11, 2009). "The urban 'food desert' [is] a neighborhood in which residents typically must travel twice as far to reach the closest supermarket or other mainstream grocer as people in better appointed neighborhoods . . . ."; see generally David I. Greenberg, *Easy Terms, Hard Times: Complaint Handling in the Ghetto*, in NO ACCESS TO LAW: ALTERNATIVES TO THE AMERICAN JUDICIAL SYSTEM 379, 382 (Laura Nader ed., 1980) (noting that "[t]he shopping radius of poor people is quite narrow."). Note that the actual distance from supermarkets containing fresh, healthful fruits, vegetables, and meats is relative. "In cities, where fewer people own automobiles, it might mean having to walk a mile. . . . In rural communities, it could mean a 30-mile drive." Associated Press, *Coping with Life in 'Food Deserts'*, available at

food deserts are thus forced to choose between making long, time-consuming, and costly trips to supermarkets with fresh, nutritious food<sup>35</sup> or staying in their neighborhood, which means patronizing fast-food restaurants and relying on “fringe” retailers—convenience stores, corner groceries, drug stores, gas stations, and liquor stores—

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msnbc.msn.com/id/5353901/ (citing Troy Blanchard, a sociologist at Mississippi State University). Note also that the distance from food deserts to full-service grocery stores with wide and abundant selections can be measured qualitatively or quantitatively. This Article describes food deserts in qualitative terms, but for an example of a quantitative measurement, see, e.g., Troy C. Blanchard & Todd L. Matthews, *Retail Concentration, Food Deserts, and Food-Disadvantaged Communities in Rural America*, in *REMAKING THE NORTH AMERICAN FOOD SYSTEM: STRATEGIES FOR SUSTAINABILITY* 201, 206 (C. Clare Hinrichs & Thomas A. Lyson eds., Univ. of Neb. Press 2007) (classifying “food desert populations” as “those residents of a county residing ten or more miles from a supermarket or supercenter. Our choice of a ten-mile radius assumes a point-to-point drive time of approximately twenty minutes, traveling at an average rate of speed of thirty miles per hour,” and classifying “nonmetropolitan counties as food deserts if the proportion of the county’s population in a food desert is greater than the median proportion for the region of the United States in which the county is located”); Mark Winne, *Replenishing Our Food Deserts*, 33(8) *STATE LEGISLATURES* 26, 27 (Sept. 2007) (defining “food deserts” as counties in which “all of their residents lived more than 10 miles from the nearest supermarket”).

35. See, e.g., Cynthia A. Baker, *Bottom Lines and Waist Lines: State Governments Weigh in on Wellness*, 5 *IND. HEALTH L. REV.* 185, 195 (2008) (“For families living in . . . food deserts, it is ultimately too expensive, too difficult, and too time consuming to have fresh healthy food in the refrigerators and cupboards.”); Troy C. Blanchard & Todd L. Matthews, *Retail Concentration, Food Deserts, and Food-Disadvantaged Communities in Rural America*, in *REMAKING THE NORTH AMERICAN FOOD SYSTEM: STRATEGIES FOR SUSTAINABILITY* 201, 213 (C. Clare Hinrichs & Thomas A. Lyson eds., Univ. of Neb. Press 2007) (“Residents living in food desert areas will pay higher prices for groceries or incur a greater travel cost to access the large food retailer that may offset the savings available at these stores. . . . [S]mall grocers and gas and convenience stores are the likely alternatives in the absence of access to supermarkets and supercenters. More importantly, healthy alternatives, such as fruit and vegetable markets, are less prevalent in food desert areas. This absence is especially troubling for vulnerable segments of the population such as low-income individuals and the disabled who compromise a greater share of the population in food deserts. For these persons it may not be feasible to shop at a large food retailer because of travel cost and time considerations. This issue is especially problematic in the South where the percentage of households without a vehicle is greatest.”); see generally Regina Austin, *Super Size Me and the Conundrum of Race/Ethnicity, Gender, and Class for the Contemporary Law-Genre Documentary Filmmaker*, 40 *LOY. L.A. L. REV.* 687, 702 (2007) (“Because of societal changes, more of our meals are eaten out; this is true even for poorer Americans whose choices beyond fast food restaurants are limited. In poorer communities, patronage of fast-food outlets is impacted . . . by the scarcity of supermarkets and grocery stores . . .”).

to provide basic food items.<sup>36</sup> As one commentator explains, the food offered by these “fringe” retailers is “usually the worst type of food, and when the only food available is pre-packaged, and full of preservatives, there are bound to be health risks.”<sup>37</sup>

“Fringe” retailers rarely offer fresh fruits, vegetables, and meats, and when such items are available, they are frequently of limited

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36. See, e.g., Erica Barnett, *How to Fertilize Urban Food Deserts*, WORLD CHANGING, <http://www.worldchanging.com/archives/007372.html> (last visited Apr. 11, 2009); Troy C. Blanchard & Todd L. Matthews, *Retail Concentration, Food Deserts, and Food-Disadvantaged Communities in Rural America*, in REMAKING THE NORTH AMERICAN FOOD SYSTEM: STRATEGIES FOR SUSTAINABILITY 201, 201-215 (C. Clare Hinrichs & Thomas A. Lyson eds., Univ. of Neb. Press 2007); Miranda Perry Fleischer, *Charitable Contributions in an Ideal Estate Tax*, 60 TAX L. REV. 263, 281, note 82 (2007); Jessica Jane French, *Food Deserts: How a Community Group in Detroit is Changing Ideas About Food*, Oct. 2, 2007, available at <http://jessicajane french.greenoptions.com/2007/10/02/food-deserts-how-a-community-group-in-detroit-is-changing-ideas-about-food/>; Dennis Gaffney, *This Food Came Off the Back of a Truck, And It's Legal and Healthy*, N.Y. TIMES, May 25, 2007, at C14; Papavasiliou, et al., *supra* note 9; Elizabeth Royte, *Street Farmer*, N.Y. TIMES MAGAZINE, July 5, 2009, at 22, 22-25.

37. Jessica Jane French, *Food Deserts: How a Community Group in Detroit is Changing Ideas About Food*, Oct. 2, 2007, available at <http://jessicajane french.greenoptions.com/2007/10/02/food-deserts-how-a-community-group-in-detroit-is-changing-ideas-about-food/>; see also Erica Barnett, *How to Fertilize Urban Food Deserts*, WORLD CHANGING, <http://www.worldchanging.com/archives/007372.html> (last visited Apr. 11, 2009) (arguing that “the urban ‘food desert’ . . . is not just a problem of social or economic justice; it’s about public health as well. . . . [There is] a serious nutrition gap between those who live in areas of plenty and those who lack access to the basics. And poor nutrition leads to poor health and premature death”); Troy C. Blanchard & Todd L. Matthews, *Retail Concentration, Food Deserts, and Food-Disadvantaged Communities in Rural America*, in REMAKING THE NORTH AMERICAN FOOD SYSTEM: STRATEGIES FOR SUSTAINABILITY 201, 213-14 (C. Clare Hinrichs & Thomas A. Lyson eds., Univ. of Neb. Press 2007) (concluding that: The key implication of the food desert dynamic is that populations such as the poor already experiencing high risk of poor dietary intake and nutrition-related illness may experience even greater risks as a result of living in a food desert. Food deserts may compound ongoing and severe nutritional problems and further exacerbate the socioeconomic gradient in health status. More specifically, food deserts may limit the capacity of populations to meet recommended servings of fruits and vegetables because fresh produce is rarely available in convenience and gas station food retailers. . . . If food deserts do indeed influence nutritional intake, the social and economic costs of food deserts are substantial. Increased public health care expenditures through Medicaid and lost productivity due to poor health may hamper economic development and limit the viability of nonmetropolitan communities.); Benjamin Fried, *For the Health of It*, MAKING PLACES (Oct. 2005), [http://www.pps.org/info/newsletter/october2005/markets\\_health](http://www.pps.org/info/newsletter/october2005/markets_health) (last visited Apr. 11, 2009) (explaining that the lack of access to good food in food deserts contributes to “stark health problems—higher rates of heart disease, cancer, and diabetes, and diminished childhood cognitive development”).

quantity, of poor quality, and grossly overpriced.<sup>38</sup> According to the U.S. Department of Agriculture, groceries cost on average ten percent more in food deserts than at suburban grocers.<sup>39</sup> While food deserts are frequently conceived of as urban phenomena, they also exist in rural areas. This Article focuses on urban food deserts and illustrates this problem by looking at the Red Hook section of Brooklyn, New York, to which this Article now turns.<sup>40</sup>

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38. See, e.g., Marice Ashe, Lisa M. Feldstein, Mary M. Lee & Montrece McNeill Ransom, *Land Use Laws and Access to Tobacco, Alcohol, and Fast Food*, 35 J.L. MED. & ETHICS 60, 60 (2007) (comments by Feldstein); Troy C. Blanchard & Todd L. Matthews, *Retail Concentration, Food Deserts, and Food-Disadvantaged Communities in Rural America*, in REMAKING THE NORTH AMERICAN FOOD SYSTEM: STRATEGIES FOR SUSTAINABILITY 201, 202, 213-14 (C. Clare Hinrichs & Thomas A. Lyson eds., Univ. of Neb. Press 2007); Kelli K. Garcia, *The Fat Fight: The Risks and Consequences of the Federal Government's Failing Public Health Campaign*, 112 PENN ST. L. REV. 529, 577 (2007); Miranda Perry Fleischer, *Charitable Contributions in an Ideal Estate Tax*, 60 TAX L. REV. 263, 281, note 82 (2007); Dennis Gaffney, *This Food Came Off the Back of a Truck, And It's Legal and Healthy*, N.Y. TIMES, May 25, 2007, at C14; Gregg Krupa, *Groceries Cost More for Poor: Dearth of Inner-city Supermarkets Limits Choices*, THE DETROIT NEWS, Aug. 21, 2001, <http://www.detroitnews.com/specialreports/2001/poverty/821lead/821lead.htm>; <http://www.detroitnews.com/specialreports/2001/poverty/821lead2/821lead2.htm>; <http://www.detroitnews.com/specialreports/2001/poverty/821lead3/821lead3.htm>; <http://www.detroitnews.com/specialreports/2001/poverty/821lead4/821lead4.htm> (last visited Apr. 11, 2009); Papavasiliou, et al., *supra* note 9; Nancy D. Perkins, *Livability, Regional Equity, and Capability: Closing in on Sustainable Land Use*, 37 U. BALT. L. REV. 157, 167 (2008) (citing Kimberly Morland & Steve Wing, *Food Justice and Health in Communities of Color*, in GROWING SMARTER: ACHIEVING LIVABLE COMMUNITIES, ENVIRONMENTAL JUSTICE, AND REGIONAL EQUITY 171, 173 (Robert D. Bullard ed., 2007)).

39. See Associated Press, *Coping with Life in 'Food Deserts,'* <http://www.msnbc.msn.com/id/5353901/> (last visited Apr. 11, 2009); see also Gregg Krupa, *Groceries Cost More for Poor: Dearth of Inner-city Supermarkets Limits Choices*, THE DETROIT NEWS, Aug. 21, 2001, <http://www.detroitnews.com/specialreports/2001/poverty/821lead/821lead.htm>; <http://www.detroitnews.com/specialreports/2001/poverty/821lead2/821lead2.htm>; <http://www.detroitnews.com/specialreports/2001/poverty/821lead3/821lead3.htm>; <http://www.detroitnews.com/specialreports/2001/poverty/821lead4/821lead4.htm> (last visited Apr. 11, 2009).

40. This Article's focus on an urban food desert should not be interpreted as sign that the food desert problem is any less severe or less important in rural areas. In fact, at least one report finds that the majority of U.S. food deserts are in rural areas. Associated Press, *Coping with Life in 'Food Deserts,'* <http://www.msnbc.msn.com/id/5353901/> (last visited Apr. 11, 2009).

For a discussion of the adverse effects of "food deserts" in rural areas, see, e.g., Erica Barnett, *How to Fertilize Urban Food Deserts*, WORLD CHANGING, <http://www.worldchanging.com/archives/007372.html> (last visited Apr. 11, 2009) (explaining that: The problem isn't confined to blighted urban areas. In the Western states, 44 percent of the average county's population has poor access to grocery stores; in the Midwest, 34 percent; in the South, 24 percent; in the Northeast, just 10 percent. Food deserts are even cropping up in suburbia, as people move onto

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former farmland and find themselves many miles distant from the makings of a nutritious meal. The impact on suburban residents, however, is often eased by the easy highway access provided to most suburbs, as well as the means to own the car that will get them to the grocery store down the road. Urban and rural food deserts, by contrast, can be similar in having little or no easy access to mass transit, leaving poorer residents – who may lack the means to own a car – with fewer options for getting to a market.); Troy C. Blanchard & Todd L. Matthews, *Retail Concentration, Food Deserts, and Food-Disadvantaged Communities in Rural America*, in REMAKING THE NORTH AMERICAN FOOD SYSTEM: STRATEGIES FOR SUSTAINABILITY 201, 201-215 (C. Clare Hinrichs & Thomas A. Lyson eds., Univ. of Neb. Press 2007) (discussing how the rural poor may “pay more for groceries because of lack of access to large supermarkets that offer more competitive prices than smaller grocers”—a problem exacerbated by the lack of public transit systems available to non-metropolitan residents); Katharine B. Silbaugh, *Wal-Mart’s Other Woman Problem: Sprawl and Work-Family Balance*, 39 CONN. L. REV. 1713, 1717-18 (2007) (describing how: The development of Wal-Mart ‘Supercenters,’ which sell groceries, has led to . . . ‘Food Deserts’—areas where Wal-Mart has driven satellite grocery stores out of business, and all consumers need to travel great distances to get the most basic items. . . . For some set of consumers, the creation of these means they have no practical access to groceries. For the elderly, this means their independence is threatened by the most familiar attribute of sprawl: they need a car to do everything.); see generally Cynthia A. Baker, *Bottom Lines and Waist Lines: State Governments Weigh in on Wellness*, 5 IND. HEALTH L. REV. 185, 195 (2008) (noting that “[p]roviding access to fresh food in urban and rural food deserts . . . requires significantly different solutions to the same problem.”); Dennis Gaffney, *This Food Came Off the Back of a Truck, And It’s Legal and Healthy*, N.Y. TIMES, May 25, 2007, at C14 (noting that “food deserts” can occur in either urban or rural areas); Phillip R. Kaufman, James M. MacDonald, Steve M. Lutz, and David M. Smallwood, *Do the Poor Pay More for Food? Item Selection and Price Differences Affect Low-Income Household Food Costs*. U.S. Department of Agriculture. Agricultural Economic Report No. 759 (1997), available at <http://www.ers.usda.gov/publications/aer759/AER759.pdf>. Note that the problem of “food deserts” is also not specific to the United States. For a discussion of food deserts in the United Kingdom, see Troy C. Blanchard & Todd L. Matthews, *Retail Concentration, Food Deserts, and Food-Disadvantaged Communities in Rural America*, in REMAKING THE NORTH AMERICAN FOOD SYSTEM: STRATEGIES FOR SUSTAINABILITY 201, 201-02 (C. Clare Hinrichs & Thomas A. Lyson eds., Univ. of Neb. Press 2007) (noting that in the U.K., “the absence of food retailers [is] the central issue driving the recognition of food desert populations,” whereas in the United States, the issue of food deserts concerns the quality and pricing of food products available in U.S. convenience stores and supermarkets); see also Steven Cummins and Sally Macintyre, *A Systematic Study of an Urban Food-scape: The Price and Availability of Food in Greater Glasgow*, 39(11) URBAN STUDIES 2115, 2115-30 (2002); S. Furey, C. Strugnell & H. McIlveen, *An Investigation of the Potential Existence of ‘Food Deserts’ in Rural and Urban Areas of Northern Ireland*, 18 AGRIC. & HUMAN VALUES 147-57 (2001); Amanda Whelan, Neil Wrigley, Daniel Warm and Elizabeth Canning, *Life in a Food Desert*, 39(11) URBAN STUDIES 2083, 2083-2100 (2002); Neil Wrigley, *‘Food Deserts’ in British Cities: Policy Context and Research Priorities*, 39(11) URBAN STUDIES 2029, 2029-40 (2002); Neil Wrigley, Daniel Warm, Barrie Margetts and Amanda Whelan, *Assessing the Impact of Improved Retail*

### B. Red Hook, Brooklyn and Added Value

Red Hook is a mixed-use neighborhood in South Brooklyn located on a peninsula in the New York Harbor.<sup>41</sup> Despite its view of the Statute of Liberty and proximity to the lower Manhattan financial district, Red Hook is isolated from the rest of Brooklyn and New York because it is surrounded by water on three sides and cut off from the rest of Brooklyn by the Gowanus Expressway.<sup>42</sup> Subway service exists only on the periphery of the neighborhood, making trips to Manhattan and other parts of Brooklyn a challenge.<sup>43</sup>

From the mid-eighteenth to mid-nineteenth centuries, Red Hook exhibited a vibrant and multi-ethnic waterfront lifestyle.<sup>44</sup> Although always considered a tough neighborhood—Al Capone started his criminal career there—Red Hook was perceived as a destination for European sailors looking to jump ship and was regarded as “brimming with life” by residents who enjoyed its movie houses, shopping district, and public pool and bathhouse.<sup>45</sup> But beginning

*Access on Diet in a 'Food Desert': A Preliminary Report*, 39(11) URBAN STUDIES 2061, 2061-82 (2002).

41. Philip Kasinitz & David Hillyard, *The Old-Timers' Tale: The Politics of Nostalgia on the Waterfront*, 24 J. CONTEMP. ETHNOGRAPHY 139, 139-164 (1995); Philip Kasinitz & Jan Rosenberg, *Missing the Connection: Social Isolation and Employment on the Brooklyn Waterfront*, 43 SOC. PROBS. 180, 180-196 (1996). Red Hook is comprised of four census tracts: 0055, 0057, 0059, 0085. Jeffrey Fagan & Victoria Malkin, *Theorizing Community Justice Through Community Courts*, 30 FORDHAM URB. L.J. 897, 914, note 71 (2003).

42. Philip Kasinitz & David Hillyard, *The Old-Timers' Tale: The Politics of Nostalgia on the Waterfront*, 24 J. CONTEMP. ETHNOGRAPHY 139, 139-164 (1995); Philip Kasinitz & Jan Rosenberg, *Missing the Connection: Social Isolation and Employment on the Brooklyn Waterfront*, 43 SOC. PROBS. 180, 180-196 (1996); Marcia Reiss, *Red Hook and Gowanus Neighborhood History Guide*, Brooklyn Historical Society (2000); Andrew White, Nora McCarthy, Elizabeth Diaz & Rajeev Yemeni, *Consider the Future: Strengthening Children and Family Services in Red Hook, Brooklyn*, CENTER FOR NEW YORK CITY AFFAIRS/MILANO GRADUATE SCHOOL (2003), available at <http://www.newschool.edu/Milano/nyc affairs/pubs/considerthefuture.pdf>.

43. Philip Kasinitz & Jan Rosenberg, *Missing the Connection: Social Isolation and Employment on the Brooklyn Waterfront*, 43 SOC. PROBS. 180, 180-196 (1996).

44. LEONARD BENARDO & JENNIFER WEISS, *BROOKLYN BY NAME: HOW THE NEIGHBORHOODS, STREETS, PARKS, BRIDGES, AND MORE GOT THEIR NAMES* (New York Univ. Press 2000); Philip Kasinitz & David Hillyard, *The Old-Timers' Tale: The Politics of Nostalgia on the Waterfront*, 24 J. CONTEMP. ETHNOGRAPHY 139, 139-164 (1995); Philip Kasinitz & Jan Rosenberg, *Missing the Connection: Social Isolation and Employment on the Brooklyn Waterfront*, 43 SOC. PROBS. 180, 180-196 (1996); Victoria Malkin, *Problem-Solving in Community Courts: Who Decides the Problem?*, in *PROBLEM-SOLVING COURTS: JUSTICE FOR THE TWENTY-FIRST CENTURY?* (Praeger: forthcoming).

45. Marcia Reiss, *Red Hook and Gowanus Neighborhood History Guide*, Brooklyn Historical Society (2000); see generally Doris R. Schwartz, *Nursing in Red Hook*. 49

in the 1950s, population exodus and economic disinvestment started to transform Red Hook into a socially isolated,<sup>46</sup> blighted, and violent neighborhood.<sup>47</sup> In the 1980s, Red Hook was considered one of the most crack-infested communities in the nation<sup>48</sup>—what Wacquant would refer to as a “hyperghetto.”<sup>49</sup> It experienced further economic disinvestment and violence in the late 1980s and early 1990s and received notoriety in 1992 when Patrick Daly, a popular elementary-school principal, was killed by a stray bullet from a shootout between rival drug dealers.<sup>50</sup>

By 2000, the drug addiction and drug-related violence in Red Hook had abated from its highs in the 1990s—as it had throughout New York City.<sup>51</sup> But according to the 2000 Census, Red Hook was still a disadvantaged neighborhood with more than seventy percent of its 11,000 residents living in public housing projects (called the Red Hook Houses—one of the largest public housing projects in New York).<sup>52</sup> Of this predominantly minority neighborhood (95% of those living in the Red Hook community consider themselves African-American or Latino), close to a third of the men and women in the labor force were unemployed, nearly a quarter reported receiving public assistance, and over sixty percent of families with young children reported incomes below the federal poverty line.<sup>53</sup> In 1999,

AMER. J. NURSING 435, 435-438; Philip Kasinitz & David Hillyard, *The Old-Timers' Tale: The Politics of Nostalgia on the Waterfront*, 24 J. CONTEMP. ETHNOGRAPHY 139, 139-164 (1995).

46. WILLIAM J. WILSON, *THE TRULY DISADVANTAGED* (1987); see also Loïc Wacquant & William J. Wilson, *The Cost of Racial and Class Exclusion in the Inner City*, 8 *The Annals of the Am. Acad. Pol. & Soc. Sci.* 25;

47. KENNETH T. JACKSON, ED., *THE NEIGHBORHOODS OF BROOKLYN* (New Haven, CT: Yale Univ. Press 1998); Marcia Reiss, *Red Hook and Gowanus Neighborhood History Guide*, Brooklyn Historical Society (2000).

48. Jeffrey Fagan & Victoria Malkin, *Theorizing Community Justice Through Community Courts*, 30 *FORDHAM URB. L.J.* 897, 916 (2003); Edward Barnes & George Howe Holt, *Crack: Downfall of a Neighborhood*, LIFE, July 1988, at 92.

49. Loïc Wacquant, *Deadly Symbiosis: When Ghetto and Prison Meet and Mesh*, 3 *PUNISHMENT & SOC'Y* 95, 95-134; see also *supra* note 46 Loïc Wacquant & William J. Wilson, *The Cost of Racial and Class Exclusion in the Inner City*, 8 *The Annals of the Am. Acad. Pol. & Soc. Sci.* 25.

50. GREG BERMAN & JOHN FEINBLATT, *GOOD COURTS: THE CASE FOR PROBLEM-SOLVING JUSTICE* (The New Press 2005); *supra* note 45.

51. Fagan & Malkin, *supra* note 48, at 917; Victoria Malkin, *Problem-Solving in Community Courts: Who Decides the Problem?*, in *PROBLEM-SOLVING COURTS: JUSTICE FOR THE TWENTY-FIRST CENTURY?* (Praeger: forthcoming).

52. Fagan & Malkin, *supra* note 48, at 914.

53. Andrew White, Nora McCarthy, Elizabeth Diaz & Rajeev Yemini, *Consider the Future: Strengthening Children and Family Services in Red Hook, Brooklyn*, CENTER FOR NEW YORK CITY AFFAIRS/MILANO GRADUATE SCHOOL (2003), available at <http://>



the median annual household income in Red Hook was \$27,777 (for the Red Hook Houses it was \$10,372)—well below the New York City median of \$38,293.<sup>54</sup>

In 2001, the neighborhood's only supermarket closed down, turning this already struggling neighborhood into a food desert.<sup>55</sup> When a community loses its only supermarket and becomes a food desert, concerned residents and community stakeholders (depending on extent to which they are organized and the resources they possess and/or can muster) often attempt to lure new businesses,<sup>56</sup> establish farmers' markets,<sup>57</sup> link directly with regional farmers,<sup>58</sup>

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[www.newschool.edu/Milano/nyc affairs/pubs/considerthefuture.pdf](http://www.newschool.edu/Milano/nyc affairs/pubs/considerthefuture.pdf); see also Jeffrey Fagan & Victoria Malkin, *Theorizing Community Justice Through Community Courts*, 30 FORDHAM URB. L.J. 897, 914 (2003).

54. *Supra* note 53.

55. See, e.g., McMillan, *supra* note 19 (noting that a farmer's market replaced the supermarket); Jill Slater, *A Farm in the Asphalt Heart of Brooklyn*, Oct. 2005, <http://www.seasonalchef.com/farmredhook.htm> (last visited Apr. 11, 2009); see also Steve McFarland, *Added Value Reaps What it Sows at Harvest Festival* (Oct. 20, 2005), [http://b61productions.com/news\\_hole/](http://b61productions.com/news_hole/) (last visited Apr. 11, 2009); Zoe Singer, *Green Acres*, THE BROOKLYN PAPER, Oct. 21, 2002, available at [http://www.brooklynpaper.com/stories/25/41/25\\_41addedvalue.html](http://www.brooklynpaper.com/stories/25/41/25_41addedvalue.html).

56. See, e.g., Erik Eckholm, *In Market for Health and Urban Renewal*, N.Y. TIMES, May 25, 2007, A12; WINNE, *supra* note 18, at 85-109 (discussing efforts to "re-store" America's food deserts); Winne, *supra* note 34, at 26 (same); see also Steven P. Wallace & Valentine M. Villa, *Equitable Health Systems: Cultural and Structural Issues for Latino Elders*, 29 AM. J.L. & MED. 247, 263-64 (2003) (explaining that: Regardless of one's culture . . . following a diabetic diet is difficult if fresh foods are expensive or difficult to obtain, as they often are in inner-city areas. New construction of large supermarkets in the inner-cities increases the consumption of fruits and vegetables by the poor. Policies that encourage such construction, which may be conceptualized by some as economic development or zoning policies, are also important health policies that help ameliorate inequities.) (internal footnote omitted). Because "[t]he built environment has a powerful impact on health choices and outcomes," community residents and stakeholders—especially if they are politically connected—will try to encourage new development of supermarkets and stores. Marice Ashe, Lisa M. Feldstein, Mary M. Lee & Montrece McNeill Ransom, *Land Use Laws and Access to Tobacco, Alcohol, and Fast Food*, 35 J.L. MED. & ETHICS 60, 60 (2007) (comments by Ransom). As an incentive, a community may offer to change zoning restrictions and employ other creative land use planning tools. *Id.* Even with these incentives, however, new businesses may be especially wary of coming to a community that has just lost its large retail grocer.

57. See, e.g., Marice Ashe, Lisa M. Feldstein, Mary M. Lee & Montrece McNeill Ransom, *Land Use Laws and Access to Tobacco, Alcohol, and Fast Food*, 35 J.L. MED. & ETHICS 60, 60 (2007) (comments by Feldstein); Kelli K. Garcia, *The Fat Fight: The Risks and Consequences of the Federal Government's Failing Public Health Campaign*, 112 PENN ST. L. REV. 529, 577 (2007); Gilbert Gillespie, Duncan L. Hilchey, C. Clare Hinrichs, and Gail Feenstra, *Farmers' Markets as keystones in Rebuilding Local and Regional Food Systems*, in REMAKING THE NORTH AMERICAN FOOD SYSTEM: STRATEGIES

launch community garden programs,<sup>59</sup> create microfarms on underutilized urban land,<sup>60</sup> as well as work with small stores to improve their stocks of fruits and vegetables<sup>61</sup> and create transportation alternatives, such as “grocery buses,” to help neighborhood residents reach supermarkets with a larger array of healthful food choices.<sup>62</sup> In response to the food desert in Red Hook, Added Value, a community-based non-profit organization that had been founded a year before, decided to open a farmers’ market across the street from the old store. The following year, in order to provide more low-cost nutritious food to the community, Added Value started the Red Hook Community Farm on an abandoned 2.75-acre New York City Parks Department playground and asphalt playing field near the Red Hook Houses.<sup>63</sup>

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FOR SUSTAINABILITY 65, 65-83 (C. Clare Hinrichs & Thomas A. Lyson eds., Univ. of Neb. Press 2007); Papavasiliou, et al., *supra* note 9; WINNE, *supra* note 18, at 37-49.

58. Gillespie, et al., *supra* note 57, at 65-81; *see also* Wekerle, *supra* note 29, at 381, 382 (explaining that “[g]rowing food in the city, developing a regional food system, buy-local campaigns, or microenterprises may be seen as de-linking strategies, small initiatives that de-link local economies from the corporate-controlled global food system. . . . These various initiatives, including many more by other food agencies and organizations across the city and suburbs, address urban sustainability by focusing on demonstrations of the possibilities for local food production, by linking directly with farmers in the region, by providing city dwellers and youth with education in growing food and eating healthy food, and by inventing new services such as community kitchens that meet multiple needs.”).

59. *See, e.g.*, Kelli K. Garcia, *The Fat Fight: The Risks and Consequences of the Federal Government’s Failing Public Health Campaign*, 112 PENN ST. L. REV. 529, 577 (2007); Papavasiliou, et al., *supra* note 9.

60. *See, e.g.*, Erica Barnett, *How to Fertilize Urban Food Deserts*, WORLD CHANGING, <http://www.worldchanging.com/archives/007372.html> (last visited Apr. 11, 2009); David Streitfeld, *Rock Bottom For Decades But Showing Signs of Life*, N.Y. TIMES, Feb. 1, 2009, at 16; *see also* Jessica Jane French, *Food Deserts: How a Community Group in Detroit is Changing Ideas About Food*, Oct. 2, 2007, available at <http://jessica.janefrench.greenoptions.com/2007/10/02/food-deserts-how-a-community-group-in-detroit-is-changing-ideas-about-food/> (stating that “[l]ocal groups have been responding to the lack of fresh food [in Detroit, MI] by producing their own,” and describing the Detroit Black Community Food Security Network (DBCF-SN), which operates a two-acre site in a downtown area of the city). For further discussion of DBCF-SN, *see* Larry Gabriel, *Life in the Desert*, METRO TIMES (Detroit), Sept. 26, 2007, available at <http://www.metrotimes.com/%5Ceditorial%5Cstory.asp?id=11830>.

61. Papavasiliou, et al., *supra* note 9.

62. *Id.*

63. Unless otherwise cited, this Part’s discussion of Added Value and the Red Hook Community Farm is based on ongoing ethnographic research (including interviews and participant observation) conducted by the author beginning in June 2007. Readers interested in learning more about Added Value and the Red Hook

Today, Added Value operates two farmers' markets,<sup>64</sup> where neighborhood residents can obtain high quality vegetables from the Red Hook Community Farm (including arugula, beans, beets, chard, Chinese cabbage, collard greens, cucumber, dandelion, herbs (such as basil, mint, oregano, sage, and thyme), kale, lettuce, peppers, radicchio, radishes, spinach, squash, tomatoes, and zucchini), as well as meat and dairy products from regional farmers.<sup>65</sup> The Red Hook Community Farm also supplies vegetables to local restaurants and runs a community-supported agriculture (CSA) program, where "members" pay a lump sum at the beginning of a growing season

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Community Farm should consult Diane Cardwell, *No Red Barn, but That's a Farm in Red Hook*, N.Y. TIMES, Aug. 20, 2003, at B1; Louise Crawford, *Postcard from the Slope: Sustainable Future, Only the Blog Knows Brooklyn*, June 29, 2005, [http://onlytheblogknowsbrooklyn.typepad.com/only\\_the\\_blog\\_knows\\_brook/2005/06/whi\\_red\\_hook\\_la.html](http://onlytheblogknowsbrooklyn.typepad.com/only_the_blog_knows_brook/2005/06/whi_red_hook_la.html) (last visited Apr. 11, 2009); Jim Dwyer, *Sweat Equity Put to Use Within Sight of Wall St.*, N.Y. TIMES, Oct. 8, 2008, at A25; Sandra Endo, *Added Value Founders Bring Red Hook Residents Together With Green Thumb*, Nov. 27, 2004, [http://www.ny1.com/ny1/content/index.jsp?&aid=45664&search\\_result=1&stid=9](http://www.ny1.com/ny1/content/index.jsp?&aid=45664&search_result=1&stid=9) (last visited Apr. 11, 2009); Bill Farrell, *Farm Stand Reaps 112G Seed Money*, DAILY NEWS (New York), July 12, 2004, at 3; Blaine P. Friedlander, Jr., *CCE Will Manage an Educational Produce Program for Young People in Brooklyn*, CORNELL CHRONICLE, June 29, 2004, available at [http://www.news.cornell.edu/chronicle/04/7.29.04/Red\\_Hook\\_grant.html](http://www.news.cornell.edu/chronicle/04/7.29.04/Red_Hook_grant.html); Mark Winston Griffith, *The "Food Justice" Movement: Trying to Break the Food Chains*, THE BLACK COMMENTATOR, available at [http://www.blackcommentator.com/70/70\\_food\\_justice\\_pf.html](http://www.blackcommentator.com/70/70_food_justice_pf.html); Keith H. Hammonds, *Investing in Social Change*, FAST COMPANY MAG., Dec. 19, 2007, available at <http://www.fastcompany.com/magazine/71/socialcapital.html>; Gillian M. Kalson, *A Farm Grows in Brooklyn*, THE INDEPENDENT, June 7-20, 2007, at 20; Nina Lalli, *Fresh Cuts: Brooklyn's Greenmarkets Hold Their Own Against Union Square*, VILLAGE VOICE, July 26, 2005, available at <http://www.villagevoice.com/2005-07-26/restaurants/fresh-cuts/>; Steve McFarland, *Added Value Reaps What it Sows at Harvest Festival* (Oct. 20, 2005), [http://b61productions.com/news\\_hole/](http://b61productions.com/news_hole/) (last visited Apr. 11, 2009); McMillan, *supra* note, 19; Tracie McMillan, *Urban Farmers' Crops Go From Vacant Lot to Market*, N.Y. TIMES, May 7, 2008, at F9; Jennifer Medina, *Bleak Landscapes, Green Produce*, N.Y. TIMES, Oct. 8, 2004, at B1, B10 [note: article appears to be called *Poor Neighborhoods See Rise in Farmers' Markets* in some editions of the NYT]; Robin Raisfeld & Rob Patronite, *The Red Hook Diet*, N.Y. MAGAZINE, Oct. 5, 2005, available at <http://nymag.com/nymetro/food/features/14694/>; Zoe Singer, *Green Acres*, THE BROOKLYN PAPER, Oct. 21, 2002, available at [http://www.brooklynpaper.com/stories/25/41/25\\_41addedvalue.html](http://www.brooklynpaper.com/stories/25/41/25_41addedvalue.html); Jill Slater, *A Farm in the Asphalt Heart of Brooklyn*, Oct. 2005, <http://www.seasonalchef.com/farmredhook.htm> (last visited Apr. 11, 2009); Mark Thompson, *Farming Careers in the 'Hood?*, Oct. 2005, available at <http://www.seasonalchef.com/farmredhook1.htm>.

64. Diane Cardwell, *No Red Barn, but That's a Farm in Red Hook*, N.Y. TIMES, Aug. 20, 2003, at B1

65. Jim Dwyer, *Sweat Equity Put to Use Within Sight of Wall St.*, N.Y. TIMES, Oct. 8, 2008, at A25.

and commit to work a certain number of hours on the farm during the season.<sup>66</sup> Members then receive weekly allotments of vegetables and fruits, sharing in the risks and benefits of food production.

While providing local, healthful, and affordable food in sustainable and environmentally-friendly ways is central to Added Value's mission and its purpose in running the Red Hook Community Farm,<sup>67</sup> Added Value embodies food justice in ways other than just growing and selling food.<sup>68</sup> As Ian Marvy, one of the founders of Added Value explains, food justice encourages locally-based food systems that "involve[] local people from seed to sale. [Food justice] educates, organizes and mobilizes new social relations around food. It touches hands, hearts and pockets."<sup>69</sup> For Marvy and Added Value, education is paramount.<sup>70</sup> During the school year, Added

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66. Individuals and families who cannot afford to pay upfront are allowed to pay in installments. The Red Hook Community Farm also allows low-income individuals to pay a smaller amount in exchange for a larger work commitment. For a brief description of CSAs, see Jennifer Wilkins and Marcia Eames-Shearly, *A Primer on Community Food Systems: Linking Food, Nutrition and Agriculture*, Cornell University Cooperative Extension (2004), available at <http://www.hort.cornell.edu/departments/faculty/eames/foodsyst/pdfs/Primer.pdf>.

67. The Red Hook Community Farm consists of raised beds on the asphalt left over from the former New York City Parks Department playground and playing field. Jim Dwyer, *Sweat Equity Put to Use Within Sight of Wall St.*, N.Y. TIMES, Oct. 8, 2008, at A25. As such, the fruits and vegetables grown on the Red Hook Community Farm cannot be labeled "organic," even though the risk of exposure to contaminants and other toxic hazards from prior uses of the land is infinitesimal and even though no fertilizers, pesticides, or food additives have been used in farming. Zoe Singer, *Green Acres*, THE BROOKLYN PAPER, Oct. 21, 2002, available at [http://www.brooklynpaper.com/stories/25/41/25\\_41addedvalue.html](http://www.brooklynpaper.com/stories/25/41/25_41addedvalue.html).

68. See Royte, *supra* note 36, at 25 (noting the "intangible social benefits," as well as the ecological and economic benefits, of initiatives like Added Value's Red Hook Community Farm).

69. Jill Slater, *A Farm in the Asphalt Heart of Brooklyn*, Oct. 2005, <http://www.seasonalchef.com/farmredhook.htm> (last visited Apr. 11, 2009).

70. Although Marvy and Added Value focus on education related to food justice, urban farm-based food production, and the relationship of agriculture to the environment, as well as communication, leadership, and life skills more broadly, they would likely agree—as does the author of this Article—that education in general is important in neighborhoods like Red Hook. For a study examining the overall educational differences between food desert and nonfood desert communities, see Troy C. Blanchard & Todd L. Matthews, *Retail Concentration, Food Deserts, and Food-Disadvantaged Communities in Rural America*, in REMAKING THE NORTH AMERICAN FOOD SYSTEM: STRATEGIES FOR SUSTAINABILITY 201, 201-15 (C. Clare Hinrichs & Thomas A. Lyson eds., Univ. of Neb. Press 2007) (finding that residents of food desert counties were more likely to have received less than a high school education and less likely to have received a bachelor's degree than residents of nonfood desert counties).

Value hosts educational programs for school children to learn about social, economic, and environmental issues related to urban agriculture. Added Value staff visit local elementary, middle, and secondary schools to make presentations and teach children and adolescents about food justice, urban farming, and sustainable agricultural techniques, such as crop rotation,<sup>71</sup> “three sister planting,”<sup>72</sup> and no-till or low-till planting.<sup>73</sup> Teachers are encouraged to bring their classes to the farm for half-day and day-long service learning projects; some classes and schools even choose to develop long-term projects with the Red Hook Community Farm, whereby the students might plant organic cotton or wheat in order to understand growing cycles.

Outside the institutional context of school, Added Value offers numerous opportunities for neighborhood residents and visitors to learn about urban farm-based food production, farm-market development, and the effect of agriculture on the environment (and the benefits of local, organic produce) through hands-on learning and service activities. Volunteers, interns, and CSA members of all ages, generations, and backgrounds join Added Value staff in working on the farm, creating a space for the creative exchange of ideas, philosophies, and techniques—from planting and irrigation to cooking and composting to the politics of food.

In addition to its educational endeavors and initiatives, as well providing sustenance to and improving the health and well-being of Red Hook residents, Added Value seeks to create meaningful work opportunities for neighborhood adolescents. Like many low-income minority areas, there are not many jobs available for Red Hook youths in their mid-teens. Through its various programs, teenagers in the community learn about health, nutrition, and sustainable farming techniques, while planting and harvesting crops, working at the farmers’ markets, and assisting with the CSA.<sup>74</sup> (Added Value’s Digital Horizons program trains youth in media literacy and multi-

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71. Crop rotation replenishes the soil and interrupts pest reproductive cycles, which helps reduce the need for pesticides. See Gillian M. Kalson, *A Farm Grows in Brooklyn*, THE INDEPENDENT, June 7-20, 2007, at 20.

72. “Three sister planting”—a traditional Iroquois practice—involves planting corn, beans, and squash together. “[T]he corn’s stalk enables the bean plant to grow upward,” while “the beans fix nitrogen in the soil that the corn depletes.” *Id.* Squash keeps both beans and corn hydrated. See *id.*

73. “No-till planting” and “low-till planting” both save fuel and minimize soil erosion. See *id.*

74. See Gillian M. Kalson, *A Farm Grows in Brooklyn*, THE INDEPENDENT, June 7-20, 2007, at 20.

media production (e.g., digital photography, desktop publishing, and a blog).<sup>75</sup>)

To better understand the significance of these youth programs—both for the adolescents in Red Hook and for this Article—consider a December 2008 editorial published in the *New York Times*, which called upon then-President-elect Barack Obama to create public works projects for young people to help resuscitate the economy. As the author of the Editorial argued:

The part-time jobs that American teenagers once took for granted—but that millions can no longer find—provided a lot more than pocket money. Young people also learned basic workplace skills and developed work histories that made them attractive to future employers. Young people who fail to find early jobs are more likely to remain underemployed or unemployed into their 20s and beyond. The risks are compounded for low-income youth, who are more likely to leave school and have other problems when they do not find work. . . . The situation is far worse in low-income minority areas, where the youth employment rate appears to be hovering not much above 10 percent.<sup>76</sup>

Added Value's youth programs provide Red Hook adolescents with paychecks, but, as the Editorial suggests, they offer a lot more than simply pocket money or training in urban farming methods, for that matter. Added Value's programs stress youth empowerment and teach job communication, and leadership skills to enable the youth to continue in the workforce.<sup>77</sup> Many of the program participants emerge not only healthier and wealthier, but with confidence, discipline, and enhanced aptitude for creative thinking and problem solving. At the very least, and for lack of a better phrase, the programs keep the adolescents out of trouble. As Marvy himself describes, part of the impetus for starting the Red Hook Community Farm and for recruiting local teens to work was to meet and engage youth "before they got involved with the juvenile justice system."<sup>78</sup>

Although Added Value's youth programs have not been subjected to randomized controlled studies to determine whether they indeed serve to prevent delinquency and crime and to keep adolescents out of the juvenile justice system, the programs do teach pro-social behavior and anecdotal evidence suggests that the programs mitigate or avert some of the causes of crime. Minimally, Added Value's youth programs and their operations at the Red Hook

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75. Readers can visit the blog at <http://www.added-value.org/digitalhorizons/>.

76. Editorial, *Even Worse for Teens*, N.Y. TIMES, Dec. 8, 2008, at A28.

77. Diane Cardwell, *No Red Barn, but That's a Farm in Red Hook*, N.Y. TIMES, Aug. 20, 2003, at B1, B5.

78. See Endo, *supra* note 63.

Community Farm as a whole may speak to and find support in a number of criminological theories regarding the etiology of crime, to which this Article now turns.

### III.

Unlike many other disciplines in the social and natural sciences, criminology lacks a single theory that all criminologists accept. Whereas Darwin's theory of evolution provides an organizing framework for biologists, and Newton's laws of motion and Einstein's theory of relativity have been embraced by virtually all physicists, criminology possesses no one paradigm that is empirically superior to all others (although criminologists frequently argue for one theory over another).<sup>79</sup> Rather, criminology holds a number of theories about crime. Some criminological theories adhere to the "social constructionist paradigm"—the idea that crime is not an objective condition, but phenomena that are defined and conceptualized differently by different social actors. These theories consider who defines proscribed behavior and for what purpose. Other criminological theories hold fast to the "positivist paradigm"—the presupposition that crime is an objective condition or social fact that can be known and explained through the scientific method.<sup>80</sup> These theories contemplate the causes of crime and ways in which crime may be controlled or reduced. Within this "positivist paradigm," some schools of thought examine the causes of crime at the macro level, while others look at crime at the micro level.<sup>81</sup> Some theories attempt to explain a broad range of facts not restricted to a particular place or time, while others may apply to one type of crime or to assorted types of crimes under a limited set of circumstances. Criminological theories may also differ with respect to the extent to which they attempt to identify proximate or distant causes of crime. In sum, criminology possesses a rich, imaginative variety of theories that may differ in their paradigmatic structure, level of analysis, range of explanation, and causal analysis.<sup>82</sup>

While criminologists may differ in their specific theoretical orientations, many, however, agree that crime, like much social behav-

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79. See FRANCIS T. CULLEN & ROBERT AGNEW, *CRIMINOLOGICAL THEORY: PAST TO PRESENT* 1 (3rd ed. 2006).

80. *Id.*

81. *Id.*

82. See DAVID KAUZLARICH & HUGH BARLOW, *INTRODUCTION TO CRIMINOLOGY* 209-211 (9th ed. 2009).

ior, is a multifaceted phenomenon influenced and shaped by a number of factors. As such, it is appropriate to consider whether the types of measures taken by Added Value to bring about food justice might also help to prevent crime and/or reduce recidivism. This Part briefly describes a number of criminological theories and for each of them suggests how Added Value's efforts to address Red Hook's food desert and eradicate food injustice resonates with the particular theory's orientation and explanations for the causes of crime. The purpose is not to contend that Added Value's initiatives definitely serve to prevent crime or that certain schools of criminological thought should adopt food justice as a panacea or as its lode-star. Rather, the immediate goal is to lay the foundation or plant the seeds for further exploration of the linkages between criminological theory and food justice. The larger hope is that food justice will become a part of crime prevention—that proponents of food justice will reach out to lawmakers and policymakers concerned with crime, and that criminologists and criminal justice practitioners will look to food justice initiatives for ideas to prevent crime and reduce recidivism.

#### *A. Biological Factors, Individual Traits, and Crime*

Most criminological theories consider social-environmental factors in order to explain the causes of crime. That is, most criminological theories make little or no mention of individual differences between criminals and noncriminals. Some criminologists, however, argue that criminology should look beyond the social environment to biological factors and individual traits. These theorists argue that individuals may differ from one another in ways that influence the propensity to commit crime and that these differences may be partially biologically based. Thus, such criminologists have considered genetic influences on crime (e.g., whether crime is inherited to some degree),<sup>83</sup> the relationship of hormonal or chemical imbalances to

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83. Genetic theories focusing on inherited traits, defects, or deficiencies have relied on twin studies, adoption studies, and molecular genetic studies. See, e.g., CULLEN & AGNEW, *supra* note 79, at 31-32; KAUZLARICH & BARLOW, *supra* note 82, at 233-35; GEORGE B. VOLD, THOMAS J. BERNARD & JEFFREY B. SNIPES, *THEORETICAL CRIMINOLOGY* 68-87 (4th ed. 1998); see also Patricia A. Brennan, Sarnoff A. Mednick & Jan Volavka, *Biomedical Factors in Crime*, in *CRIME* 65, 65-90 (James Q. Wilson & Joan Petersilia eds., 1995); LEE ELLIS & ANTHONY WALSH, *CRIMINOLOGY* (Allyn 2000); DIANA FISHBEN, *BIOBHAVIORAL PERSPECTIVES IN CRIMINOLOGY* (Wadsworth 2001); ADRIAN RAINE, *THE PSYCHOPATHOLOGY OF CRIME* (Academic Press 1993);



criminal behavior,<sup>84</sup> and “biological harms” of nongenetic origin, including the mother’s poor health habits during pregnancy (e.g., poor nutrition, alcohol consumption, and drug use), delivery complications during pregnancy, head injury, exposure to certain toxic substances (such as lead), and poor diet.<sup>85</sup>

Criminologists who seek to identify biological factors that lead to crime do not argue that these characteristics *cause* crime. They do not claim, for example, that a particular gene leads directly to crime. Rather, they explain that “certain biological conditions increase the likelihood that an individual will engage in maladaptive behavior patterns (e.g., violent or antisocial behavior), and that those behavior patterns can include actions that are legally defined as criminal.”<sup>86</sup>

With respect to correlates between diet and criminal behavior, Hibbeln and his colleagues found that low concentrations of docosahexaenoic acid, a polyunsaturated omega-3 fatty acid, may increase predisposition to hostility and depression, and that abnormalities in essential fatty acid metabolism may be present in violent offenders.<sup>87</sup> To offer another example, Gesch and his colleagues, in an experimental, double-blind placebo-controlled, randomized trial of nutritional supplements on 231 young adult prisoners, comparing

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DAVID ROWE, *BIOLOGY AND CRIME* (Roxbury 2002); Jasmine A. Tehrani & Sarnoff A. Mednick, *Genetic Factors and Criminal Behavior*, 64 *FED. PROBATION* 24, 24-27 (2000).

84. See, e.g., Lee Ellis, *Monoamine Oxidase and Criminality: Identifying an Apparent Biological Marker for Antisocial Behavior*, 28 *J. RES. IN CRIME & DELINQ.* 227, 227-51 (1991); Lee Ellis & Anthony Walsh, *Gene-Based Evolutionary Theories in Criminology*, 35 *CRIMINOLOGY* 229, 229-76 (1997); see also VOLD, ET AL., *supra* note 81, at 68-87.

85. CULLEN & AGNEW, *supra* note 79, at 31-32; see also Patricia A. Brennan, Sarnoff A. Mednick & Jan Volavka, *Biomedical Factors in Crime*, in *CRIME* 65, 65-90 (James Q. Wilson & Joan Petersilia eds., 1995); DEBORAH H. DENNO, *BIOLOGY AND VIOLENCE* (Cambridge Univ. Press 1990); LEE ELLIS & ANTHONY WALSH, *CRIMINOLOGY* (Allyn 2000); ADRIAN RAINE, *THE PSYCHOPATHOLOGY OF CRIME* (Academic Press 1993); ADRIAN RAINE, PATRICIA A. BRENNAN, DAVID P. FARRINGTON & SARNOFF A. MEDNICK, *BIOSOCIAL BASES OF VIOLENCE* (Plenum 1997).

86. VOLD, ET AL., *supra* note 83, at 69; see also CULLEN & AGNEW, *supra* note 79, at 29-30 (explaining that for proponents of biological theories of crime, “biological factors are said to affect the central autonomic nervous system in ways that contribute to traits conducive to crime, such as impulsivity, sensation seeking, and irritability.”). For an example of such an approach, see Diana H. Fishbein, *Biological Perspectives in Criminology*, 28 *CRIMINOLOGY* 27, 27-72 (1990).

87. Joseph R. Hibbeln, John C. Umhau, Markku Linnoila, David T. George, Paul W. Ragan, Susan E. Shoaf, Michael R. Vaughan, Robert Rawlings & Norman Salem, Jr., *A Replication Study of Violent and Nonviolent Subjects: Cerebrospinal Fluid Metabolites of Serotonin and Dopamine Are Predicted by Plasma Essential Fatty Acids*, 44 *BIOLOGICAL SOC'Y* 243, 243-249 (1998).

disciplinary offenses before and during supplementation, found that antisocial behavior in prisons, including violence, is reduced by vitamins, minerals and essential fatty acids, with similar implications for those eating poor diets outside prison walls.<sup>88</sup> Although Gesch and his colleagues were careful not to attribute antisocial behavior entirely to nutrition, they asserted that “the difference in outcome between the active and placebo groups could not be explained by ethnic or social factors, as they were controlled for by the randomised design.”<sup>89</sup> They concluded that supplementing prisoners’ diets with physiological dosages of vitamins, minerals and essential fatty acids (omega-6 and omega-3, which foster the growth of neurons in the brain’s frontal cortex—the portion of the brain that controls impulsive behavior) caused a reduction in antisocial behavior to a remarkable degree, suggested that further reductions in antisocial behavior could be achieved by providing violent subjects with foods containing proportionally more fatty acids, and advocated additional research to understand how food may improve understanding of established risk factors.<sup>90</sup>

These studies lend credence to the suggestion in Part II that some of Added Value’s food justice initiatives, such as its farmers’ markets and CSA, may serve as crime prevention or crime reduction strategies—especially to criminologists and criminal justice practitioners who subscribe to theories based on biological factors and individual traits. Such theories are not particularly popular, however, and both policymakers and the public at large may balk at the notion of attempting to change violent, or potentially violent, behavior through food.

As Mihm contemplates,

What would it mean if we found a clear link between diet and violent behavior? To start with, it might challenge the notion that violence is a product of free will . . . . The belief that people choose to be violent may be irrelevant if the brain isn’t firing on all cylinders. This may especially be the case for impulsive acts of violence, which are less a choice than a failure to rein in one’s worst instincts.<sup>91</sup>

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88. B. Gesch, S. Hammon, S. Hampson, A. Eves & M. Crowder, *Influence of Supplementary Vitamins, Minerals and Fatty Acids on the Antisocial Behaviour of Young Adult Prisoners*, 181 BRIT. J. PSYCHIATRY 22, 22-28 (2002).

89. *Id.* at 26.

90. *Id.* at 26-27.

91. Stephen Mihm, *Does Eating Salmon Lower The Murder Rate?*, *N.Y. Times Magazine*, Apr. 16, 2006, at 18.

To offer a specific example of how the public might respond to the notion that crime is influenced by the biological factor of poor diet, recall that in the 1979 trial of Dan White for the shooting deaths of San Francisco Mayor George Moscone and Supervisor Harvey Milk, White's counsel offered the "Twinkie Defense," suggesting that junk food was partially to blame for his "diminished capacity."<sup>92</sup> The jury believed the argument that a poor diet contributed to White's compromised mental state and found him guilty of only voluntary manslaughter. Instead of the death penalty, White received a sentence of fewer than eight years, for which he served five years, one month, and nine days. Although White's allegedly poor diet actually played a minor role in his attorneys' attempt to explain White's depression,<sup>93</sup> the media jumped on the concept of the "Twinkie Defense." Outrage in the California state legislature over the White trial led to the abolition of the "diminished capacity" defense, but the term "Twinkie Defense" lives on and is used to describe "a seemingly absurd defense strategy that somehow works."<sup>94</sup> That the "Twinkie Defense" leaves a bad taste in the mouths of many may serve as an indication of public response to attempts to alter behavior through food. As Mihm contends, "there's something that many people may find unnerving about the idea of curing violent behavior by changing what people eat. It threatens to let criminals evade responsibility for their actions."<sup>95</sup> More controversial, Mihm goes on to suggest, "is the brave-new-world idea of using diet to enforce docility and conformity to the rules, a sort of state-sponsored version of that timeless parental demand to children everywhere: 'Eat your vegetables.'"<sup>96</sup>

Criminologists working in the biological vein believe the presence of certain biological factors may increase the *likelihood* that an individual will engage in criminal behavior. They do not, as noted above, claim that biological factors *determine absolutely* that an individual will commit crimes, as Mihm fears. Nevertheless, one can imagine food justice advocates (as well as policymakers and criminal

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92. Michael R. Dreeben, *The Right to Present a Twinkie Defense*. 9 GREEN BAG 2d. 347, 347-352; Blake Fleetwood, *From the People Who Brought You the Twinkie Defense; The Rise of the Expert Witness Industry*. WASH. MONTHLY, June 1987, at 33; Carol Pogash, *The Myth of the "Twinkie Defense": The Verdict in the Dan White Case Wasn't Based on his Consumption of Junk Food*, SAN FRANCISCO CHRONICLE. Nov. 23, 2003, at D1.

93. See Dreeben, *supra* note 92, at 347-52.

94. *Id.* at 348, note 5.

95. Mihm, *supra* note 91, at 18.

96. *Id.*

justice practitioners) being vilified for arguing for food justice initiatives exclusively on the basis of biologically-oriented criminological theories. As such, food justice proponents interested in arguing for food justice on crime prevention and crime reduction grounds will also need to look to sociologically-oriented criminological theories, to which this article now turns.

### *B. Strain and Differential Opportunity Theories*

Whereas biological theories search for differences between individuals and consider conditions within an individual that will increase the likelihood that the individual will break society's laws, sociological theories tend to emphasize causes and correlations found in the environment. Most criminological theories are sociological in nature and an in-depth consideration of all of them and whether they speak to the principles and philosophies of food justice is outside the scope of this Article. Thus, this Section and the ensuing one offer just a taste of the rich variety of sociologically-oriented theories that have been employed to explain the causes of crime.

One type of sociological theory of crime, generally considered a "social structural" theory of crime, begins with the assumption that the modern industrial (and now post-industrial) society of the United States emphasizes certain universal goals of success. As Robert K. Merton argued in his seminal article, *Social Structure and Anomie*, society provides both legitimate and illegitimate means for achieving these goals.<sup>97</sup> Technically, everyone who seeks to attain certain success-goals has the opportunity to do so (especially through education), but the reality, according to Merton, is that many lower-class youths who aspire to success (e.g., money or status) are denied the legitimate opportunities to do so.<sup>98</sup> Lacking legitimate channels to achieve success, these individuals may experience considerable strain or pressure, which, in turn, may lead some to engage in crime: "Frustration and thwarted aspiration lead to the search for avenues of escape from a culturally induced intolerable situation; or unrelieved ambition may eventuate in illicit attempts to acquire the dominant values. The American stress on pecuniary

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97. Robert K. Merton, *Social Structure and Anomie*, 3(5) *Am. Soc. Rev.* 672, 672-82 (Oct. 1938).

98. *Id.*

success and ambitiousness for all thus invites exaggerated anxieties, hostilities, neuroses and antisocial behavior."<sup>99</sup>

Drawing on and extending Merton's "strain" theory, Richard Cloward and Lloyd Ohlin argued in their path-breaking book, *Delinquency and Opportunity*, that when lower-class individuals are prevented from achieving monetary success or status through legitimate channels, they may turn to illegitimate avenues (such as burglary, robbery, prostitution, or selling drugs), may substitute the goals of economic success and middle-class status for new goals (such as gaining status through fighting), or may reject cultural goals and norms and retreat into drug use.<sup>100</sup> Cloward and Ohlin do not believe that individuals venture into crime on their own. Rather they contend that such individuals will likely first form or join a delinquent subculture and they identify three types of delinquent subcultures—*criminal* (based on illegal money-making activities), *conflict* (characterized by fighting as a means of achieving status), and *retreatist* (marked by the prevalence of alcohol use, drug use, and addiction).<sup>101</sup> Neighborhoods "vary in the extent to which they provide [individuals] with alternative (albeit illegitimate) routes to higher status."<sup>102</sup> In other words, "local milieu" matters and only certain environments will support a criminal style of life.<sup>103</sup> The solution to

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99. *Id.* at 680.

100. RICHARD CLOWARD & LLOYD OHLIN, *DELINQUENCY AND OPPORTUNITY: A THEORY OF DELINQUENT GANGS* (Free Press 1960). For general overviews of Cloward and Ohlin's theory, see, e.g., ROBERT J. BURSIK, JR. & HAROLD G. GRASMICK, *NEIGHBORHOODS AND CRIME: THE DIMENSIONS OF EFFECTIVE COMMUNITY CONTROL* 134-42 (Lexington Books 1993); CULLEN & AGNEW, *supra* note 79, at 162-67; KAUZLARICH & BARLOW, *supra* note 82, at 253-54; VOLD, ET AL., *supra* note 83, at 167-69.

101. VOLD, ET AL., *supra* note 83, at 168.

102. CLOWARD & OHLIN, *supra* note 100; see also CULLEN & AGNEW, *supra* note 79, at 189.

103. CLOWARD & OHLIN, *supra* note 100; see also CULLEN & AGNEW, *supra* note 79, at 189. Cloward and Ohlin maintained that "[socially] disorganized neighborhoods do not develop integration of different age-levels of offender or integration of carriers of criminal and conventional values. The young . . . are deprived of *both* conventional and criminal opportunity"—conditions that lead to the emergence of conflict subcultures. CLOWARD & OHLIN, *supra* note 100; see also CULLEN & AGNEW, *supra* note 79, at 190. According to Cloward and Ohlin, "[t]here are many lower-class adolescents oriented toward success in the criminal world who fail." CLOWARD & OHLIN, *supra* note 100; see also CULLEN & AGNEW, *supra* note 79, at 190. These individuals, "faced with failure in the use of *both* legitimate and illegitimate means . . . who experience this 'double failure' are likely to move into a retreatist pattern of behavior." CLOWARD & OHLIN, *supra* note 100; see also CULLEN & AGNEW, *supra* note 79, at 190.

youths joining criminal subcultures, according to Cloward and Ohlin, is to remove the barriers to legitimate opportunity and provide that opportunity.<sup>104</sup>

While empirical support for Cloward and Ohlin's differential opportunity theory has not been overwhelming,<sup>105</sup> the authors did have the occasion to test their recommendations for policy. In the early 1960s, Cloward and Ohlin designed a program grounded in differential opportunity theory called Mobilization for Youth (MFY)—the first large-scale delinquency prevention program sponsored by the federal government. As Bursik and Grasmick explain, MFY, which was set up in the Lower East Side of Manhattan

was designed under the assumption that juvenile delinquency could be decreased if the opportunities that were provided to youths through local neighborhood institutions could be brought into line with the aspirations of these youths; the primary targets were institutions concerned with housing, education, sanitation, employment, and law enforcement. These institutional changes could be accomplished if the adult residents of a neighborhood increased their degree of participation in local affairs and eventually moved into positions of institutional leadership, thereby holding the reins of decision-making themselves. This participation in local decision-making processes was expected to increase the identification of adults with the local community which in turn would make them more likely to try to control the illegal activities of neighborhood youths. Therefore, delinquency was assumed to decrease with the increasing organization and integration of the community.<sup>106</sup>

Unfortunately, MFY did not develop according to Cloward and Ohlin's model. Political battles, criticism from conservative media (such as the *New York Daily News*), and concerns that the opportunity structures were controlled by forces outside the community meant that the program as originally designed never materialized. As such, it is difficult to gauge what effects MFY might have had on the rate of crime and delinquency in the Lower East Side.<sup>107</sup>

Some would assert that because MFY was a failure, differential opportunity theory is untenable. Others would contend that MFY could never have succeeded without larger changes in the structures

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104. VOLD, ET AL., *supra* note 83, at 168.

105. See JAY LIVINGSTON, *CRIME & CRIMINOLOGY* 371 (2nd ed. 1996).

106. BURSIK & GRASMICK, *supra* note 100, at 167 (internal quotation and citation omitted).

107. For a brief discussion of the development and failure of MFY, see BURSIK & GRASMICK, *supra* note 100, at 166-69; LIVINGSTON, *supra* note 105, at 371-72; VOLD, ET AL., *supra* note 83, at 167-69. For an in depth history of the development of the MFY project, see JOSEPH H. HELFGOT, *PROFESSIONAL REFORMING: MOBILIZATION FOR YOUTH AND THE FAILURE OF SOCIAL SCIENCE* (Lexington 1981).

of power and opportunity. And still others occupy somewhat of a middle-ground position, maintaining that the spirit of MFY—providing opportunities to lower-class youth—is vital to delinquency interventions and prevention strategies. Arguing for food justice as crime prevention represents the last of these perspectives. While the youth programs run by Added Value at the Red Hook Community Farm are a far cry from the MFY project, they are united in the belief that if youth gravitate towards delinquent subcultures and gangs because of barriers to legitimate opportunity, removing these barriers and providing opportunities may curb economic crime, violent crime, and illicit drug use.

### C. Social Bond Theory

Criminal behavior, and human behavior more generally, is the result of both motivations and restraints. Whereas differential opportunity theory considers various factors that may spur an individual to commit a crime, social bond theory contemplates what may influence conformity to social norms. Based on the assumption that everyone is motivated to deviate at one time or another, social bond theory thus does not concern itself with what motivates an individual to commit a crime; it only considers what stands in the way of committing such an act.<sup>108</sup>

Nye, an early proponent of social bond theory, recognized that while crime and delinquency could be the product of learning, it could also result from the absence of control.<sup>109</sup> Nye identified four types of social control: 1) *direct control*, which is based on the threat of sanction and the rewards to be gained for adherence to societal norms; 2) *indirect control*, based on affectional attachments to significant others (e.g., parents) or conventional persons; 3) *internalized control*, which is rooted in the individual's personality or conscience; and 4) control over the opportunities to satisfy needs (through both deviant and conventional activities).<sup>110</sup>

Following Nye, Hirschi posited that most people conform most of the time because of the strength of their bond to the conventional social order. The stronger the tie to the conventional social order, the more likely individuals will feel constrained from behav-

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108. See TRAVIS HIRSCHI, CAUSES OF DELINQUENCY 16-19 (Univ. of Calif. Press 1969).

109. F. IVAN NYE, FAMILY RELATIONSHIPS AND DELINQUENT BEHAVIOR (John Wiley 1958).

110. *Id.*

ing in ways that will jeopardize their place in that social order. A weaker social bond does not guarantee deviance, but simply increases the probability of delinquent behavior.<sup>111</sup>

Hirschi identified four components of the social bond: 1) *attachment*; 2) *commitment*; 3) *involvement*; and 4) *belief*.<sup>112</sup> *Attachment* refers to the emotional ties that individuals, especially youths, have with others, such as parents, peers, and school. The idea is that if individuals have strong relationships with others, they will not want to act in ways that might threaten those relationships (e.g., expulsion from school or from an Added Value youth program, arrest and imprisonment). Those who are weakly attached to others are less sensitive to others' opinions and thus "free" to deviate when circumstances or pressures dictate. *Commitment* refers to the degree to which individuals hold stakes in conformity. Individuals who want to participate in a given activity (such as a sports team or an Added Value youth program) will adhere to certain rules of conduct, as will individuals with aspirations for some conformist goal (e.g., attaining a college education). *Involvement* is somewhat synonymous with "time"—the number of hours and days per week that an individual is engaged in conventional activities. Here, Hirschi suggests that the more time an individual spends in the pursuit of conventional activities (such as urban farming), the less time one can devote to delinquent behaviors. Finally, *belief* refers to the strength of respect for society's laws. If youths have been socialized to believe that they should obey the rules of society, they should be less inclined to commit violations of the law.<sup>113</sup>

Hirschi does not specify a causal order to the four elements, but he does imply that attachment should be considered causally prior to the other components and that the four components should be interrelated. Thus, for example, the stronger one's ties to one's family or religious institution, the more likely one may hold conventional values and be committed to and involved with conventional pursuits.<sup>114</sup>

Hirschi's social bond theory has been subjected to, and corroborated by, significant and extensive empirical research (although the degree and extent of confirmation have depended on study

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111. HIRSCHI, *supra* note 108.

112. See Barbara J. Costello & Paul R. Vowell, *Testing Control Theory and Differential Association: A Reanalysis of the Richmond Project Data*, 37 CRIMINOLOGY 815, 815-842 (1999).

113. *Id.*

114. *Id.*



methodology).<sup>115</sup> Such research has generally been more supportive of Hirschi's proposition regarding the connections between weak school and parental attachments to the probability of delinquency than lack of belief in society's laws and involvement in sports and extracurricular school activities to the likelihood of deviance. This does not mean, however, that Hirschi's theory is incorrect in these regards, or that Added Value's youth programs (or any other organization's programs and activities, for that matter) have little affect on the probability of delinquency. Obviously, such programs would have to be subjected to evaluation in order to assert a definitive crime prevention benefit. But Added Value's programs present the types of controls and ties to allow other food justice advocates to argue for similar initiatives of social bond theory grounds.

#### *D. Crime Prevention Through Environmental Design (CPTED)*

Crime Prevention Through Environmental Design (CPTED) is an approach to deterring crime based on the design and use of the built environment. (Thus, strictly speaking, CPTED is not a criminological theory, but a crime prevention technique). The goal of CPTED is to affect offender decisions that precede criminal behavior and reduce the opportunities for street crime through environmental design.<sup>116</sup>

Because the decision whether to offend is often influenced by the would-be offender's perceived risk of being caught, CPTED based-strategies emphasize enhancing the perceived risk of detection

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115. See, e.g., Barbara J. Costello & Paul R. Vowell, *Testing Control Theory and Differential Association: A Reanalysis of the Richmond Project Data*, 37 *CRIMINOLOGY* 815, 815-842 (1999); Kimberly L. Kempf, *The Empirical Status of Hirschi's Control Theory* (1993), reprinted in 4 *NEW DIRECTIONS IN CRIMINOLOGICAL THEORY: ADVANCES IN CRIMINOLOGICAL THEORY* 143-185 (Freda Adler & William S. Laufer eds., Transaction Publishers 2000); Marvin Krohn, *CONTROL AND DETERRENCE THEORIES OF CRIMINALITY* (1995), reprinted in *CRIMINOLOGY* 373-399 (Joseph F. Sheley ed., 3rd. ed. 2000); M.D. Wiatrowski, D.B. Griswold & G. Elder, *SOCIAL CONTROL THEORY AND DELINQUENCY*, 46 *AM. SOC. REV.* 525, 525-41 (1981).

116. CPTED was first developed by C. Ray Jeffrey and Oscar Newman. See, e.g., C.R. JEFFERY, *CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN* (1972); O. NEWMAN, *DEFENSIBLE SPACE: CRIME PREVENTION THROUGH URBAN DESIGN* (1972). It was subsequently advanced by Richard Gardiner. See R.A. GARDINER, *DESIGN FOR SAFE NEIGHBORHOODS: THE ENVIRONMENTAL SECURITY PLANNING AND DESIGN PROCESS* (1978). Since the 1970s, CPTED has gained international acceptance and has been the subject of significant scholarship. For an excellent, thorough, semi-annotated bibliography of CPTED sources, see <http://www.thecptedpage.wsu.edu/Resources.html>.

and apprehension. These strategies include “natural surveillance,” “territoriality” or “territorial reinforcement,” “access control” or “natural access control,” and “image.”

Natural surveillance involves maximizing the visibility of people, parking areas and building entrances through proper lighting (especially at night), window placement, reduction of physical barriers that create blind spots, and generally any architectural design that enhances the likelihood that a would-be offender might be observed.<sup>117</sup> Natural surveillance often accompanies “target hardening,” which involves prohibiting access or entry to a given location with mechanical and operational features such as window locks and dead bolts for doors.

Territoriality or territorial reinforcement entails using the physical design of a particular place to create or extend a sphere of influence. The idea is that would-be offenders may be discouraged from committing criminal or nuisance behavior if they believe that businesses or neighborhoods possesses ownership and control over a particular space. Thus, these strategies involve employing landscape plantings and pavement designs, for example, to declare a sense of place and proprietorship.<sup>118</sup>

Natural access control, or simply access control, focuses on the entry and exit points into and of buildings, neighborhoods, parks, and parking lots.<sup>119</sup> This may be accomplished by designing entrances, gateways, sidewalks, and streets to clearly indicate public routes and to discourage access to private areas with fences and staffed entrance gates.<sup>120</sup>

Finally, “image” refers to the message that is conveyed about the management and maintenance of an area. It is closely related to territoriality and is based on the idea that a well-maintained area is one that the owners care about and will thus defend against crime; a poorly maintained area, on the other hand, announces that the owners or management do not care about the property and may overlook criminal activity. Examples of image strategies include painting over graffiti and community clean-ups.<sup>121</sup>

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117. Greg Saville & Mona Mangat, *SafeGrowth: Creating Safety & Sustainability through Community Building and Urban Design* (Community Paper Safety Series), at 4, LISC COMMUNITY SAFETY INITIATIVE/METLIFE FOUNDATION (2007), available at [http://www.policefuturists.org/pdf/LISC\\_SafeGrowth\\_final.pdf](http://www.policefuturists.org/pdf/LISC_SafeGrowth_final.pdf).

118. *Id.* at 4, 6.

119. *Id.* at 4.

120. *Id.*

121. *Id.*

Second generation CPTED attempts to broaden “first generation” CPTED in two ways: first, by considering and working to alleviate social/cultural conditions that give rise to offender motivation; and second, by considering and generating community building efforts that are based on resident networks and commitment to creating safe and sustainable communities (beyond simple changes to the physical environment, such as adding street lights and trimming hedges). In other words, whereas first generation CPTED was concerned with “modifying the physical environment to help people take control of spaces where they work and live,”<sup>122</sup> second generation CPTED incorporates “the social motives for crime and the cultural dynamics that give rise to those crime concerns,”<sup>123</sup> or, as Donnermeyer and DeKeseredy explain, second generation CPTED “focus[es] . . . on conditions within communities that enable violence, and how to reduce/eliminate the enablers” through community capacity building efforts.<sup>124</sup> Second generation CPTED thus adds a capacity building dimension to first generation CPTED’s focus on physical change—second generation CPTED contemplates social and physical change, rather than just changes in the built environment.

Like first generation CPTED, second generation CPTED is oriented around four guiding principles that help shape strategy and planning. But whereas territoriality lies at the root of first generation CPTED, social cohesion is the core or focal point of second generation CPTED.<sup>125</sup> Second generation CPTED employs the following principles: “social cohesion” or simply “cohesion,” “connectivity,” “culture,” and “capacity threshold” or “community threshold.”<sup>126</sup>

Cohesion strategies “enhance relationships between residents, merchants and key participants in a neighborhood” and include community mentoring programs, school-based social competency

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122. Saville & Mangat, *supra* note 117, at 6.

123. *Id.* at 7.

124. Joseph F. Donnermeyer & Walter DeKeseredy, *Toward a Rural Critical Criminology*, 23 S. RURAL SOC. 4, 20 (2008).

125. Saville & Mangat, *supra* note 117, at 7.

126. *Id.*; see also A. Brassard, *Integrating the Planning Process and Second-Generation CPTED*, 2 THE CPTED J. 46-53; W.S. DeKeseredy, S. Alvi, C.M. Renzetti & M.D. Schwartz, *Reducing Violence Against Women in Public Housing: Can Second Generation CPTED Make a Difference?*, 3 THE CPTED J. 27-37; Walter S. DeKeseredy, Joseph F. Donnermeyer & Martin D. Schwartz, *Toward a gendered Second Generation CPTED for preventing woman abuse in rural communities*, 22(3) SEC. J. 178, 178-89 (2009) [hereinafter *Second Generation CPTED*].

training programs, and neighborhood watch groups.<sup>127</sup> The goal is to create a “network of engaged citizens” capable of solving neighborhood problems and resolving conflict.<sup>128</sup>

Whereas cohesion strategies work to enhance the relationships between individuals within a given place, connectivity strategies focus on joining different places, neighborhoods, social groups of like-minded individuals, or groups of individuals sharing similar experiences.<sup>129</sup> The goal is to prevent neighborhoods and community groups from operating in isolation of one another.<sup>130</sup>

The third principle or strategy—culture—refers to activities such as sports, music festivals, and artistic events that foster community pride. These “placemaking” strategies give residents reason to care about their community, their neighbors, and their streets.<sup>131</sup>

Finally, capacity threshold, drawing on the concept of social ecology, includes “social stabilizing” strategies and “balanced land use” strategies.<sup>132</sup> The former involve “safe congregation areas, positive events for young people or active community social organizations” and seek to minimize activities that often tip an area into crime and disorder, such as illegal pawn shops or bars.<sup>133</sup> Balanced land uses build on this notion of a tipping point and thus work to reduce the number of abandoned homes in a neighborhood, which can be a magnet for crime, vandalism, and other nuisance behavior.<sup>134</sup>

For the most part, the connections between first generation CPTED and food justice are rather anemic. Community gardens and urban farms—especially those that transform abandoned lots into agricultural spaces, like the Red Hook Community Farm—could be regarded as examples of territorial reinforcement or “image” strategies in the sense that they convey the impression that the neighborhood possesses ownership and control over the particular

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127. Saville & Mangat, *supra* note 117, at 7.

128. *Id.*; see also JAMES GILLIGAN, PREVENTING VIOLENCE (Thames and Hudson 2001); G. Saville & T. Clear, *Community Renaissance with Community Justice*, THE NEIGHBORWORKS J. 18, 19-24 (2000).

129. DeKeseredy, et al., *Second Generation CPTED*, *supra* note 126.

130. Saville & Mangat, *supra* note 112, at 7.

131. *Id.*; DeKeseredy, et al., *Second Generation CPTED*, *supra* note 126.

132. Saville & Mangat, *supra* note 117, at 8.

133. *Id.*

134. *Id.*

space.<sup>135</sup> But food justice advocates may have a difficult time depicting food justice principles in first generation CPTED-terms.<sup>136</sup>

Second generation CPTED, on the other hand, presents much better avenues for collaboration between food justice advocates and criminologists or criminal justice practitioners. As DeKeseredy, Donnermeyer, and Schwartz explain, “[s]econd [g]eneration CPTED is about developing and improving forms of defensible space through engaging in community level activities that create forms of locality-based discourses concerning norms, beliefs and values about various security issues which can function to deter potential offenders”<sup>137</sup> Because proponents of second generation CPTED claim that teaching positive communication skills and conflict resolution enhances community cohesiveness<sup>138</sup>—the types of tools taught in Added Value’s youth programs—one could envision food justice advocates and adherents to second generation CPTED uniting over similar such projects. Essentially, the Red Hook Community Farm and the programs conducted there by Added Value generate a degree of cohesion within the community, as well as serve a social stabilizing function;<sup>139</sup> the Added Value-run “Harvest Festival”—an annual celebration of urban agriculture, youth empowerment, food justice, and sustainability replete with pumpkin carving, face painting, live music, farm tours, spoken word poetry, and cooking dem-

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135. See generally John Wright, *Clearcutting the East Village*, in *AVANT GARDENING: ECOLOGICAL STRUGGLE IN THE CITY & THE WORLD* 127, 128 (PETER LAMBORN WILSON & BILL WEINBERG, EDs., Brooklyn, NY: Autonomedia, 1999) (noting “[t]he magic ability of community gardens to deter crime, increase property values, reweave the fabric of community and bring hope to run-down areas”).

136. If food justice advocates were successful in closing the grocery gap and bringing a major supermarket to their community, supporters of first generation CPTED might argue for certain types of design in order to discourage criminal behavior. See generally Erik Eckholm, *In Market for Health and Urban Renewal*, N.Y. TIMES, May 25, 2007, at A12 (noting that 24-hour lighting around a supermarket can “do a lot for the sense of safety and community in [a] neighborhood” (quoting Wendell R. Whitlock, chairman of the association that own Progress Plaza, a tattered shopping center in the mainly black, poor part of North Philadelphia.)). But chances are that proponents of first generation CPTED would not support food justice advocates’ push for a supermarket simply so that they (the first generation CPTED supporters) could promote first generation CPTED design strategies.

137. DeKeseredy, et al., *Second Generation CPTED*, *supra* note 126.

138. See generally DeKeseredy, et al., *Second Generation CPTED*, *supra* note 126; Gilligan, *supra* note 128; Saville & Clear, *supra* note 128.

139. See generally James A. Carlson, *Milwaukee Man Touts Benefits of Urban Farming to Youth Groups, Schools*, ASSOCIATED PRESS, Sept. 10, 2007, available at [http://www.usatoday.com/money/economy/2007-09-10-1109354617\\_x.htm](http://www.usatoday.com/money/economy/2007-09-10-1109354617_x.htm) (reporting how urban farming can lead to a healthier community).

onstrations—represents the type of placemaking and cultural strategies that second generation CPTED practitioners emphasize.

In comparison to first generation CPTED, second generation CPTED is a fairly new concept.<sup>140</sup> Despite its relative youth—or perhaps because of it—second generation CPTED may serve as a particularly fertile avenue or means for food justice advocates to appeal to policymakers and criminal justice practitioners.<sup>141</sup>

### *E. Reentry and Recidivism*

When theorizing about crime, criminologists frequently contemplate and seek to understand initial instances of criminal behavior. Thus, many criminological theories are geared towards explaining the factors and circumstances that first lead an individual to “cross the line” into the criminal world. But many criminological theories—including the ones discussed above in Sections A, B, and C—are also applicable to recidivists—individuals who re-offend after serving their sentences.<sup>142</sup> (Thus, this Section does not discuss a particular criminological theory, but describes circumstances or phenomena that are relevant to a number of theories.) What complicates understanding and explaining recidivism is that many offenders face obstacles to crime-free living greater than and on top of those that may have contributed to the initial instance(s) of criminal behavior. These hurdles—known as “collateral consequences”—include barriers to employment, prohibitions against receiving welfare, food stamps, public housing, federal college loans and grants, as well as denial of the right to vote, to be adoptive and foster parents, and to drive.<sup>143</sup>

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140. Saville & Mangat, *supra* note 117, at 7.

141. Indeed, because second generation CPTED has attracted the interest of criminologists and sociologists researching crime in rural areas, it may also appeal to food justice advocates working to eradicate food deserts in rural areas. See DeKeseredy, et al., *Second Generation CPTED*, *supra* n.126; Joseph F. Domermeyer & Walter DeKeseredy, *Toward a Rural Critical Criminology*, 23 S. RURAL SOC. 4, 20 (2008).

142. Note that individuals need not re-offend to recidivate. Many recidivists are those who commit a technical violation of their parole conditions, such as missing a meeting with a parole officer or failing to submit to a drug test.

143. Avi Brisman, *Double Whammy: Collateral Consequences of Conviction and Imprisonment for Sustainable Communities and the Environment*, 28 WM. & MARY ENVTL. L. & POL'Y REV. 423, 423-75 (2004) [hereinafter *Double Whammy*]; Avi Brisman, *Toward a More Elaborate Typology of Environmental Values: Liberalizing Criminal Disenfranchisement Laws and Policies*, 33(2) NEW ENGLAND JOURNAL ON CRIMINAL & CIVIL CONFINEMENT 283, 283-457 (2007) [hereinafter *Elaborate Typology*].

While collateral consequences deeply affect the individual ex-offender—roughly two-thirds of ex-offenders are rearrested within three years of leaving prison<sup>144</sup>—they also impact the ex-offender’s family and community. As Nora V. Demleitner explains in her article, “*Collateral Damage*”: *No Re-entry for Drug Offenders*: “Many communities to which . . . offenders return suffer disproportionately from lack of cohesion, unemployment, homelessness and family instability. By increasing the number of obstacles facing ex-offenders, their chances of succeeding in this environment are further reduced, with detrimental consequences for these communities.”<sup>145</sup> As such, some have advocated returning to the practice of rehabilitating inmates while they are incarcerated, including providing them with job skills to facilitate reentry upon release.

One area in which prisons have started to train convicts is in “green collar” jobs. As correctional institutions have joined the green movement—implementing measures to limit their impact on the environment by reducing waste and conserving energy and water<sup>146</sup>—some facilities have also invested in green-collar job readiness programs to prepare inmates for release. These programs frequently include training in raising “beneficial bugs” that prey on

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144. Brisman, *Double Whammy*, *supra* note 143, at 427-28; Brisman, *Elaborate Typology*, *supra* note 143, at 310.

145. Nora V. Demleitner, “*Collateral Damage*”: *No Re-entry for Drug Offenders*, 47 VILL. L. REV. 1027, 1048 (2002).

146. See, e.g., Abigail Curtis, *Maine DOC aims for energy efficiency*, BANGOR DAILY NEWS, Aug. 12, 2009, at B1, <http://www.correctionsone.com/finance-and-budgets/articles/1865050-Maine-DOC-aims-for-energy-efficiency/> (last visited Sept. 17, 2009) (describing energy-saving initiatives in the Maine Department of Corrections); Green Corrections, *Green Corrections*, CORRECTIONS COMMUNITY, Dec. 17, 2008, [http://community.nicic.org/blogs/green\\_corrections/archive/2008/12/17/green-corrections.aspx](http://community.nicic.org/blogs/green_corrections/archive/2008/12/17/green-corrections.aspx) (last visited Apr. 11, 2009) (defining “green corrections” as “developing and practicing environmentally friendly business practices, with both planning/constructing and existing facilities to increase environmental awareness in the field of corrections; and by investigating green-collar job readiness programs and strategies to make penal industries and correctional agencies more environmentally friendly and self-sustaining,” and discussing how some corrections institutions have been producing green products, as well as reducing operating costs by “becoming green”); Phuong Le, *Green Prisons Farm, Recycle to Save Energy, Money*, ASSOCIATED PRESS, Nov. 1, 2008, available at <http://www.msnbc.msn.com/id/27488083/> (describing how the Cedar Creek Corrections Center in Littlerock, WA, has been raising bees, growing organic tomatoes and lettuce, composting 100% of food waste, and even recycling shoe scraps—turning them into playground turf); *Sun Edison Sets Up Solar Power at Ironwood Prison*, ENVIRONMENTAL PROTECTION, June 2, 2008, <http://www.eponline.com/articles/63422/> (last visited Apr. 11, 2009) (explaining how the prison has installed solar panels to send energy back to the grid—enough to power 4,100 homes/year).

insect pests or feed on troublesome weeds;<sup>147</sup> raising bees; growing organic vegetables; composting; gardening/horticulture.<sup>148</sup>

In general, *any* job preparedness programming in prison may help facilitate reentry and reduce recidivism. According to James Jiler, director of the GreenHouse project of the Horticultural Society of New York—a “jail-to-street” program that trains inmates of Rikers Island in gardening, landscaping, and horticulture and which has been documented as reducing recidivism:

147. Avi Brisman, *Fair Fare?: Food as Contested Terrain in U.S. Prisons and Jails*, 15 GEO. J. ON POVERTY L. & POL'Y 49, 90 (2008) [hereinafter *Fair Fare*]; Press Release, University of Florida, Seminole County Inmates Raise “Beneficial Bugs” for UF and USDA Researchers (Nov. 8, 2004), available at <http://news.ufl.edu/2004/11/08/prison-bigs/>; Chuck Woods, *Bailed Out by BUGS*, AMERICAN VEGETABLE GROWER, Dec. 2005, available at <http://www.allbusiness.com/agriculture-forestry/crop-production-vegetable/978091-1.html>.

148. See, e.g., Dave Block, *Composting Prison Food Residuals*, BIOCYCLE, Aug. 1997, at 37, 37-39; Nancy Allen, *Composting Food Scraps at Georgia Prison*, BIOCYCLE, Apr. 1994, at 90; Brisman, *Fair Fare*, *supra* note 141, at 90; Green Corrections, *Green Corrections*, CORRECTIONS COMMUNITY, Dec. 17, 2008, [http://community.nicic.org/blogs/green\\_corrections/archive/2008/12/17/green-corrections.aspx](http://community.nicic.org/blogs/green_corrections/archive/2008/12/17/green-corrections.aspx) (last visited Apr. 11, 2009); John Froschauer, *Prisons Go Green to Save Energy*, ASSOCIATED PRESS, Nov. 1, 2008, available at <http://www.msnbc.msn.com/id/27488083/>; Rome Neal, *The Greenhouse Project*, CBS/ASSOCIATED PRESS, Apr. 20, 2003, available at <http://www.cbsnews.com/stories/2003/04/21/sunday/main550366.shtml>; Julie Carry Smyth, *Inmates grow, gather veggies, to feed the hungry*, ASSOCIATED PRESS, Aug. 18, 2009, available at [http://news.yahoo.com/s/ap/20090818/ap\\_on\\_re\\_us/us\\_food\\_banks\\_inmates](http://news.yahoo.com/s/ap/20090818/ap_on_re_us/us_food_banks_inmates) (last visited Sept. 17, 2009); *Waste Wood, Food Rejects Make Great Combo at County/State Prison Site*, BIOCYCLE, July 2001, at 19; see also April Dembosky, *Fun on the Farm Down Home in Long Island City*, N.Y. TIMES, Aug. 20, 2008, at E1, E5.

For more on “green collar” jobs in general, see, e.g., Vanessa Gera, *Green Activists Find New Ally in US Unions*, ASSOCIATED PRESS/YAHOO! NEWS, Dec. 14, 2008, available at <http://finance.yahoo.com/news/green-activities-find-new-ally-apf-13826552.html>; Jon Gertner, *Capitalism to the Rescue*, N.Y. TIMES MAG., Oct. 5, 2008, at 54, 54-61, 82-83; Peter S. Goodman, *A Splash of Green for the Rust Belt*, N.Y. TIMES, Nov. 2, 2008, at BU1, BU7; Marguerite Holloway, *The Green Power Broker*, N.Y. TIMES, Dec. 14, 2008, at CY1, CY10; Steven Greenhouse, *Millions of Jobs of a Different Collar*, N.Y. TIMES, Mar. 26, 2008, at H1, H4; VAN JONES, *THE GREEN COLLAR ECONOMY: HOW ONE SOLUTION CAN FIX OUR TWO BIGGEST PROBLEMS* (Harper-Collins 2008); Douglas MacMillian, *Switching to Green-Collar Jobs: A Growing Number of Professionals are Taking Their Talents and Moving Them to Jobs that Can Improve the Environment*, BUSINESS WEEK, Jan. 10, 2008, available at [http://www.businessweek.com/managing/content/jan2008/ca2008018\\_005632.htm](http://www.businessweek.com/managing/content/jan2008/ca2008018_005632.htm); Keith Schneider, *Majoring in Renewable Energy*, N.Y. TIMES, Mar. 26, 2008, at H4; Keith Schneider, *Salt Lake City Is Finding A Payoff in Conservation*, N.Y. TIMES, Nov. 7, 2007, at H10; Matthew L. Wald, *Emphasis on Weatherization Represents Shift on Energy Costs*, N.Y. TIMES, Dec. 30, 2008, at A14, A17; see generally Marian Burros, *Uniting Around Food To Save an Ailing Town*, N.Y. TIMES, Oct. 8, 2008, at D1, D2; David Gonzalez, *Greening the Bronx, One Castoff at a Time*, N.Y. TIMES, Apr. 21, 2008, at B1, B6.



People generally are going to be released, and they're going to be part of the community once again. Why are you returning people to the community angry, bitter, resentful and anti-social? Because, they're going to commit crimes once again and you may be part of that crime. It's much better to send people home with a skill.<sup>149</sup>

But training in green collar jobs is especially helpful while individuals are incarcerated because "green collar jobs require less licensing than some blue collar jobs."<sup>150</sup> In contrast, states often impose certain occupational licensing restrictions for ex-offenders, which may exclude such individuals from gaining employment in hundreds of job categories (both blue collar and white collar), including accounting, barbering, beer and liquor distribution, education, dentistry, funeral services (e.g., undertaking and embalming), health care, law, medicine, nursing, physical therapy, plumbing, private security and real estate.<sup>151</sup> While such occupational licensing restrictions are controversial and efforts have been undertaken to ensure a closer connection between the prior conviction and the occupation to be licensed,<sup>152</sup> the comparable ease of obtaining employment in the green collar economy means that ex-offenders will have one less barrier to negotiate in the process of reentry.<sup>153</sup>

What, then, is the connection between green-collar job readiness programs in prison, reentry, collateral consequences, and recidivism, and food justice initiatives such as community gardens and

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149. Rome Neal, *The Greenhouse Project*, CBS/Associated Press, Apr. 20, 2003, available at <http://www.cbsnews.com/stories/2003/04/21/sunday/main550366.shtml>. For an in-depth discussion of the GreenHouse project, as well as the GreenTeam program for ex-offenders, see JAMES JILER, *DOING TIME IN THE GARDEN: LIFE LESSONS THROUGH PRISON HORTICULTURE* (Oakland, CA: New Village Press 2006).

150. Green Corrections, *Green Corrections*, CORRECTIONS COMMUNITY, Dec. 17, 2008, [http://community.nicic.org/blogs/green\\_corrections/archive/2008/12/17/green-corrections.aspx](http://community.nicic.org/blogs/green_corrections/archive/2008/12/17/green-corrections.aspx) (last visited Apr. 11, 2009) (citing RAQUEL PINDERHUGHES, *GREEN COLLAR JOBS: AN ANALYSIS OF THE CAPACITY OF GREEN BUSINESS TO PROVIDE HIGH QUALITY JOBS FOR MEN AND WOMEN WITH BARRIERS TO EMPLOYMENT* (2007)).

151. Brisman, *Double Whammy*, *supra* note 143, at 426, 432-35; Brisman, *Elaborate Typology*, *supra* note 143, at 312.

152. See Brisman, *Double Whammy*, *supra* note 143, at 432-35; see also Clyde Haberman, *Ex-Inmate's Legacy: Over Bias and Catch-22 Bureaucracy*, N.Y. TIMES, Aug. 29, 2008, at B5.

153. In addition to providing inmates with job skills that they might actually be able to employ upon release, there is evidence that the greening of corrections has improved public perception of the correctional system, which may help ex-offenders avoid some of the stereotyping, stigmatization and negative labeling that accompanies a prison record. See Block, *supra* note 148, at 37-39; Brisman, *Fair Fare*, *supra* note 147, at 91.

urban agriculture like the Added Value-run Red Hook Community Farm?

First, while work opportunities for adolescents at urban farms may help prevent crime for the reasons discussed above, employment opportunities for ex-offenders trained in green collar jobs may help reduce rates of recidivism. Food justice advocates seeking to gain approval for urban agricultural initiatives might wish to argue that such farms, aside from offering nutritious and affordable food, will improve economic prospects for a wide range of individuals at risk for either first-time offending or recidivism.

Second, even if green-collar job readiness programs in prison do not lead to vocations for ex-offenders in urban farms or community gardens, the experiences in such programs may help individuals to develop avocations that they continue upon reentry. If the neighborhoods to which ex-offenders return possess gardens and farms, then the recently released prisoner trained in horticulture or landscaping may find a community—a supportive environment that fosters the cohesion, togetherness, and sense of belonging that ex-offenders often desperately need and frequently do not find.<sup>154</sup>

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154. For a discussion of the therapeutic benefits of gardening, especially in urban environments, see, e.g., Rachel Kaplan, *Some Psychological Benefits of Gardening*, 5 ENV'T. & BEHAVIOR 145, 145-52 (1973); Rachel Kaplan & Stephen Kaplan, *Preference, Restoration, and Meaningful Action in the Context of Nearby Nature*, in URBAN PLACE: RECONNECTING WITH THE NATURAL WORLD 271, 288-90 (Peggy F. Barlett ed., 2005) [hereinafter URBAN PLACE]; RACHEL KAPLAN & STEPHEN KAPLAN, *THE EXPERIENCE OF NATURE: A PSYCHOLOGICAL PERSPECTIVE* (1989); Barbara Deutsch Lynch & Rima Brusi, *Nature, Memory, and Nation: New York's Latino Gardens and Casitas*, in URBAN PLACE, *supra*, at 191, 192-94 (noting the therapeutic effects of cultivation, in general, and to the New York City Latino population, in particular); Catherine McGuinn & Paula Diane Relf, *A Profile of Juvenile Offenders in a Vocational Horticulture Curriculum*, 11 HORT. TECH. 427, 430, 433 (2001) (noting the success of horticulture rehabilitation-vocational training programs); Susan M. Stuart, *Lifting Spirits: Creating Gardens in California Domestic Violence Shelters*, in URBAN PLACE, *supra*, at 61, 85 (describing the psychosocial and therapeutic benefits of gardening to residents and staff of grassroots domestic violence shelters in California); Malve von Hassell, *Community Gardens in New York City: Place, Community, and Individuality*, in URBAN PLACE, *supra*, at 91, 92 (describing community gardens as not only green space but as providing opportunities for community life, education, and political action); see generally Patricia Leigh Brown, *A Rare Kind of Food Bank, and Just Maybe the Hippest, Flourishes*, N.Y. TIMES, Sept. 26, 2006, at A17; Tina Kelley, *A Rare Lush Landscape in the Bronx Is Also a Place to Belong*, N.Y. TIMES, Aug. 30, 2008, at B2.

## IV.

This Article has argued that eliminating food deserts and working towards food justice has the potential for positive public health outcomes and, in the process, to possibly prevent and reduce crime. But in concluding this Article, a word of caution is in order.

Smith claims that “[f]ood and eating practices have, in recent years, become central to concerns in western societies about the body, health and risk.”<sup>155</sup> Such heightened concern is evidenced by increased attention to where food comes from and the conditions under which it was grown, harvested, produced, or prepared—by the increasing popularity of local and organic produce and meats, and emerging considerations of food labor practices.<sup>156</sup> Such concerns have also led to the proposals and measures discussed in Part I, such as Governor Paterson’s “obesity tax” on nondiet sodas and fruit drinks, Los Angeles City Council’s moratorium on new fast food restaurants in certain areas, New York City’s ban on trans fats

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155. Catrin Smith, *Punishment and Pleasure: Women, Food and the Imprisoned Body*, 50 AM. SOC. REV. 197, 199 (2002).

156. See, e.g., Brisman, *Fair Fare*, *supra* note 147, at 92; Brisman, *Green*, *supra* note 28; see also Peter Applebome, *A Spirit Moves on the Land: Locally Grown Produce*, N.Y. TIMES, Nov. 27, 2008, at A32; Cara Buckley, *Hope’s Two Acres*, N.Y. TIMES, MB1, MB6; Glenn Collins, *Customers Prove There’s a Market for Fresh Produce*, N.Y. TIMES, June 11, 2009, at A24; Glenn Collins, *Displaying More Than the Menu*, N.Y. TIMES, Feb. 26, 2009, at A25, A28; Susan Dominus, *Mother’s Fight Against Junk Food Puts a School on Edge*, N.Y. TIMES, June 16, 2009, at A15; Editorial, *Sow Those Seeds!*, N.Y. TIMES, Feb. 15, 2009, at WK9; Nicholas D. Kristof, *Food For The Soul*, N.Y. TIMES, Aug. 23, 2009, at WK10; Nicholas D. Kristof, *Lettuce From The Garden, With Worms*, N.Y. TIMES, June 28, 2009, at WK10; Kathryn Matthews, *To Market, to Market, For Local Food*, *Local Chat*, N.Y. TIMES, C32, C33; James E. McWilliams, *Free-Range Trichinosis*, N.Y. TIMES, Apr. 10, 2009, at A23; Anne Raver, *Growing Cottage Flowers In Gowanus*, N.Y. TIMES, Aug. 6, 2009, at D1, D4; Kim Severson, *\$300 a Night? Yes, but Haying’s Free*, N.Y. TIMES, Aug. 26, 2009, at D1, D7; Kim Severson, *Eat, Drink, Think, Change*, N.Y. TIMES, June 7, 2009, at AR11; Alice Waters & Katrina Heron, *No Lunch Left Behind*, N.Y. TIMES, Feb. 20, 2009, at A31; see generally Michael Alderman, *A Pinch of Science*, N.Y. TIMES, Feb. 6, 2009; Manhola Dargis, *Meet Your New Farmer: Hungry Corporate Giant*, N.Y. TIMES, June 12, 2009, at C8 (reviewing *Food, Inc.*, Magnolia Pictures); Dwight Garner, *Living Off the Land, Surrounded by Asphalt*, N.Y. TIMES, June 12, 2009, at C32 (reviewing NOVELLA CARPENTER, *FARM CITY: THE EDUCATION OF AN URBAN FARMER* (Penguin Press, 2009)); Kim Severson, *Throwing the Book at Salt*, N.Y. TIMES, Jan. 28, 2009, at D1, D5; John Tierney, *Public Policy That Makes Test Subjects Of Us All*, N.Y. TIMES, Apr. 7, 2009, at D1, D4; cf. Frank Bruni, *Eat Your Peas. Or Don’t. Whatever.*, N.Y. TIMES, Aug. 30, 2009, at WK1, WK6; Abby Ellin, *What’s Eating Our Kids? Fears About ‘Bad’ Foods*, N.Y. TIMES, Feb. 26, 2009, at E1, E6; Mark Foggin, *Fast Food for the Filipino Soul*, N.Y. TIMES, Feb. 15, 2009, at CY5; George Saunders, *The Absolutely No-Anything Diet*, N.Y. TIMES MAGAZINE, Mar. 13, 2005, at 77, 78.

in food service establishments, and requirements that restaurants post calories counts on their menus.<sup>157</sup>

But as this Author has noted elsewhere, “what is considered to be a healthy diet and responsible eating is frequently determined by the ‘dominant class.’”<sup>158</sup> In an effort to close the grocery gap and eradicate food deserts, food justice advocates (regardless of whether they join forces with those involved in crime prevention and reduction) must solicit input and foster community support for their food justice-related projects in the planning stages (rather than hoping for approval after the fact).<sup>159</sup> According to Dewan, “[f]or those who would change . . . eating habits . . . there is always the problem of tradition and identity.”<sup>160</sup> If the foods being introduced do not possess ethnic significance, a community may view such interventions as culinary hegemony.<sup>161</sup> Smith thus stresses the importance of “consider[ing] personal health belief systems and the relative values individuals attribute to health.”<sup>162</sup> Such considerations become especially important during economic downturns, where the lure of cheap fast food becomes even greater.<sup>163</sup> Thus, in these times, food justice advocates must take extra care to ensure that their initiatives and food products are affordable and presented as such.<sup>164</sup>

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157. See *supra* Part I.

158. Brisman, *Fair Fare*, *supra* note 147, at 92.

159. See generally Erik Eckholm, *In Market for Health and Urban Renewal*, N.Y. TIMES, May 25, 2007, at A12 (“When Pathmark opened the first supermarket in decades in East Harlem, in 1999, many locate store owners were fearful. But by drawing in more shoppers, the entire neighborhood was uplifted . . .”).

160. Shaila Dewan, *100 Pounds Lighter; With Advice to Share*, N.Y. TIMES, Sept. 10, 2006, at 16.

161. See generally William Neuman, *Tempest In a Soda Bottle*, N.Y. TIMES, Sept. 17, 2009, at B1, B4 (“I have never seen it work where a government tells people what to eat and what to drink,” (quoting Muhtar Kent, the chief executive of Coca-Cola)).

162. Smith, *supra* note 155, at 199.

163. Rob Cox & Aliza Rosenbaum, *The Beneficiaries Of the Downturn*, N.Y. TIMES, Dec. 29, 2008, at B2 (reporting that fast-food restaurants, such as Burger King, Jack in the Box, and McDonald’s tend to do well in poor economic conditions).

164. Even if food justice advocates do strive to consider tradition, identity, personal health belief systems, the relative values individuals attribute to health, and economic conditions, some communities may simply not be interested in changing their eating patterns. As Smith, *supra* note 149, at 199, 211, explains: “[i]t remains a paradox that while people may be well aware that certain behaviours are ‘risky’ and may lead to illness, disease and even death they continue to engage in them. . . . Knowing that certain behaviours are potentially self-harmful may be considered a precondition for taking them up in the first place and/or maintaining them. . . . [T]he more a behaviour is denounced as unhealthy, the more pleasurable it becomes, especially for those with few alternative avenues of pleasure . . . .”

Notwithstanding these concerns, food justice should be a part of crime prevention; proponents of food justice should reach out to lawmakers and policymakers concerned with preventing and/or reducing crime, and criminologists and criminal justice practitioners should begin to consider food justice in their strategies and techniques.

On the surface, this suggestion may seem radical, but the kinds of linkages and partnerships that this Article endorses are actually and already consistent with both criminological and food justice orientations. As Bursik and Grasmick explain, many organizations working to address crime prevention “feel that the most effective approach to crime is an indirect one.”<sup>165</sup> From the food justice perspective, Wekerle elucidates that

The food justice frame highlights the focus on systemic change and the necessity for engaging in political and policy processes as well as consciously addressing issues of movement mobilization and strategies. Theoretically, the food justice frame opens up linkages to a wider range of conceptual frameworks drawn from the literature on democracy, citizenship, social movements, and social and environmental justice.<sup>166</sup>

Food justice is thus well within the purview of crime prevention and vice versa. Food deserts are not “just deserts,” and together, food justice proponents and crime prevention specialists can ensure that this remains the case.

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165. BURSIK & GRASMICK, *supra* note 100, at 151 (citing Stephanie W. Greenberg, William M. Rohe, and Jay R. Williams, *Informal Citizen Action and Crime Prevention at the Neighborhood Level*, Washington, D.C.: National Institute of Justice (1985)).

166. Wekerle, *supra* note 26, at 379.