

# The Representational Biases of Federalism: Scope and Bias in the Political Process, Revisited

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In 1960, E.E. Schattschneider noted that every change in the scope of political conflict has a bias; political conflicts that are localized tend to be highly restrictive, while nationalizing conflicts can draw in previously excluded groups. In contrast to this conventional wisdom, this paper suggests that the question of which venues are open to which interests is an empirical one. The centralized policy-making process of the 21st century requires a fresh look at federalism as a system that structures political representation and can organize citizen groups out of the political process even when issues migrate to higher levels of government. Drawing on research comparing interest group activity on crime issues across local, state and national governments, this paper posits that expanding the scope of a conflict can sometimes produce less competitive policy venues and narrower policy frames than conflicts at the local level. This paper is an effort to reawaken interest in Schattschneider's insightful claims as well as to reinvigorate those claims in light of the lessons learned from the past half century.

*The central political fact in a free society is the tremendous contagiousness of conflict . . . the audience determines the outcome of the fight. The outcome of all conflict is determined by the scope of its contagion. The number of people involved in any conflict determines what happens; every change in the number of participants, every increase or reduction in the number of participants, affects the result.*

*By the time a group has developed the kind of interest that leads it to organize, it may be assumed that it has also developed some kind of political bias because organization is itself a mobilization of bias in preparation for action.*

*The greatest hazard to any faction is not a frontal attack by the opposition but a flank attack by bigger, collateral, inconsistent and irrelevant competitors for the attention and loyalty of the public. . . Political conflict is not like an intercollegiate debate in which the opponents agree in advance on a definition of the issues . . . the definition of the alternatives is the supreme instrument of power.*

E.E. Schattschneider<sup>1</sup>

Much of what has been written since E.E. Schattschneider's 1960 work *The Semisovereign People* has proceeded from two of his primary assumptions: first, as conflicts migrate from local to national legislative agendas, the scope of the conflict widens to include more interests, and second, this migration provides opportunities for groups with broader public interest concerns to participate in the conflict and potentially reverse the power differential that exists in regional dis-

putes.<sup>2</sup> Indeed, Schattschneider made such assumptions clear, declaring that "the attempt to control the scope of conflict has a bearing on federal-state-local relations, for one way to restrict the scope of the conflict is to *localize* it, while one way to expand it is to nationalize it."<sup>3</sup>

Schattschneider noted that "every change in the scope of the conflict has a bias."<sup>4</sup> What this bias represents and which interests benefit from it, however, are empirical questions that vary across issues and across time. I argue that while scale matters, conflicts at the national level are not always broader in scope and localized conflicts are sometimes more representative and pluralistic than those at higher levels of government. Whereas conventional political science wisdom has held that larger constituencies represent more diverse interests, I suggest that the problem of which venues are open to which interests is an empirical one. The centralized policy-making process of

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the twenty-first century requires a fresh look at federalism as a political system that structures representation and often organizes broad citizen groups out of the political process when issues migrate across levels of government.

Expanding the scope of the conflict can sometimes produce *less* competitive policy venues and *narrower* policy frames than conflicts at the local level. In addition, increased visibility of public interest issues does not always draw in larger publics and the presence of multiple legislative venues can sometimes *decrease* political representation, particularly for those groups that have difficulty migrating across levels of government or maintaining a presence at all three legislative venues simultaneously. In addition, state and national legislative agendas can be populated with *bureaucratic agencies* that occupy a central role on a wide range of issues, crowding out broader citizen organizations with less expertise and more diffuse interests. As a result, citizen groups with broad public interest goals may sometimes find the local level to be more accessible and hospitable to their interests than the larger constituencies of state and national governments. Changes in the American political process over the past half century have entrenched the mobilization of bias that Schattschneider observed such that the paths of access for highly specialized interests—such as narrow single-issue citizen groups or professional associations—may frequently be smoother than for groups with more diffuse interests, and expanding the scope of a conflict does not always enable previously excluded interests to participate.

I hope here to reinvigorate Schattschneider's claims in light of the lessons learned from the past half century. Questions about which level of government is most appropriate for deciding a policy issue have a long history in the American polity; indeed, they pre-date the American Republic. As Aaron Wildavsky noted, "one looks in vain through the Declaration [of Independence] for an unambiguous statement either that the states alone retain sovereignty or that there was an American nation to which sovereignty would be and should be given."<sup>5</sup> Such ambiguity formed the basis of the majority of legal cases heard by the Supreme Court in first century of the Republic and continues to vex policymakers as conflicts over state and national jurisdiction remain active questions on judicial agendas.<sup>6</sup> Recent research on interest groups, social movements, criminal courts, public policy, urban politics, and racial politics, to name a few, also illustrate the continuing tensions of federalism in the American political process.<sup>7</sup> While the scholarly literature takes account of the federal nature of the U.S. political system as it relates to specific policy areas or subfields, much less work views federalism as a force that structures group representation, the scope of conflicts, and the breadth and depth of pluralistic policy processes.<sup>8</sup>

I also suggest here that in the years since Schattschneider's book, we have learned more about the enduring significance of racial politics as an independent force shaping group activity and access to legislative venues, and that this force

deserves attention at the foundations of group theory. Racial antagonism has been a fundamental and enduring component of American political development; theoretical accounts of American politics or empirical assessment of political events are rarely complete without examining their potential racial dimensions.<sup>9</sup> Recent scholarship suggests that political forces opposed to full racial equality continue to enjoy success in the political process and encourages research that teases out the causal mechanisms through which racial antagonisms shape policy outcomes.<sup>10</sup> Such analyses can be further explicated by considering the ways in which current racial orders shape and are shaped by a federal political system. The history of racial inequality in the U.S. is deeply intertwined with the nation's constitutional structure and federalism has exacerbated, as much as ameliorated, this inequality.<sup>11</sup> I argue that more complete understanding of groups, representation and the policy process requires accounting for the role that race plays in mobilizing bias and changing the scope of conflict. In particular, when conflicts arise in national arenas, they can be exposed to racial biases that are often mitigated in smaller conflicts where minority constituents are highly mobilized.

This paper offers a discussion of the representational bias of federalism that is rooted in Schattschneider's theses but is also informed by my current research. The observations in this article are drawn from a larger project that examines the range of interest groups involved in the crime and justice policy process across all three levels of government.<sup>12</sup> For that project, I compiled three datasets of interest group involvement in legislative activity on crime and justice at the local, state, and national levels. The data are comprised of legislative hearings on crime and justice over several time periods and analysis of witnesses that appear at those hearings, including over 500 hearings in Congress, 300 judiciary committee hearings in one state legislature, and 40 local public safety committee hearings in two urban areas with over 7,000 witnesses in all three datasets combined. In addition, I conducted 30 in-depth interviews with elected officials and their staff members at the state and local levels to gain an understanding of the groups that they see and hear from most.

The observations cited in this article represent preliminary analyses of these data and suggest that in the formal, institutionalized policy process of the twenty-first century, the level of government at which issues are salient is an important organizing force in the political process and that the breadth and scope of conflict do not always map onto specific levels of government in ways we have come to expect.

## Issue Federalization and Group Representation

Numerous scholars have documented the dramatic growth in interest group activity at the national level since the middle of the twentieth century, paying particular attention

to the rise of citizen groups and the persistence of business groups.<sup>13</sup> Yet there is widespread recognition of large gaps in our understanding of the nature and scope of interest group activity.<sup>14</sup> We know little, for example, about the universe of group interests and the extent to which the representation of interests before government corresponds to this universe. Indeed, several scholars point out that Schattschneider and others simply *assumed* that the “interests represented before government were not isomorphic with those arrayed in society.”<sup>15</sup> In recent years, interest groups scholars have pieced together a better understanding of the underlying range of interests by comparing group activity across time and across issues and there is now a general consensus that citizen groups are better represented than Schattschneider imagined.<sup>16</sup>

While comparisons across time or issue are now de rigueur in research on groups, much less frequently studied is what I refer to as the *federalization* of policy issues. By federalization, I mean the presence of a policy issue on the active legislative agendas of all three levels of government simultaneously.<sup>17</sup> Over the past 50 years, most issues have not simply shifted from one level to another; rather, remnants of activity remain on the levels at which they originated even as issues have migrated across levels. Crime, education, the environment, health care, and even immigration and national security, to name just a few, are all issues that have proliferated across all three legislative agendas. Most research on group activity, however, focuses almost exclusively within one level of government and few scholars have compared group activity on the same issue across levels.<sup>18</sup> Doing so not only addresses the gap in our understanding of the underlying range of group interests in society, it also provides two other important opportunities: it can determine the level of government that is most pluralistic on a given policy issue at a given point in time, and it can facilitate understanding of the dynamics of less formally organized groups by comparing local group activity—which is likely to include ad hoc and informal groups—to the state and national levels where barriers to participation are more substantial and opportunity costs higher.

What are the implications of the federalization of issues for the policy process? Rooted in Schattschneider’s work and the foundations of American federalism, we have largely assumed that the levels of government representing larger constituencies offer more fertile terrain for pluralistic debate, are least likely to be captured by a small band of interests, and are most likely to include representation of broadly-defined citizen interest groups.<sup>19</sup> Central to this assumption is the idea that smaller constituencies are less diverse by definition and susceptible to takeover by individual factions, industries, or other narrowly-tailored interests. By contrast, these interests have a harder time dominating as conflicts move to larger and larger constituencies. This suggests that as more issues become nation-

alized, greater opportunities for broad citizens’ groups arise and policy domains will become increasingly pluralistic.

There are good reasons for this presumption. The Madisonian ideal held that the larger the constituency, the less likely that factions with a narrow or nefarious purpose would win out. In Federalist No. 10, Madison noted:

The smaller the society, the fewer probably will be the distinct parties and interests composing it . . . extend the sphere and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength and to act in unison with each other.

In the first few decades following World War II, Madison’s claims about the protective capacity of larger constituencies seemed applicable not just to the majority factions that concerned him but to minority ones as well. The civil rights movement, women’s organizations, public interest litigants, advocates for criminal defendants, and poor people’s activists all fared substantially better in national politics than they did at the regional levels.<sup>20</sup> From a pluralist perspective, federalization opened up new opportunities for participation and new venues for groups to press their claims. The tyranny of regional politics was vanquished by enlarging the scope of the conflict, by shifting the terrain in which the battle took place which, in turn, altered the range of group interests participating.

Schattschneider and other minority faction theorists took keen interest in the capacity of large-scale constituencies to produce more pluralistic policy debates than smaller ones. In the midst of the civil rights movement and the proliferation of citizen groups in national politics, it made sense to think about questions of centralization and decentralization—about the nature and scope of federalism—largely in terms of dilemmas of scale. However, in the intervening 40 years, both the central government and the group factions that concerned Madison have taken on a character and capacity unimaginable in his day.<sup>21</sup> In many respects, Schattschneider made his claims “before the dust had settled on the New Deal policymaking machine.”<sup>22</sup> While the assumptions about size and scale have a great deal of merit, the events of the post-war period seem to have played a larger role in sustaining these claims than is warranted. After all, the civil rights movement emerged from a wide variety of circumstances, including large-scale domestic and global transformations, which can hardly be said to be the usual conditions under which policy-making takes place.<sup>23</sup> Forty years later, faith in the greater capacity of the larger scale to regularly produce more just social outcomes seems misplaced. Indeed, as Schattschneider rightly noted, “it is extremely difficult to predict the outcome of a fight by watching its beginning because we do not know who else is going to get into the conflict.”<sup>24</sup> The fight of citizen groups with diffuse interests, such as civil rights organizations, anti-poverty groups,

environmental groups and public interest organizations for a share of policymaking at the national level was in its infancy when Schattschneider wrote. Today, we are in a better position to assess the relationship between scope and bias. Comparing group activity across all three levels of government provides an opportunity for understanding how size and scope matter for group representation.

Several important implications flow from the changes to government and groups in the post-war period. First, scope expansion does not necessarily alter the playing field in ways that promote pluralism or open new opportunities for all citizen groups. As Schattschneider noted, the pressure group system in general is biased against groups with diffuse interests. Equally as important, however, is that some groups focused on issues of general interest, such as public safety, education, housing, and social welfare—particularly as these issues relate to blacks and the poor—may run into trouble when conflicts expand beyond the small constituencies where there is a shared experience that informs policy debates on these topics. Increased visibility of issues of general public concern does not necessarily translate into greater participation by groups representing these interests, even when the issue is apparently a valence issue, such as crime victimization. Expanding a conflict's scope sometimes draws in unexpected and uncontrollable forces that alter problem definitions and policy solutions in ways unfavorable to broad public interest concerns.

Second, an increase in the number of venues or points of access does not necessarily create a more pluralistic policy environment. Some policy debates take place in relatively "quiet policy corners" with only a few interests pressing their claims.<sup>25</sup> This can result in large policy arenas that are essentially devoid of competition and can reduce the range of problem definitions presented for consideration.<sup>26</sup> More venues may simply generate more opportunities for highly-mobilized groups that already dominate one policy domain, such as business and professional organizations, to solidify their problem definitions and policy ideas in yet another. Schattschneider recognized this possibility as well, observing that "whoever decides what the game is about decides also who can get into the game."<sup>27</sup>

Third, government actors themselves, representing the agencies whose business it is to deliver services, may function *within* a particular policy arena much as business and trade groups do *across* arenas. That is, representatives from government agencies are sometimes omnipresent in a policy domain, even as other group participation waxes and wanes. These interests have their own particular problem definitions and policy alternatives.<sup>28</sup> While private and public sector groups may specialize in a subset of interests within a particular policy domain—for example, a focus on drunken driving, guns, or sexual assault—bureaucratic agencies are likely to have a stake in the full spectrum of

issues and may be regular players in the policy process.<sup>29</sup> Given the growth of state and federal governments over the past 40 years, the impact of these agencies on the scope of conflicts and the pluralism of different legislative venues deserves more empirical attention. This issue is also noteworthy given the development and institutionalization of some state and national bureaucracies in the context of racial hierarchy.<sup>30</sup>

## The Problems of Expanding Scope

It is the weak, not the strong, who appeal to public authority for relief. It is the weak who want to socialize conflict, i.e., to involve more and more people in the conflict until the balance of forces is changed . . . it is the function of public authority to modify private power relations by enlarging the scope of the conflict.<sup>31</sup>

According to Schattschneider, weaker groups have more incentive to socialize conflict than stronger ones because stronger groups have more direct access to legislators and, therefore, little need to bring their interests into broader light. Those in a weaker political position must rely on the expansion of a conflict's scope to draw in larger publics who can then be leveraged against the stronger interests. But this depends in part on the ability of the weaker groups to successfully maintain control over the nature of the policy issue once it expands into the broader arena. In this section I suggest that racial antagonism, the organizational biases of mass media, and the nature of the issue at stake, all play a significant role in the ability and desirability of groups to socialize and broaden conflict.

### Substitution Effects

Increased visibility does not necessarily draw in larger publics even when the issue is obviously of broad public concern. Consider policy debates about crime victimization. Groups representing black victims of routine crime are virtually absent from the national discourse while white victims of violent crime are frequently the subject of national news and their aggressors are sometimes subject to harsher punishments than those whose victims are non-white.<sup>32</sup> White victims also permeate state crime legislation; the 1990s witnessed a dramatic proliferation of state laws named after white child victims.

Black victims, on the other hand, are much less common in policy debates.<sup>33</sup> In the early part of the twentieth century, while blacks were frequent victims of lynching and other forms of white segregationist violence, Congress repeatedly rejected calls for national anti-lynching legislation on the grounds that such activity was best handled by state and local authorities.<sup>34</sup> At the same time, however, it greatly expanded the power of the national government to police alleged white slavery (the Mann Act) and alcohol consumption (the Volstead Act), both of which were rooted in perceptions of racial and ethnic minorities as suspicious and dangerous.<sup>35</sup> In contrast, efforts to draw



attention to black victimization were largely unsuccessful.<sup>36</sup> A New York Democrat representing Black Harlem said of one anti-lynching law debate in Congress, “The prolonged argument on the bill . . . actually degenerated into a quasi-constitutional defense of the inalienable right to resort to lynching.”<sup>37</sup> At the same time, however, anxiety about young white women being kidnapped and sold into prostitution was generating mass public concern and ultimately led to the passage of the Mann Act in 1910, which prohibited the transportation of women from one state to another for immoral purposes.<sup>38</sup>

Today, young black men are murdered at roughly six times the rate of young white men and black teenagers are four times as likely to be victims of crimes involving handguns than white teenagers.<sup>39</sup> And yet, we would be hard pressed to find a single piece of legislation in any state in the Union, much less all 50, that is named for a black teenager. In contrast, all 50 states have some version of Megan’s law and Amber alerts.<sup>40</sup> Dead black teens do not seem to generate the same level of mass political action. The risk to children by violent strangers is real and horrifying but nonetheless small in comparison to the daily risks of drug and gang violence faced by black youth in decaying urban neighborhoods.<sup>41</sup>

Indeed, when a wide range of urban coalitions in cities around the country brought attention to gun violence and sought to impose stricter gun control laws as a strategy for ameliorating the violence that claims so many black victims, the group that successfully expanded the scope of the conflict was the National Rifle Association (NRA), an organization whose policies priorities most Americans oppose.<sup>42</sup> The NRA has had extraordinary success appealing to state legislators with suburban and rural constituents whose relationship to gun violence and gun control is more apparent than real. It has helped twenty-six states pass total pre-emption laws which bar local municipalities from enacting gun legislation of any kind.<sup>43</sup>

Here is a classic illustration of the substitution effect that Schattschneider noted operating to *limit* the ability of broad citizen groups to expand a conflict’s scope and draw in sympathetic audiences. The ability to shift the object of public interest—in this case from black victims of gun violence to white potential victims of government intrusion—is the “supreme instrument of power.”<sup>44</sup> Urban—particularly black—interest groups such as neighborhood organizations, block watches, Urban Leagues, and ad hoc coalitions that form around problems of crime and violence, may face an enormous challenge when trying to dislodge whites’ association of blackness with criminality and whiteness with victims. The terms of debate shift from giving police the tools to protect inner city residents from gun violence to guaranteeing a sportsman’s right to protect his [white] family from unknown assailants.

Deploying one of his many war metaphors, Schattschneider argues:

It is an axiom of warfare that military commanders try to force the fighting on the terrain best suited for the deployment of their own forces, but less well adapted for the deployment of the enemy forces. Thus a small army tries to force the enemy to fight on a battlefield so narrowly restricted that he cannot take advantage of his greater numbers . . . it follows that there is a strategy for large numbers and a strategy for small numbers.<sup>45</sup>

The gun story illustrates that these strategies vary across issues and depend in part on the perceived beneficiaries of public policy.<sup>46</sup> Thus, the NRA has little need to become embroiled in the small-scale battle of an individual city’s efforts to regulate guns or sue gun manufacturers, when it can broaden the scope of the conflict and persuade state legislators to bar cities from regulating firearms altogether or lobby Congress to bar lawsuits against gun manufacturers.<sup>47</sup>

Other crime issues fall prey to similar conflict substitutions. Parents of young teens in urban neighborhoods often form coalitions to provide alternatives to the drug and gang culture of the streets. For example, analysis of 35 city council hearings on crime and justice over a seven year period in Philadelphia and interviews with nine city council members revealed over 60 different citizen groups aimed at ameliorating crime problems, revitalizing neighborhoods and providing opportunities for youth. Groups such as Mothers United through Tragedy, Men United for a Better Philadelphia, East Liberty Concerned Citizens, Holmesburg Civic Association, and Kensington Action Council form a routine part of the local crime and justice policy landscape. These types of groups appear at nearly two-thirds of the city council hearings on crime, constitute almost 20 percent of witnesses at legislative hearings, and were named by all nine council members interviewed in Philadelphia as regular participants that lobby local legislators to ameliorate troubled neighborhood conditions.

The dominant images of youth in need of protection at the state and national levels, however, are typically white and often female, and black and low-income community mobilization around social problems is rarely visible.<sup>48</sup> For example, in my analysis of 56 congressional hearings on crime in the 1990s, of the 441 witnesses from interest groups, the only mothers group to appear is Mothers Against Drunk Driving (MADD).<sup>49</sup> Not a single witness represented young men or former inmates. Just six witnesses represented groups with “citizen” or “community” in their name. And the potential proxies for these types of groups, the NAACP or the Congress of Black Churches, for example, both appear only once.

The situation at the state level is not much different. Of nearly 2500 witnesses at over 300 judiciary committee hearings on crime and justice in Pennsylvania, once again the only mothers group is MADD. The only group for ex-offenders is one representing women and girls and only once does a group that specifically focuses on at-risk youth appear.<sup>50</sup> Groups representing families of murder victims

appear twice while witnesses from groups with either community or civic in their name appear only five times.<sup>51</sup> The NAACP and black clergy groups appear only twice. All citizen groups combined (including groups focused on single-issues, such as guns or rape) constitute only fourteen percent of witnesses in the state legislative hearings data.

In contrast to the absence of black victims from state and national policy debates, black offenders are ubiquitous and even the suggestion of black criminality generates increased support for punishment and increased racial animosity in whites.<sup>52</sup> Thus, groups interested in drawing more public attention to the problem of black victimization face the very real possibility that their strategy will instead divert attention to black perpetrators who have a long history of vilification in the public arena. The black victims of urban decay—a by-product of anti-egalitarian forces in American politics—are difficult to find in state and national venues.

Schattschneider recognized that understanding political conflict means not only understanding the participants and their interests, but also understanding how conflicts come to be defined in the first place and what interests may have been left out of the definition. The policy environment for crime and justice in the U.S has always privileged white victims and neglected the victimization of blacks but since the civil rights movement galvanized many into action in the inner city, local crime politics has at least had to recognize the persistent problem of black victimization, the complicated relationship of poor communities to the justice system and the relationship between urban decay and criminality.<sup>53</sup> State and national legislators rarely have to answer to the constituencies that force these issues onto the political agenda. Thus, the federalization of criminal justice appears to alter the scope of the conflict in ways that mobilize urban citizen groups out of the policy process.

### *Mass media and its distortion effects*

The proliferation of media venues over the past 50 years could potentially provide increased opportunities for expanding a conflict's scope in ways that allow previously excluded groups to participate. Biases stemming from the organizational imperatives of media organizations, however, can shape the content of the news in ways that do not accurately reflect the empirical world. This distortion sometimes alters a conflict's scope in uncontrollable and undesirable ways.

Media scholars have long recognized that news organizations, particularly television news, operate under a set of constraints that make dramatic, unusual, and sensational events likely to garner media attention.<sup>54</sup> Recent research has demonstrated the degree to which media coverage of social problems often distorts issues and groups to such a

large degree that it presents an inverted view of empirical reality. For example, in their book on tort reform, William Haltom and Michael McCann illustrate how the day-to-day functions of news organizations—the manner in which information about civil lawsuits is obtained, the limited interest of journalists in following civil trials, and the high level of interest in personal narratives—all contribute to a portrayal of tort litigation as a system of scam artists. In fact, civil litigation has not increased substantially in recent years and the high profile cases that garner so much media attention are generally anomalous.<sup>55</sup>

News coverage of crime similarly misrepresents reality. Local television news programs report violence of one kind or another far out of proportion to its occurrence in the population. Blacks are over-represented as criminals in relation to their population and in relation to their rates of offending, and blacks accused of a crime are more likely than whites to be visually portrayed in ways that identify them as dangerous (e.g., in handcuffs) and less likely to be given a name or other individualizing information.<sup>56</sup> Even more striking, however, is the over-representation of whites as victims. One study of local television news in Chicago found that whites far outnumbered blacks as victims in crime news reports even though blacks are substantially more likely to be victims of crime, particularly violent crime. Furthermore, local Chicago television news programs spent three times as many seconds on stories involving white victims than they did on stories involving black ones.<sup>57</sup> Research on local television news in Philadelphia reported comparable patterns and also found that crimes with white victims and black perpetrators were portrayed at a much higher rate than one would expect, given the actual rates of inter-racial crimes in Philadelphia.<sup>58</sup> Residential segregation and patterns of police activity can explain some of these differences but the organizational and social structures of television news—the reliance on official sources, the competition for audiences, the deference to elite narratives, and the role of drama and conflict—surely contribute to these distorted portrayals of crime victimization. Regardless of their origins, there is ample evidence that media portrayals of black criminality affect some whites' attitudes towards blacks which, in turn, affect their crime policy preferences.<sup>59</sup>

Directly experiencing or observing violent crime, drug addiction, or gang activity is different from “experiencing” it in a mediated fashion in part because to mediate the experience of social problems is, by definition, to present those problems in biased form. Schattschneider astutely observed that mobilization is itself a form of bias. Indeed, mass mediation is a part of the mobilization bias. Media organizations contribute to the manner in which issues are expanded or contracted because the mass mediation of social issues alters or distorts them in ways that often misrepresent—sometimes even invert—real social problems. For some issues, like environmental ones, where

organized groups often represent white middle-income citizens, the mediated experience can draw citizens *into* the policy process (e.g., not everyone experienced Love Canal but media exposure generated sympathy for its victims and spurred many to pressure government to act in the public interest). In contrast, most people never experience armed robbery either but the mediated experience can feed white fear of blacks, the poor, and strangers, which either mobilizes them into the policy process on behalf of victims of horrific but rare crimes or simply mobilizes them out of the policy process altogether as they move farther away from cities.<sup>60</sup>

The mediation of urban crime, its causes and consequences, has another implication as well, which is to project an image of crime-ridden neighborhoods as microcosms of black pathology. These images miss a great deal of activism and shared norms in minority urban neighborhoods.<sup>61</sup> While crime and violence no doubt disrupt these activities and create avenues for increased criminality, the public image of devastated inner-cities distorts the realities of people living, working and forging a life in the midst of criminal activity.<sup>62</sup> In short, mediated versions of urban reality render the victims of white flight and urban neglect invisible to the broader electorate, leaving only black pathology for viewing. This negative perception must be overcome by groups mobilized on behalf of urban minorities, an obstacle not faced by similarly mobilized white activists addressing crime and violence.

### **Issues matter**

Issues themselves may also affect how a conflict expands or contracts across levels of government, something Schattschneider left largely unexamined. As Lowi noted, the nature of the policy issue helps shape the political process. "A political relationship is determined by the type of policy at stake, so that for every type of policy, there is likely to be a distinctive political relationship."<sup>63</sup> The valence aspect of crime influences how the nature of the conflict changes with scope expansion in ways that are often unfavorable to broad public interest problem definitions. The farther removed citizens are from day to day crime problems, the easier it is to map a good guys/bad guys script onto criminal behavior.<sup>64</sup> Thus, enlarging the constituency may draw into the policy discussions those who are so far removed from street crime that they are largely uninterested in understanding its complexity and are easily drawn to monocausal, punitive responses. A Pennsylvania state legislator made just such an observation:

The more you get away from where it [crime] begins, the more you're talking about [just] a bad guy that has committed a crime . . . what are we doing to do [with him]? Without knowing or caring whether he has a family, who's supporting him, what ties he or she has to the community. And you don't care how he got there. It's too bad, it's too late.<sup>65</sup>

In contrast, a staffer for a Philadelphia city council member suggested:

There's definitely a correlation between crime issues and . . . quality of life issues . . . they're all kind of intertwined. . . We're having an issue right now that we're working with in part of our district where the neighbors are concerned about a group of properties that are vacant . . . the neighbors don't want [vacant houses] because . . . you're gonna attract people to either do prostitution in vacant homes or use drugs in vacant home, squatters. So that kinda shows the intertwined [nature] of housing and crime.<sup>66</sup>

In urban politics, criminal violence is often debated in its native context of public interest issues: housing, employment, health, education and sometimes racial discrimination.<sup>67</sup> But the issue also transcends race. While the nature of the data does not permit clear causal claims about the relationship between racial composition of a neighborhood and a group's association of crime with other social or economic conditions, local legislators in my analysis who represented predominately white neighborhoods facing serious crime also heard groups frame the problem in the context of a wide range of social conditions, including drug addiction, economic decline, and education. When local politicians are lobbied by citizen groups to clean up drug corners and vacant lots, they often find these groups to be pragmatic, not uniformly punitive or lenient. One city council member in the study, who represented a predominately white neighborhood in Pittsburgh and had come to see drug addiction as a public health problem (rather than a criminal problem), noted that when he started talking about the drug problem in this manner to his constituents, he was surprised at how receptive they were:

I always start this way: "We gotta be hard, we gotta be tough, we've gotta get the dealer off the street, we gotta make sure that dealer gets punished." But starting a few years back, I also started saying "but, it's a public health epidemic. And the only way we're gonna solve this is by helping that person that's addicted." I never thought it would play well. But guess what? It does. I'm in shock. When I stand in front of an audience that's been terrorized by what's happening and I say that, I get agreement [from them].<sup>68</sup>

This is consistent with recent research on public attitudes towards punishment, which reveal high levels of support for drug treatment over incarceration, opposition to mandatory minimum sentences and support for greater assistance to offenders who are released from prison.<sup>69</sup>

This suggests that *proximity* to the problem is an important factor in how conflicts expand. As we move away from the context in which complex social problems occur, it becomes difficult to sustain the problem's complexity and simplistic policy frames overtake the more nuanced ones. This can be exacerbated by the intersection of complex social problems with public attitudes towards the citizens who are associated with those problems. We have

already seen the racial dimension of this in the crime issue but public attitudes toward the poor, juveniles, or organized labor, for example, may operate in a similar fashion. Thus, the broad problem definitions of crime offered at the local level become difficult to sustain when crime migrates to state and national agendas where the policy environment favors highly mobilized groups with specific crime concerns—such as sexual violence, crimes against children or drunk driving—whose policy priorities are often as singularly-focused as the groups themselves. Schattschneider clearly recognized that expanding the scope of a conflict is not always additive; rather, new frames can displace the old ones. However, the discussion here suggests that enlarging a conflict's scope can sometimes result in new frames that are actually *narrower* than the old ones. As the crime issue is broadened to include state-wide or nation-wide constituencies, the social problem origins of criminal violence atrophy and what remains is simply the individual pathology of lawbreakers.

Research in urban politics recognizes the unique challenges facing cities in a federal political system in which local officials are held accountable for social problems that they have limited capacity to address. Scholars of urban politics have noted that successful political representation of racial minorities in the cities does not necessarily translate into public policy preferences because of the limited power that mayors and city councils have, relative to state and national lawmakers.<sup>70</sup> Thus, group activity at the local level, active and strong as it may sometimes be, is disadvantaged in a system that provides opportunities for political access at that level but limited ability to hold accountable the legislators who wield the most policymaking power. Schattschneider's remedy for the overrepresentation of narrow interests in the policy process was more politics—more competition over social policy ideas. Genuine conflict about how to address crime and violence, however, seems most prevalent at the local level where crime actually occurs.

### Increased Venues Do Not Always Produce More Competition

A new conflict can become dominant only if the old one is subordinated, or obscured, or forgotten, or loses its capacity to excite the contestants, or becomes irrelevant. Since it is impossible to keep the old and cultivate the new at the same time, *people must choose among conflicts*. In other words, conflicts compete with one another.

The tendency of the literature on group politics is to place a tremendous premium on the role of the interested and to treat indifference as a mortal sin. . . . We become cynical about democracy because the public does not act the way the simplistic definition of democracy says it should act, or we try to whip the public into doing things it does not want to do, is unable to do, and has too much sense to do. The crisis here is not a crisis of democracy but a crisis of theory.<sup>71</sup>

### *Multiple venues can decrease opportunities for representation*

Recent research has illustrated the growth in venues for groups to press their claims.<sup>72</sup> Known as venue-shopping, this research suggests that the federalization of issues provides greater opportunities for competition both between issues and within them since, with more points of access, government is more porous. However, this is based on two sets of assumptions that are not always warranted. First, contrary to Schattschneider's assertions, conflicts do not always compete with one another. Groups often generate issue niches in which they can press their claims in the absence of groups with whom they conflict; other groups specialize in such a narrow aspect of a policy environment that they rarely come into contact with competing interests.<sup>73</sup> In fact, venue shopping may provide opportunities for groups to avoid competition with other issues and other groups.<sup>74</sup> Highly sophisticated groups such as business interests, trade associations, and some single-issue citizens groups (e.g., gun lobbies or death penalty activists) can seek out venues that are most favorable to their interests and the opposing groups sometimes cannot or will not follow. There is some research to suggest that groups engage in precisely this sort of strategic thinking when they have the resources to do so.<sup>75</sup> Changes to national and state political environments have further exacerbated the tendency towards specialization and single-issue focus. Thus, for groups that have the institutional capacity and planning to choose venues, the porous nature of twenty-first century American federalism provides incentives to identify the venue in which competing groups are least likely to appear.<sup>76</sup>

Berry and Hershey and West have documented the proliferation of single-issue groups in the past half century.<sup>77</sup> The growth of specialized committees in Congress, omnibus legislation, pork barrel politics, and government employees has increased opportunities for groups with a narrow focus to participate in the policy process. These complex layers of government activity require a means by which to create priorities and manage the range of potential conflicts. Single-issue groups can assist legislators in this process by identifying a narrow issue of concern with little opposition, making the pressure system highly receptive to single-issue groups.

MADD, for example, has little competition in the legislative arena. Their primary legislative focus has been to lower the level at which blood alcohol content constitutes drunk driving and to increase penalties for driving while intoxicated. While policymakers may disagree with these particular policy strategies, there is universal agreement with the end goals. Even when MADD pushes for legislation that many policymakers find extreme, opposition is difficult because no one favors allowing people to drive drunk. In my research in Pennsylvania, legislators from both political parties expressed their displeasure at a 2003



bill before the Pennsylvania General Assembly which lowered the legal alcohol limit for driving from .10 to .08. Failure to pass such a bill would have resulted in the loss of federal highway dollars because MADD, and other similar groups, pressed Congress for tough legislation and then lobbied state legislatures for passage of the lower limits. The Pennsylvania bill passed on September 30, 2003, with just an hour or two remaining before the time limit set by Congress.<sup>78</sup> Because virtually no groups were in open opposition to the legislation, legislators were left with a narrow, single-issue group and little opportunity for opposing its policy priorities.

Similarly, The Innocence Project is interested in obtaining the release of death row inmates who have been wrongfully convicted of capital offenses. While there is widespread disagreement over the value of the death penalty and other aspects of the criminal process, there are few, if any, organized in favor of keeping wrongfully convicted persons in prison. Even the toughest law and order legislator would find it difficult to oppose the release of a clearly exonerated death row inmate and a group like The Innocence Project would be more than happy to provide details of the case that would allow a legislator to explain his or her legislative conduct on such issues to folks back home. Thus, single-issue groups often do not have to compete with one another or with other issues that come into the policy arena. Groups like MADD and The Innocence Project can avoid larger policy discussions that pose more controversial questions and that might bring more competition and unpredictability to the policy process.

As Fiorina has noted, single-issue groups may not be representative of broad citizen interests since they are likely to include those with the most extreme views.<sup>79</sup> As a result of the ability of these highly mobilized groups to venue shop, the presence of multiple venues can sometimes dilute the representation of broader groups. This is a counter-intuitive claim but one that comes into focus when we consider the biases in representation that federalism introduces into the policy process. When groups have the leadership and resources to identify venues in which they are more likely to be successful, it requires oppositional groups to not only be cognizant of the activity going on at that level but also to have the ability to counter it. When they cannot do so, these groups are left clamoring for attention in the only venues to which they have access while other groups could be changing the rules of the game elsewhere.

### *Ad hoc groups and diffuse interests*

A second assumption underlying the notion that a more porous political process is more likely to represent citizen interests is that citizen groups, by definition, serve as a counterbalance to professional or business interests in the policy process. Schattschneider underestimated the substantial growth in citizen organizations in national politics

that would take place in the two decades after his book was written and numerous scholars have tried to assess the degree to which these developments undermine Schattschneider's famous dictum that "the flaw in the pluralist heaven is that the chorus sings with a heavy upper class accent."<sup>80</sup> In fact, we know little about how well the rise of citizen groups over the past 30 years represents the actual array of interests in society. While changes to the policy environment have created a hospitable environment for single-issue groups, less empirical attention has been paid to citizen groups with a more diffuse focus that may share common concerns but lack the capacity or desire to formalize their interests, perhaps because such groups are assumed to represent latent interests, not active ones. Schattschneider recognized that this was both a failure of theory and a failure of empiricism. To observe citizen groups constituting a growing segment of the interest group community at the national level says little about how representative those groups are of broader societal interests.<sup>81</sup> Interest group scholars acknowledge that the proliferation and maintenance of citizen groups at the national level does not really apply to groups representing the indigent, for example.<sup>82</sup>

We have tended to assume, with Schattschneider, that poor people's groups are by definition demobilized and in terms of national politics this is largely correct.<sup>83</sup> But even deeply impoverished urban areas can be hotbeds of mobilization. As I discussed in the previous section, my own research reveals a stunning array of citizen groups in urban areas and many other scholars conducting urban ethnographies have uncovered similar patterns.<sup>84</sup> But entering the policy process at the state and national levels of government requires a degree of organization and formality that is out of reach for many of them. Moving from an ad hoc group of citizens that share common concerns about neighborhood drug dealing, for example, to a formally organized group with funding and a staff to get onto the state or national policy scene involves not just the mobilization of resources but, as Schattschneider so poignantly noted, also an act of political bias because "organization itself is a mobilization of bias."<sup>85</sup>

In fact, as noted earlier, a substantial percentage of groups active in local crime politics are loose coalitions of citizens bringing a wide range of common concerns to the legislative arena. In contrast, in my state case study, the citizen groups with the largest presence on crime issues are singularly focused on civil liberties, guns, or violence against women. Thus, a half century of changes to the policy process have meant that not all citizen groups—even those addressing issues of interest to a wide range of citizens—are necessarily able to capitalize on the federalization of issues because state and national government pressure systems make it hard for ad hoc, informal groups to participate. A more thorough accounting—or any sort of accounting at all—of less formal groups is required in

order to understand how scale and scope matter for pluralistic representation of group interests. In particular, we need to study informal groups qua groups and to take account of how the federalization of some issues advantages or disadvantages them. Government may be increasingly porous but if informal groups with broad public interest concerns remain largely locked out of the various points of access, we are simply generating more opportunities for groups who are already participants to forge ahead. Again, Schattschneider is instructive:

The class bias of associational activity gives meaning to the limited scope of the pressure system because scope and bias are aspects of the same tendency. The data raise a serious question about the validity of the proposition that special-interest groups are a universal form of political organization reflecting all interests. As a matter of fact, to suppose that everyone participates in pressure-group activity and that all interests get themselves organized in the pressure system is to destroy the meaning of this form of politics. The pressure system makes sense only as the political instrument of a segment of the community. It gets results by being selective and biased.<sup>86</sup>

The addendum to Schattschneider offered here is that he was quite prescient about scope and bias but that he may have underestimated the activity of groups at the local level because they have a limited capacity to expand the scope beyond their small constituencies, even when the issues they address are broad in focus. For reasons discussed in the previous section, the extent to which these groups can exploit the federal nature of our political system is largely an empirical question but may not be as promising as Schattschneider hoped.

### Bureaucratic Actors in the Policy Process

Dominance is related to intensity and visibility, the capacity to blot out other issues. It is related also to the fact that some issues are able to relate themselves easily to clusters of parallel cleavages in the same general dimension. A successful alignment accumulates a tremendous body of hangers-on. The question is: what other uses can be made of the power won by the dominant cleavage?<sup>87</sup>

Schattschneider's analysis of representation in the American political process took place before the dramatic growth in state and federal programs, spending at all levels of government, and government employment. Bureaucratic agencies clearly have a stake in policy outcomes.<sup>88</sup> For agencies, this means primarily, though not exclusively, fiscal resources. My review of scores of legislative hearings on crime issues across all three levels of government has failed to uncover a single instance in which a representative from a law enforcement organization or district attorney's office declares that the government should spend *less* money on policing or prosecutorial services. While many people in law enforcement acknowledge the limitations of the supply-side war on drugs, for example, and

district attorneys sometimes acknowledge that arrest and prosecution are not always the best strategy for avoiding recidivism, few would advocate a rollback of the resources that legislatures have provided in order for them to fight crime. Law enforcement agencies are evaluated largely by their ability to produce arrests and prosecutors by their ability to procure convictions, both of which require increasing resources but neither of which necessarily reduces criminal activity.

And money is not the only resource at stake. Legal scholars have long recognized that prosecutors have strong incentives to alter the criminal law in ways that provide them with greater discretionary authority.<sup>89</sup> The more discretion prosecutors have, the more of an upper hand they gain with defendants, the more plea bargains they obtain, the more they can wear the crime fighting yoke on the campaign trail. While prosecutors do occasionally advocate for alternative sentences or first-time offender waivers, the vast majority of the time it is in their interest to lend support to longer, harsher, tougher sentencing laws. Judges, too, angle for new resources for their court communities. There are few incentives to reorient the terms of debate about crime and justice away from police and court-centric strategies to structural conditions and public health problems.<sup>90</sup> In fact, some of the single-issue citizen groups that permeate the state and national legislative processes such as MADD and the NRA have a great deal in common with the interests of criminal justice agencies, particularly prosecutors. Their interests often intersect around aggressive law enforcement, longer sentences, and enhanced criminal statutes and are less likely to address the social, economic, and political concerns of broader citizen groups. Even the American Civil Liberties Union, which has a very active presence in state and national politics, keeps the law and order frame alive by focusing on the behavior of criminal justice agencies and the quality of criminal justice institutions.

As I have shown elsewhere, criminal justice agencies such as the Federal Bureau of Investigation, U.S. Attorneys, local police departments, and district attorney associations are very well-represented in national crime debates.<sup>91</sup> They have increased their presence at congressional hearings on every type of crime issue and often represent the plurality of groups, even in areas such as drug addiction and trafficking, issues on which there is a wide range of groups in society representing a full spectrum of policy ideas. Among the most common organizations cited by legislators and their staff members at the state level were district attorney associations and police organizations. Perhaps most importantly, unlike citizens groups, representatives of these agencies and organizations do not specialize—rather they are present at virtually every type of hearing, from drugs, guns, death penalty and sex offenders to criminal procedure and court proceedings.

## Conclusion

Above everything else, the people are powerless if the political enterprise is not competitive.<sup>92</sup>

Schattschneider's book remains a valuable resource. I have revisited some of his assumptions by examining changes to the political process over the past 45 years and through exploration of a policy arena that is under studied by students of politics. Schattschneider's observations about the limited competitiveness of political activity in U.S. remain true, though he was perhaps overly optimistic about the possibilities for increasing competition through multiple venues. The growing relative success of social movements was, from his vantage point, evidence of the ability of expanding a conflict's scope to neutralize narrow, parochial interests and vindicate the public interest. In addition, these groups were creating new avenues for pressing their claims. It would have been difficult not to overestimate the effect of scope expansion and the capacity of groups to overcome the mobilization of bias in the first few decades after World War II. My purpose has been to restate some of Schattschneider's claims, leaving for empirical exploration the outcome of changes in scope and bias.

I have focused on three propositions:

- Expanding the scope of the conflict does not always result in more pluralistic policy environments—sometimes the narrowest policy environments are the state and national levels and the broadest is at the local level.
- Increased venues do not necessarily result in more groups or an environment more favorable to public interest groups. In fact, not all citizen groups are created equal—we need to include informal groups and groups with broad public concerns in our analysis to see how they fare, relative to single-issue groups.
- Bureaucratic agencies can play a significant role in the policy process, countering some of the power of citizen groups.

I have also tried to illustrate the ongoing significance of racial politics to the way issues expand and contract in legislative arenas.

On that front, it is a bitter irony that the very strategy that contributed to black civil rights—the nationalization of racial conflict—has not only failed to obtain economic and social mainstream status for today's urban blacks but may in fact be contributing to their marginalization. The proliferation of crime and justice concerns onto state and national agendas has diluted the civil rights framework of crime and poverty debates. It has generated stringent sentencing guidelines, mandatory minimum sentences, extremely harsh drug penalties, increases in the death penalty, and incarceration rates for blacks that are eight times that of whites.<sup>93</sup> Indeed, the nationalization of crime and

justice may contribute to a pathologizing of blacks and a depoliticizing of the problems facing urban blacks today. In his study of community organizing in Queens, anthropologist Steven Gregory notes:

The discourse of inner-city pathology, popularized in the mass media, de-politicized the problem of black poverty and related social inequalities by locating their origins in the moral economy of the isolated "ghetto" household, rather than in the political economy of the greater society. . . . When President George Bush assured the American public on nation-wide television that the May 1992 outbreak of widespread social unrest and violence in Los Angeles was "not a message of protest" and "not about the great cause of equality," he gave voice to this de-politicized vision of black identity and community life: a race- and power-evasive view that rendered the political struggles of African-Americans either invisible or as senseless expression of "black rage" and criminality.<sup>94</sup>

Indeed, one of the consequences of racial hierarchy in the U.S. has been the fact that, with a few notable exceptions, white majorities have generally refused to recognize the enduring legacy of group-based disadvantage that African-Americans experienced and that have stifled economic and social development. At the local level, legislators are more frequently forced to respond to citizens resisting race and caste systems—citizens who are angry, frustrated, determined, and mobilized. As the conflict expands into state and national arenas, however, longstanding patterns of denying racially-based disadvantage, along with enduring perceptions about white, female victims and black criminality, serve to narrow and, at times, completely transform crime policy debates into simple problems of urban black (and often Latino) pathology. The prospect of the national political center transcending these conditions any time soon seems rather bleak, particularly if serious crime victimization continues to affect citizens in racially and class-biased ways. One promising avenue would be for urban coalitions to draw on the historic federated models, like those described by Skocpol 1999, in order to generate new institutional orders that can dislodge the deeply entrenched racially biased views of criminality among larger constituencies.<sup>95</sup>

I have focused primarily on crime and justice issues in this paper. But many of the same set of forces operate in other policy domains as well. Which issues are vulnerable to the problems laid out here are and under what conditions federalization might narrow, rather than broaden, a conflict's scope are subjects of future research. I conclude with a set of principles governing scope and bias in the current policy environment:

- The federalization of a wide range of social issues has generated a policy environment that can be porous but can also be most receptive to highly organized, *narrow* interests that move with ease across venues. This development requires attentiveness to which issues are active across multiple venues and

the variation in interest group representation across those venues, particularly the capacity of groups to have a presence in all venues simultaneously. The greatest group competition may, at times, be at the local level.

- As citizen groups with diffuse interests make their way onto state and legislative agendas, they must narrow their focus and thus lose some of their broad public interest appeal. While local groups can approach legislators with a litany of complaints and expect some responsiveness, this shotgun approach is much less likely to find a receptive audience in state and national venues. The proximity of those experiencing complex social problems to the legislators they hold accountable for resolving them affects the array of interests in a policy arena and the way issues are framed at different levels of government.
- Poor citizens—particularly African-Americans—have difficulty obtaining representation in state and national governments where hyper-mobilization is required, but this does not mean that they do not mobilize. Low-income urban citizens are very active in pursuing their interests in groups but they often operate below the radar of much political science research. Their activity tends to be reactive, focused on particular policy enactments or drawing legislative attention to specific quality-of-life problems. Greater attention to local group activity and the conditions under which these groups can successfully have a presence across levels of government is crucial in order to understand how pluralistic the pressure system really is.
- Racial politics structures policy environments and the presence of anti-egalitarian forces affects the ways in which issues move across venues. In particular, issues that have minorities—particularly blacks—as central beneficiaries may be subject to different forces as they move through different venues than issues that do not involve racial dynamics. The alteration of these issues as the scope changes from local to state to national venues is largely out of the control of black interest groups and is more likely to favor whites' framing of social problems.
- Government actors are an important force in their own right. While they represent important experts in social policy areas, they also bring their own institutional needs that can serve to perpetuate existing problem definitions and policy solutions, making it difficult for new frames to make their way into the policy process.

Attention to these issues in future research on public policy, interest groups, public law, and urban and racial politics will provide additional insights into the nature and extent of political representation in the United States.

## Notes

- 1 Schattschneider 1960, 2, 30, 66.
- 2 McConnell 1967; Lowi 1977; Riker 1964.
- 3 Schattschneider 1960, 10.
- 4 *Ibid.*, 4.
- 5 Wildavsky 1997, 87.
- 6 Baum 2004; Brisbin 2005; Whittington 2005. See *U.S. v. Lopez* 514 U.S. 549, *U.S. v. Morrison* 529 U.S. 598, *Gonzalez v. Raich* 125 S. Ct. 2195, *Gonzalez v. Oregon* 126 S. Ct. 904 for illustrations of significant cases of the past decade.
- 7 Anton 1989; Beer 1993; Elazar 1987; Derthick 1999, 2001; Golembiewski and Wildavsky 1984; Kenyon and Kincaid 1991; Miller 2001; Miller and Eisenstein 2005; Morone 2003; Peterson 1981, 1995; Scheingold 1984; Sidney 2004; Szymanski 2003.
- 8 Of course, questions of the degree to which a federal political system structures groups, conflicts and the policy process apply to countries other than the United States. I focus here on scholarship in American politics since my research project is situated in that context. However, these questions also have significance in comparative perspective. See Watts 1999, Elazar 1994a, 1994b.
- 9 King and Smith, 2005.
- 10 King and Smith, 2005. See also Lieberman 1998, Gilens 1999.
- 11 Riker 1964 made the point most forcefully that federalism has helped white supremacists realize their policy preferences. See also Katznelson 2005 for a discussion of how a number of federal programs in the twentieth century designed to provide economic advantages to American citizens were affected by southern states interested in reserving such benefits for whites.
- 12 Miller forthcoming.
- 13 Baumgartner and Jones 1993; Berry 1997, 1999; Cigler and Loomis 1983; Schlozman 1984; Schlozman and Tierney 1986; Walker 1991.
- 14 Baumgartner and Leech 1998; Lowery and Gray 2004; Schlozman 1984.
- 15 Lowery and Gray 2004, 6. See also Schlozman 1984.
- 16 Baumgartner and Jones 1993; Baumgartner and Leech 1998; Berry 1999; Gray and Lowery 1996.
- 17 Legal scholars use the term federalization to refer to the increasing national jurisdiction over crime. However, I prefer a broader definition, which recognizes that when issues become active on the national legislative agenda, they often remain active in other venues—state and local—as well.
- 18 See Sidney 2004 and Manna 2006 for an important exception.
- 19 Schattschneider 1960; McConnell 1967; Lowi 1977; Riker 1964.



- 20 Chong 1991; Feeley and Rubin 1998; McCann 1986; Piven and Cloward 1977.
- 21 Berry 1997, 1999; Scholzman and Tierney 1986; Baumgartner and Leech 1998; Lowery and Gray 2004.
- 22 Landy 1990, 232.
- 23 Dudziak 2000. See also Klinkner and Smith 1999.
- 24 Schattschneider 1960, 36.
- 25 Baumgartner and Leech 2001, 1192.
- 26 Lowi 1977 articulates a similar point in his critique of pluralist assumptions. "The people get shut out of the most creative part of policymaking: problem definition" (58).
- 27 Schattschneider 1960, 102.
- 28 Carpenter 2001; Rourke 1978; Wilson 1989.
- 29 See Miller 2004 for a discussion of the role of criminal justice bureaucratic agencies in the congressional agenda setting process.
- 30 See Katznelson 2005, King 1995, King and Smith 2005, Morone 2003, and Rung 2002 for discussions of the relationship between racial politics and the development of bureaucratic agencies.
- 31 Schattschneider 1960, 40.
- 32 Entman and Rojecki 2000; Glassner 1999; Holcombe, Williams and Demuth 2004; Walker, Spohn, and DeLone 2000.
- 33 Of course, during the civil rights movement, several high-profile murders of blacks, such as the lynching of Emmitt Till, generated news coverage at the national level and galvanized both blacks and whites into action. But extreme cases of horrific racist violence crossing jurisdictional boundaries and making national headlines are exceptions that prove the rule. While outrageous racist violence may generate national attention, black victims of routine street crime are largely invisible.
- 34 Wells 1892; Ferrell 1986. In June 2005, the Senate passed a resolution (by voice vote and not unanimously) formally apologizing for its failure to outlaw lynching.
- 35 Morone 2003.
- 36 Ferrell 1986.
- 37 *Ibid.*, 150.
- 38 The White Slave Traffic Act, 18 U.S.C. § 2421, 1910.
- 39 Bastian and Taylor 1994; Bureau of Justice Statistics, "Homicide Trends in the U.S." 2006.
- 40 Megan's Laws are named for Megan Kanka, a child who was abducted and murdered by a twice-convicted child molester living in her New Jersey neighborhood. A federal Megan's Law, signed by President Clinton in 1996, required states to establish a system for releasing information to the public about convicted sex offenders or risk losing crime fighting dollars. All 50 states have some version of Megan's Law, though they vary substantially. Amber alert was established after nine-year old Amber Hagerman was kidnapped and murdered in Texas. In 2003, President Bush signed legislation created a national network of Amber alerts.
- 41 See Anderson 1999; Bourgois 2003; Pattillo-McCoy 1999 for explicit discussions of these experiences.
- 42 Smith 2000.
- 43 See <http://www.handguncontrol.org/> for detailed discussions of state gun regulations.
- 44 Schattschneider 1960, 66
- 45 *Ibid.*, 56.
- 46 See Schneider and Ingram 1993 for a related discussion.
- 47 In October 2005, President Bush signed into law the "The Protection of Lawful Commerce in Arms Act," which prohibits liability actions against firearms manufacturers (P.L. 109-92).
- 48 See Gregory 1998 for a discussion of grassroots urban community mobilization and Dreier 2005 for a discussion of media coverage of urban problems.
- 49 Recognizing that its constituency has been largely white, Mothers Against Drunk Driving received a grant from the Robert Wood Johnson Foundation in 1998 to target racial minority populations and address issues of underage drinking and driving in those communities.
- 50 There is one noteworthy exception. The Pennsylvania Prison Society has been an advocacy organization in Pennsylvania since 1787 and is quite visible in Pennsylvania crime politics. Its mission is largely focused on addressing prison conditions but it does do some work with prisoners re-entering society after their release. As a state-wide group, however, it does not specifically represent residents of areas to which offenders are likely to return.
- 51 Searching the dataset of witnesses at Pennsylvania hearings revealed an additional 30 witnesses from groups with "community" in their name. However, these groups were not citizen groups but rather, represented hospitals (Community Memorial Hospital), businesses (Mid-Atlantic Community Papers Association), counseling agencies (Luzerne County Community Counseling Services), colleges and universities (Delaware Valley Community College), legal services (Community Legal Services) or local government (Department of Community Affairs).
- 52 Gilliam and Iyengar 2000.
- 53 Lyons 1999; Miller 2001; Scheingold 1984; Skogan and Hartnett 1997.
- 54 Bennett 1995; Lawrence 2000.
- 55 See chapter three in Haltom and McCann 2004 for a nuanced review of research on civil litigation in federal and state courts. Tort claims in state courts

- have not increased appreciably over the past 30 years once population growth is accounted for. While some federal civil claims have increased at various points during the past 30 years, this is as much attributable to a specific set of product liability claims (like asbestos or breast implants) than to a general upward trend.
- 56 Dixon and Linz 2000a, 2000b; Entman and Rojecki 2000; Romer, Jamieson, and de Coteau 1998.
- 57 Entman and Rojecki 2000.
- 58 Romer, Jamieson and de Coteau 1998. It is worth noting that the majority of crime, even serious crime, is intra-racial. See Walker, Spohn, and DeLone 2000.
- 59 Gilliam and Iyengar 2000; Peffley, Hurwitz and Sniderman 1997. See also Gilens 1999.
- 60 Viewing local television news coverage of crime can cause fear levels of viewers to rise. See Romer, Jamieson, and Aday 2003.
- 61 Gregory 1998; see also Lyons 1999; Miller 2001.
- 62 See Morenoff and Sampson 2001 and Sampson and Morenoff 2002 for a discussion of the interaction between social disorganization and crime rates.
- 63 Lowi 1964, 688.
- 64 See Scheingold 1984 for an excellent discussion of crime and violence in the political imagination. See also Scheingold 1991, chapter five, for a discussion of how and why crime and justice issues are framed differently at local and national levels of government.
- 65 Personal interview, October 28, 2003.
- 66 Personal interview, September 28, 2003.
- 67 See Gregory 1998, Lyons 1999, Miller 2001.
- 68 Personal interview, October 28, 2003.
- 69 Roberts et al. 2005.
- 70 Peterson 1981. See also Browning, Marshall, and Tabb 1984 for a discussion of the impact of minority representation on urban policy outcomes.
- 71 Schattschneider, 1960, 63, 35, 131.
- 72 Baumgartner and Jones 2002; Pralle 2006, ch. 5 and 9.
- 73 Baumgartner and Leech 2001; Miller 2004; Sharp 1994.
- 74 See Lowi 1977 for an excellent discussion of lack of competition in some issue areas: "When a program is set up in a specialized agency, the number of organized interest groups surrounding it tends to be reduced, reduced precisely to those groups and factions to whom the specialization is most salient. That almost immediately transforms the situation from one of potential competition to one of potential oligopoly" (p. 58).
- 75 Holyoke 2003; Pralle 2006, ch. 5 and 9.
- 76 That scholars have only recently begun to explore this phenomenon does not necessarily mean that it is new. Further research is needed to understand the degree to which groups have traditionally made an effort to insulate themselves from competition with other groups involved in similar issues.
- 77 Berry 1999; Hershey and West 1983.
- 78 Senate Bill 8, September 30, 2003.
- 79 Fiorina 1999.
- 80 Schattschneider 1960, 34–35.
- 81 Lowery and Gray 2004.
- 82 Berry 1997.
- 83 Piven and Cloward 1977.
- 84 See Gregory 1998 and Lyons 1999 for detailed discussions of inner-city community group activity.
- 85 Schattschneider 1960, 30.
- 86 Schattschneider 1960, 34.
- 87 Schattschneider 1960, 72.
- 88 Carpenter 2001; Wilson 1989.
- 89 Barkow 2005; Stuntz 2001.
- 90 It is worth noting that the few institutionalized responses to crime and violence that do incorporate these frames—such as drug and mental health courts or alternative sentences—have almost all originated at the local level.
- 91 Miller 2004.
- 92 Schattschneider 1960, 132.
- 93 This is not to suggest that the nationalization of crime has done nothing to advance the cause of equality in the realm of criminal justice. If nowhere else, the federal courts were on the vanguard of reforming the medieval conditions of many of the nation's prisons as recalcitrant state and local officials dragged their feet; see Feeley and Rubin 1998. The Justice Department has also, at times, been on the vanguard of addressing racial bias in policing. But in terms of legislative agendas, where crime and justice policy are crafted, the outcomes appear to have been largely unfavorable to black interests. And in the past 25 years, the federal courts have rarely served as a meaningful stopgap to the growing reach of federal authority or the ever increasing harshness of criminal penalties (the 2004–2005 term produced a few notable exceptions: *Miller-El v. Dretke* (No. 03-9659), *Roper v. Simmons* (No. 03-633), *Johnson v. California* (No. 03-6964), *Blakely v. Washington* (542 U.S. 296).
- 94 Gregory 1998, 6.
- 95 Skocpol 1999.

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