ABSTRACT

Title of dissertation: JUDGES AND THE COMPAN(IES) THEY KEEP: AN ANALYSIS OF JUDICIAL CAMPAIGN CONTRIBUTIONS SITUATED WITHIN AN ORIGINAL PROBLEM-SOLVING FRAMEWORK

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This dissertation addresses the problem of citizens' dissatisfaction with a sitting judge, stemming from the #FreeMeekMill controversy. It introduces an original analytical problem-solving model, Transformative Framework to solve this problem and proposes that citizens form a political action committee (PAC) to remove the judge at the center of this controversy. In addition to its problem-solving focus, this project informs the judicial campaign contribution literature by examining whether trial courts are

susceptible to the “new style” judicial elections, characterized by high levels of spending from special interests. It is the first statewide, judge-level analysis of interest group participation in trial judge elections. Judicial campaign contributions are discussed so that residents, who are encouraged here to form their own interest group, are made aware of the current judicial fundraising landscape before launching their own fundraising efforts. Results demonstrate that interest groups are not major contributors to trial judges’ campaigns and that the “new style” of campaigning has yet to reach local judicial elections. This suggests that if residents were to mobilize effectively, it should not be as expensive to unseat a Pennsylvania trial judge as it would be to unseat a state supreme court judge. It also suggests that interest groups are not as influential in local court elections so grassroots fundraising may suffice to unseat an unpopular judge. Future research will examine the effectiveness of Transformative Framework as a problem-solving model in real-life settings and the role of trial judges’ campaign contributions on decision-making.

JUDGES AND THE COMPAN(IES) THEY KEEP: AN ANALYSIS OF JUDICIAL CAMPAIGN CONTRIBUTIONS SITUATED WITHIN A FORMAL PROBLEM-SOLVING APPROACH

by

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Conceptual Framework

The Argument

This dissertation argues that it is possible to construct a universal, comprehensive, standalone problem-solving model and to use said model to address the problem of judicial dissatisfaction.

The Problem

The overarching problem that this dissertation aims to solve is dissatisfaction with the judiciary stemming from the #FreeMeekMill controversy.

The Solution

The solution to this problem, I argue, is for citizens to mobilize to form a political action committee (PAC) with the express purpose of removing the problematic judge at the center of the #FreeMeekMill controversy.

The Process

This dissertation proposes an original problem-solving model, Transformative Framework, to solve the problem of judicial dissatisfaction in Philadelphia. Transformative Framework identifies the types of *turbulence* in a problem-state; *translates* this turbulence into solvable problems and generates *transparent* solutions, rooted in *truthfulness* and *trust* that consider *timing* as a key resource, and encourage *teamwork.* Transformative Framework informs the implementation of innovative solutions during the *trial* phase and evaluates the effectiveness and appropriateness of these solutions during the *troubleshoot* phase. If necessary, participants are *trained* in the relevant principles and procedures.

Introduction

In 2015, I published an article entitled, "Why The #BlackLivesMatter Movement Needs Less Anger and More Action" (Silva, 2015)**.** In it, I argued that instead of simply protesting police brutality, concerned citizens should advocate specific policy changes. Before policy changes can be recommended, however, it is necessary to get to the root of the problem sparking the protests. In the article, I identified a lack of police legitimacy, not the violence against citizens itself, as the root cause of the civil unrest and proposed several real-world applications to enhance police legitimacy. Although I conducted a root cause analysis to identify a lack of legitimacy as the underlying problem and used a systematic thought process to propose possible solutions, I was, at the time, unaware of the formal problem-solving literature. After becoming aware of the discipline of problem-solving, I decided to further develop the "*Three T's*" (transparency, truthfulness, and trustworthiness) conceptual model I introduced in Silva (2015) into a formal problem-solving model to address similar problems.

The current research is the product of my joint interest in hashtag-worthy criminal justice controversies, judicial campaign finance, and problem-solving. Following in the style of my earlier work (Silva, 2015), this dissertation uses a real-world scenario as an impetus to propose an original problem-solving framework and solution-based policy agenda, with the overarching goal of enhancing citizen participation in the highly political yet low salience judicial selection process. It improves upon previous work by framing the judicial selection discussion within the context of formal problem-solving.

Problem-solving is defined as the process or act of finding a solution to a problem (*Problem-solving*, n.d.). Problem-solving as a field of study lacks a consistent, formal definition (Quesada et al., 2005; Burns & Vollmeyer, 2000), but can be loosely defined as a discipline in which generic or ad hoc methods or models are used in an orderly manner to find solutions to problems (Stamatis, 2015). Problem-solving techniques are used in a variety of disciplines, including computer science, medicine, psychology and mathematics (Dorner & Wearing, 1995; Dostal, 2015; Funke, 2003). Formal problem-solving models, however, are rarely used in the fields of criminology and political science.

While formal problem-solving models have been introduced in policing (Eck & Spelman,1987; Kim & Skogan, 2003), problem-solving has yet to reach the judicial selection literature. Here, I use the #FreeMeekMill controversy, involving a popular Philadelphia rapper, his supporters, and an ostracized Philadelphia trial judge to demonstrate how citizens can actively engage in judicial politics via a unique problem-solving model. In short, the #FreeMeekMill controversy ensued because Philadelphia Judge Genece Brinkley sentenced rapper Meek Mill to a seemingly harsh sentence, stemming from an allegedly corrupt case (Ewing, 2018). I chose this issue because, like the #BlackLivesMatter controversy, it demonstrates how awareness can be raised *surrounding* a surface-level problem without identifying potential policy solutions to *solve* the root causes of said problem. I call this the "protest problem": individuals rally behind a single event, neglecting the larger environment in which the event occurs. Eventually, solutions are found, but there is no lasting policy change. For example, Meek Mill, the celebrity at the center of the controversy upon which this research is based, was

able to solve his own immediate problem of incarceration via the #FreeMeekMill campaign, but a better, long-term solution would have been possible if his supporters mobilized their financial resources to replace the judge in question with one who would never place someone else in that predicament. Many individuals who lack the celebrity and the financial resources to raise awareness might face the same fate under this judge. Although I cannot prove this to be the case, I believe that the lack of a long-term, wide-reaching solution is the result of widespread political ignorance regarding the issue. Simply put, based on the voter ignorance literature (Bam, 2013; Somin, 2006; Somin, 2016), I do not think the majority of protestors were aware that the judge they spent hundreds of thousands of dollars to protest was actually elected via popular vote—as unseating the judge in question (a simple solution) was never mentioned in any of the media surrounding the controversy. For this reason, I have written this dissertation for the concerned citizens who are still dissatisfied with Judge Genece Brinkley and wish to unseat her.

This document is organized as follows: first, I provide an overview of the case, the #FreeMeekMill controversy that sparked this research. Then, in Chapter One, I introduce formal problem-solving as a solution to the issue of judicial dissatisfaction. In Chapter Two, I present my original problem-solving model, Transformative Framework. Transformative Framework is a 10-step framework that improves upon extant problem-solving models by incorporating principles of procedural justice, professional development, and fidelity management. It draws heavily from the management literature and emphasizes the larger environmental context of the problem at hand. Chapter Three introduces the readers to the literature on judicial selection to help frame the analytical

section that follows. It focuses on judicial campaign finance as financial mobilization is the most common strategy for unseating unpopular judges. Chapter Four applies this evidence to the current context and uses Transformative Framework to answer the following research questions:

RQ1: How much money do trial judges in Pennsylvania raise, on average?

RQ2: How much do interest groups donate during election years?

RQ3: Which interest groups donate to Pennsylvania trial judges?

RQ4: How can citizens mobilize to remove an unpopular judge from office?

Chapter Five concludes by summarizing the research presented here and plans for future research.

The Case: #FreeMeekMill

The narrative that follows is an account of a popular Philadelphia-based rapper's journey through the Pennsylvania criminal justice system:

Robert Rihmeek Williams, popularly known as Meek Mill, is a highly regarded Philadelphia rapper who was arrested in 2007 and sentenced in 2009 on charges related to guns and drugs (Ewing, 2018). These charges were based entirely on the testimony of a Philadelphia police officer who, according to an internal department report was allegedly corrupt and untrustworthy (Ewing, 2018). Nine years later, in 2018, Meek Mill's fate is being determined by a judge who has disregarded recommendations from both the defense and the prosecution in making her rulings, and who has repeatedly been accused by Meek Mill's attorneys of being personally biased against him, partially because he refused to help her with her once budding entertainment career (Rudnesky, 2018).

The judge in question, Philadelphia trial Judge Genece Brinkley originally sentenced Meek Mill to 11.5 to 23 months behind bars and 7 years of probation as a result of his 2007 arrest, but Mill was released from jail and paroled under house arrest after five months (Rudnesky, 2018). He was ordered to earn a high school equivalency diploma and undergo drug treatment. Despite testing positive for drug use multiple times throughout 2010-2012, Mill was not jailed. In 2012, Meek's travel outside Philadelphia was suspended for at least a month, and he was ordered to perform community services due to his probation violations and ignoring of an earlier court ruling to stop scheduling upcoming performances (Rudnesky, 2018). In March of 2013, he was found in violation of probation for traveling outside of the city and Judge Brinkley ordered Mill to notify his

probation officer before taking any trips outside the state and to attend etiquette classes to refine his social media use and courtroom behavior (Rudnesky, 2018). In 2014, Meek Mill sued the city of Philadelphia and the two arresting officers based on the facts that the car was stopped because of a marijuana smell, but no marijuana was found. Meek alleged that the 10-hour stop was racially motivated and caused him to miss the launch party for his debut album. A federal jury rejected the lawsuit (Rudnesky, 2018).

In 2014, Meek Mill violated his parole again, and was returned to jail for about five months, and was given an additional five years of probation (Rudnesky, 2018). His violations include failing to report to his probation officer, making unauthorized travel plans, and ignoring court orders. In December 2015, Mill was back in court for his fourth hearing for violations because he did not report to his probation officer, disobeyed travel restrictions, and submitted a sample of cold water for a urine test. In February 2016, Mill was sentenced to house arrest for 90 days with a community service requirement (Rudnesky, 2018). In November 2017, i*n the most controversial decision related to this case, Judge Brinkley sentenced Meek Mill to 2-4 years in state prison for violating probation*. She cited a failed drug test, failure to comply with a court order restricting his travel, and two other unrelated arrests. One involved an airport fight and the other, reckless driving of a dirt bike—which many cited as the primary reason for his sentence (Rudnesky, 2018).

Immediately following the November 2017 sentencing, buses and billboards with #FreeMeekMill littered Philadelphia and a large protest in his favor was staged outside the Criminal Justice Center near City Hall that involved many other celebrities and public figures (Rudnesky, 2018). Rapper Jay-Z wrote in a New York Times op-ed, “What’s

happened to Meek Mill is just one example of how our criminal justice system entraps and harasses hundreds of thousands of black people every day". The Mayor of Philadelphia, Jim Kenney, Reverend Al Sharpton and Robert Kraft, the owner of the New England Patriots, visited Meek Mill in Chester State Prison as Mill's legal team unsuccessfully tried to appeal the verdict. His hit song, "Dreams and Nightmares" became the Philadelphia Eagle's unofficial anthem and the Philadelphia District Attorney's office spoke out in favor of Meek being released on bail. The commonly held view was that the judge's sentence was unjust and she was attacked constantly in the media by celebrities. Still, Judge Brinkley refused to excuse herself from the case and maintained that Mill's 2-4 year prison sentence was reasonable. In April 2018, the Philadelphia District Attorney's Office called for a new trial, citing the damaged credibility of the police officer involved in Meek Mill's original arrest and trial. Brinkley still refused to grant Mill bail but set an evidentiary hearing for June of 2018. On April 24, 2018, The Pennsylvania Supreme Court ruled that the Philadelphia Court of Common Pleas—where Judge Brinkley sits on the bench—must immediately release Mill from prison (Rudnesky, 2018).

Despite this revelation and calls from the Governor of Pennsylvania to release Williams, the sentencing judge, Genece Brinkley has been unwavering in her decision to uphold the original charges against philanthropist and community leader. Unfortunately, despite the widespread calls for Williams' release and his access to an array of financial and political resources, I have yet to encounter an article or commentator that deals with the obvious—Judge Genece Brinkley was *elected* by the majority of Philadelphians. Although I cannot prove this assumption, it appears as though the majority of individuals

at the forefront of this movement are unaware of the fact that Judge Brinkley is up for reelection in 2023. While it is unclear whether the voters that participated in her previous elections are from the same group of individuals as Meek Mill's supporters, in light of Gov. Wolf's public support of Williams, it is reasonable to assume that, the popularly elected governor reflects the preferences of the majority of Philadelphia voters and, that, since the overwhelming public sentiment leans toward the release of Meek Mill, Philadelphians are not supportive of Judge Genece Brinkley. Again, these are simply observational assumptions. Nonetheless, this situation piques my interest because Meek (who has a net worth of $3 million) and his supporters, that include Beyonce and Sean Carter (combined net worth of more than $1 billion) have not mobilized towards a campaign for her removal from office. Unfortunately, these individuals and the many others who supported him throughout this ordeal probably don't realize that these options exist.

Although Meek Mill was eventually released, at no point did any major news network focus on the electoral aspect of his case, which is surprising given the amount of power voters have in this situation compared to other criminal justice problems. The lack of attention paid to judicial selection in the media speaks to the importance of the current study of judicial elections in Pennsylvania. The present study is an attempt to inform the voting public, especially those who are unhappy with their local trial judges, of where these judges' campaign contributions originate so that they can mobilize to affect change. As I demonstrate in later sections, money, in many cases, does buy justice. Whether interest groups mobilize to elect a justice or to unseat a justice, campaign fundraising is agreed upon in the literature as a powerful tool to secure the vote (Bonneau & Hall,

2009). My view is that once citizens learn how much judges raise and where the money is coming from, they can launch campaigns to replace judges.

In the case of the Meek Mill controversy highlighted above, the overarching problem is the dissatisfaction with Judge Genece Brinkley. In this dissertation, I present an original problem-solving model to address the dissatisfaction problem and propose the formation of a political action committee to unseat Judge Brinkley as a solution. Before introducing the proposed model (Transformative Framework) and discussing issues related to the removal of incumbent judges, I first introduce formal problem-solving and review the effectiveness of extant problem-solving models.

Chapter One: Problem-Solving

"All life is problem-solving."

- Popper (1999)

"If I were given one hour to save the planet, I would spend 59 minutes defining the problem and one minute resolving it."

- Albert Einstein (1879-1955)

Introduction to Problem-Solving

Before discussing problem-solving, it helps to answer the question, "*What is a problem*?" A problem is defined as:

- a matter or situation regarded as unwelcome or harmful and needing to be dealt with and overcome;
- a thing that is difficult to achieve or accomplish;
- denoting or relating to people whose behavior causes difficulties to themselves and others; or
- an inquiry starting from given conditions to investigate or demonstrate a fact, result, or law (*Problem,* n.d.).

The etymology of the word problem originates from the Old French and Middle English *probleme*, translated as, "a riddle or academic question for discussion". In Greek and Latin, problem originates from *problema*, meaning to (throw forward, hinderance, obstacle, or anything projecting). Scholars, however, have operationalized the word

"problem" to take on other meanings, as well. Funke (2003) has defined a problem as, "*a barrier between a given start state and an intended goal state*." Another conceptual definition of problem is, "*a difficulty of theoretical or practical nature that causes an inquiring attitude of a subject and leads him/her to the enrichment of his/her knowledge*" (Dostal, 2015:2799).

Jonassen (2000:65) argues that all problems have 2 critical attributes: (1) an unknown entity in some situation (the difference between a goal state and a current state); and (2) finding or solving for the unknown must have some social, cultural, or intellectual value. This representation of problems is unique in that it focuses on the motivation of the problem-solver. Wang and Chiew (2010) break problems down into three (3) elements:

1. *Givens*: the available information related to a problem
2. *Goals*: the desired termination state of a solution to the problem
3. *Operations*: potential actions that can be executed to achieve the goals of a solution.

For any given problem, there is also an associated problem space. A problem space is the context, situation, or environment in which a problem occurs *or* where, in space and time, a problem emerges *or* the space in which problems are solved. Problem spaces are the problematic situation, context, and/or jurisdiction where problems manifest (Wang and Chiew, 2010).

Classifying Problems

Because problems are not one size fits all, there have been several attempts to organize them based on key variables. Please note that like most classification schemes,

not all groups are mutually exclusive (there may exist overlap between concepts) and/or mutually exhaustive (all possible groups not identified).

First, according to Wang and Chiew (2010), *problems can be classified according to scope.* Abstract problems are complex ("Do we have free will?"), and tangible problems are concrete ("How many people can we feed with $40?"). Abstract problems are indirect and difficult to define, whereas concrete problems can be clearly stated. Some problems might be abstract to some audiences, and concrete to some ("Why do people break the law?").

Another way to organize problems is by unit of analysis (Wang & Chiew, 2010). In social science research, these categories can be: individuals (How can Susie pay for school this semester?), groups (How can a sports team find sponsors for the upcoming season?), social organizations (How can a nonprofit raise funds for various public service initiatives?), cultural artifacts (How can a fossil be restored to determine its age?), and geographic sectors (How can a community mobilize to select representative judges?).

Problems can also vary by levels of difficulty to solve. They can be complex (ill-defined) or simple (well-defined). As Wang & Chiew (2010) note, complex problems ("Will I be successful in life?") do not have clear goals, problem-solving pathways, or potential solutions. Simple problems ("Will I pass my comprehensive exams?"), on the other hand allow for more planning, specific goals, clearly defined solution paths, and clear expected solutions. Empirically speaking, complex problem-solving generally includes more variables than simple problem-solving (Wang & Chiew, 2010). The variables in simple-problem-solving situations, on the other hand, are closely correlated, and the dynamics of the simple problem-state are relatively stable. Complex problems

tend to suffer from *intransparency* (lacking required info about variables and possible goals) and *polytely* (more than one goal in complex situation). For these reasons, solving complex problems require extra effort, like making compromises and the definition of priorities (Wang & Chiew, 2010). Frameworks like the one I introduce here can be helpful in managing complex problems by breaking down the problem-solving process into stages.

Jonassen (2000:72-81) provides a more delineated description of the different problem types. He separates problems into the following groups:

- Logical problems
- Algorithms
- Story problems
- Rule-using problems (i.e., geometric proofs)
- Decision-making problems
- Troubleshooting problems
- Diagnosis-solution problems
- Strategic performance
- Situated case-policy problems
- Design problems
- Dilemmas

Logical problems involve the manipulation of limited variables and tend to take the form of puzzles (Jonassen, 2000). These problems tend to be abstract tests of the learner's mental acuity, clarity, and logical reasoning. These problems are seldom grounded in reality and are instead a focal point of laboratory based psychological research. Logical

reasoning games may challenge the problem-solver to achieve a goal in the least number of moves (i.e., chess, Rubic's Cube), or use some other specific method of reasoning to yield the most efficient solution.

Algorithmic problems are one of the most commonly encountered problem types in grade school and among those in STEM professions, but are also found in other contexts (i.e., recipes as algorithms for cooking) (Jonassen, 2000). These problems involve a procedural sequence of manipulations and calculating or producing the correct answer using a prescribed method. Algorithms include a finite and rigid set of procedures with limited, predictive decisions. Solving these types of problems requires number comprehension, number production, and number calculation. Calculation requires the comprehension of the operations (i.e., multiplicative properties), execution procedures for calculating (solving multiplication problems), and the retrieval of arithmetic facts based on these operations and execution procedures (i.e., producing a set of times tables).

Story problems situate algorithms into a larger context to produce the correct answer using a prescribed method (Jonassen, 2000). Many textbook authors, teachers, and standardized test editors embed mathematical values into story problems. Learners are required to identify key words in the story, order steps required to solve the problem, and eventually apply the algorithm to produce a satisfactory response. This is a more complex problem-solving type than algorithms because story problems often require some form of translation of numbers to words, or words to numbers.

Rule-using problems (Jonassen, 2000) rely on a procedural process constrained by rules. In these types problems, rules are selected and applied to produce a set of answers or products constrained by a system. For instance, many problems have multiple solution

paths or rules that can govern the problem-solving process (i.e., search terms used to find an article or book; completing tax returns). In these situations, the purpose is to find the most relevant information in the least amount of time. Card games are also good examples of rule-using games, or problems.

Decision-making problems (Jonassen, 2000) tend to involve the selection of a single solution from a set of potential solutions, based on a set of criteria. Popular in criminology, rational choice decision-making is choosing the best option after weighing the costs and benefits of the decision against relevant preferences. Not all decision-making, however, is rational. Decision-making is a large part of our everyday lives. From the small (i.e., what to eat) to large (i.e., what home to purchase), decision-making is arguably involved in any problem-solving context at some point. This is especially true for structured problem-solving strategies.

Troubleshooting problems (Jonassen, 2000) are among the most common forms of everyday problem-solving and is in some cases synonymous with problem-solving. Fault-state diagnosis (i.e., a mechanic troubleshooting an inoperative care) is the hallmark of troubleshooting. These types of problems arise when some part or parts of a normally functioning system are not functioning properly, resulting in a set of symptoms that have to be diagnosed and matched with the user's knowledge of various fault states. Because troubleshooting is a diagnostic task, troubleshooters, unlike general problem-solvers, must be strategic, knowledgeable about how certain systems work, and know how to perform a range of problem-solving tasks.

Diagnostic-solution problems (Jonassen, 2000) refer to cause and effect problems. These can be related to medical diagnoses, or any other problem type where there are clear inputs and outputs.

Strategic performance problems (Jonassen, 2000) are those that necessitate the tactical maneuvering of a performer, who must apply a set of complex skills to meet strategic objectives. An example of this type of problem is a plane being struck by debris or a lawyer having to defend a suspect in a court of law. These problems are characterized by the inherent difficulty in solving them. Strategic performance problems require real-time decision-making and improvisation and maintaining situational awareness.

Case-Analysis Problems involve the analysis of case problems, preparing briefs, and defending judgments (Jonassen, 2000). These types of problems are the most contextually bound kind of problem, as there are no formal procedures or guidelines to govern case analysis. These ill-structured problems have vaguely defined goals, lack constraints, and little is known about how to solve the problem in focus at any given time. There is no agreement on what constitutes a "good" solution stemming from a case study and the problem-solver lacks valuable information required to analyze the problems.

Design problems involve acting on goals to produce artifacts (Jonassen, 2000). They have ambiguous goals, no determined pathways to solutions, and require knowledge across various domains. An expert writer, for instance, not only has to focus on the intricacy of the writing and publication processes, but on the subject matter of each assignment. A software designer might have to develop programs or websites across a

range of interests. These types of problems are even more complex and ill-structured than case-analysis problems.

Dilemmas are problems that require the reconciliation of complex, non-predictive, vexing decisions with no apparent solution (Jonassen, 2000). Dilemmas can also refer to the inability to reconcile competing perspectives. These are the common, everyday personal, social, and ethical problems faced by most of us. Dilemmas are the most ill-structed and unpredictable problem type because there often involve involuntary, implicit compromises.

In an original classification scheme, here, *I categorize problems into five broad groups, based on the entity experiencing the problem.* According to my classification, problems must be (1) personal, (2) organizational, (3) technical, (4) social or (5) a combination of one or more of these types. Personal problems are those experienced by private individuals, couples, families, and other loosely associated groups of individuals. Organizational problems affect formally organized groups, such as organizations, businesses, and bureaucracies. Technical problems are found in the STEM fields. These problems, also known as algorithms, or equations, deal with mathematics, hard sciences (i.e., biology, chemistry, physics), technology, and/or engineering. Social problems affect segments of society (i.e., racial groups, communities, religious groups) or society as a whole. For example, homeland security threats would represent social problems. Finally, problems like the one that this dissertation addresses can be a combination of these types. What started out as a personal problem, judicial dissatisfaction regarding the #FreeMeekMill crisis has become a social problem.

What is problem-solving?

As a field, problem-solving is experiencing a definitional crisis (Burns & Vollmeyer, 2000; Quesada et al., 2005). There are, however, some widely accepted definitions of problem-solving. The literal definition of problem-solving is, "the process of finding solutions to difficult or complex issues". R.E. Mayer (1990) defines problem-solving as, "a summary of the cognitive processes focused on the change of the given state to the final state where the solution procedure is not obvious". In cognitive informatics, problem-solving is defined as a cognitive process of the brain that searches a solution for a given problem or finds a path to reach a given goal (Wang, 2007). According to Anderson (1985:257), problem-solving is, "any goal-directed sequence of cognitive operations". Adair (2016) characterized problem-solving as one of three forms of applied thinking that we all need, the other two being decision making and creative thinking. Problem-solving can be also loosely defined as a discipline in which generic or ad hoc methods or models are used in an orderly manner to find solutions to problems (Stamatis, 2015). In short, problem-solving can be defined as the process of moving from a given problem state to a final solution state. The oldest method of problem-solving, and arguably the most frequently used is trial and error: testing possible solutions until the right one is found (Bardach, 2015). This is what is referred to as crude problem-solving, which is the antithesis of the types of structured problem-solving described here. As a discipline, problem-solving is the branch of knowledge that concerns itself with the structured analysis of searching for solutions to given problems or finding pathways to given goals.

Jonassen (2000:63) notes that, “problem-solving is generally regarded as the most important cognitive activity in everyday and professional contexts.” Most everyday decisions are related to problem-solving. In fact, research, itself typically involves solving problems (Beveridge, 1957; Wang & Chiew, 2010). Similarly, every industry has problem-solving at the center of its operations. Learning to solve logical problems, algorithmic problems, and story problems is the principal reason for studying mathematics. Engineering relies on product-based, supply chain problems, broadly classified as decision-making problems, troubleshooting problems, and design problems. Engineers double as troubleshooters, who can evaluate the product line to be determine which products should be put into product line and which should be dropped (Tillman & Cassone, 2012). Business leaders also solve a wide range of rule-based, strategic performance, and case problems. These professionals use a range of skills to determine where to direct performance improvements, to weight mergers to see their impact on current operations, and to determine whether merging is the right move.

In psychology problem-solving is a cognitive process. Chang et al. (2004) define problem-solving as, “the self-directed cognitive behavioral process by which an individual, couple, or group attempts to identify or discover effective solutions for specific problems encountered in everyday living”. Traditional Gestalt psychology related problem-solving ability to learning and perception (Wang & Chiew, 2010). Since the early 1970s, psychologists have acknowledged the benefits of simulating the mechanisms of problem-solving using computers. Today, problem-solving has become a main driver of computer science research. Artificial intelligence uses algorithms to

translates problem-solving into a computerized process. Software and programs using this capability allow for “tests” of problem-solving strategies (Wang & Chiew, 2010).

General Problem-Solving Strategies

Wang & Chiew (2010) present a set of general problem-solving strategies. The first strategy is the “direct facts” method. This strategy involves finding direct solutions to problems based on known solutions (“using cheese to catch a pestilent mouse”). A second strategy, heuristic problem-solving, involves adopting rule of thumb or the most feasible solutions in a given problem-state (“orange juice to treat the common cold”) (Wang & Chiew, 2010). “Algorithmic deduction”, a third strategy, is when the problem-solver applies known and well-defined solutions for a problem (“3x4=12 :: 4x3=12”). Fourth, the hill climbing method is making any move that approaches closer to the problem goal step by step (“contain the flooding, then plug the leak, before repairing the toilet”) (Wang & Chiew, 2010). Fifth, exhaustive search involves using systematic search for all possible solutions (“a literature review on the effects of depression therapy to make clinical recommendations”). Divide and conquer is a sixth strategy, where a whole problem is solved by breaking it down into smaller parts (“low school attachment = poor performance + discrimination + poor social supports”) (Wang & Chiew, 2010). Finally, analysis and synthesis, a seventh strategy, is reducing a given problem to a known category then find particular solutions (“bowel irritability is a digestive issue; digestive problems are managed by gastroenterologists”) (Wang & Chiew, 2010).

The following are additional general problem-solving strategies presented by Wang and Chiew (2010):

1. Abstraction: solving the problem in a model of the system before applying it to the real system ("contracted by a local school system to use Transformative Framework to model the solution for truancy in a rural town").
2. Analogy: using a solution that solves an analogous problem ("calming chamomile tea helps improve sleeplessness, so it will also help reduce hyperactivity")/
3. Brainstorming: suggesting a large number of solutions or ideas and combining and developing them until an optimum solution is found ("a group of content editors meet to choose the layout for next month's newsletter").
4. Hypothesis testing: assuming a possible explanation to the problem and trying to prove (or, in some contexts, disprove) the assumption ("given the humidity levels, it is likely that these storm clouds will give way to rain showers").
5. Proof: try to prove that the problem cannot be solved. The point where the proof fails will be the starting point for solving it ("there are no suitable minority candidates for the professoriate. Jane is a minority professor. There must be issues with our recruiting efforts").
6. Reduction: transforming the problem into another problem for which solutions exist ("school shootings are acts of terrorism") (Wang & Chiew, 2010).

General Problem-Solving Models

Problem-solving models include specific steps that one would use to find the problems that are in the way to getting to one's own goal. Bransford and Stein (1993) call

this process the problem-solving cycle. In this cycle, one will recognize the problem, define the problem, develop a strategy to fix the problem, organize the knowledge of the problem cycle, figure out the resources at the user's disposal, monitor one's progress, and evaluate the solution for accuracy.[1] In addition to the general problem-solving strategies discussed above and the popular problem-solving cycle, various structured approaches to problem-solving have been examined and suggested. I discuss a few of them in the following sections. It is important to note that there are hundreds of different approaches to problem-solving so a full review of them here would be impractical. It is also important to point out that many of the models lack empirical support, as the techniques are generally rooted in the widely accepted and widely used scientific method.

Adair's Decision Making and Problem-Solving

John Adair, author of Decision Making & Problem-Solving Strategies (1997), writes about problem-solving from a cognitive, processual perspective. He combines the art of problem-solving with decision making to cite three levels of problem-solving competence (rationality) that should be achieved before attempting his problem-solving process:

1. Awareness of problems and the need for decisions;
2. Understanding of one's relative position with relation to problem or decision; and
3. Skill in asking the right questions, to the right people, at the right time, and being able to test problem-solving strategy based on truth.

[1] Although called a cycle, one does not have to do each step to fix the problem. In fact, in some cases if the problem is simple, not all steps may be necessary. However, the reason it is called a cycle is that once one is completed with a problem, usually another will surface (Stamatis, 2015).

Adair's actual problem-solving strategy uses the classic five step model/scientific method:

1. Define objective;
2. Collect relevant information;
3. Generate feasible options;
4. Make the decision; and
5. Implement and evaluate.

Adair's framework is useful for solving a range of technical problems, but it lacks originality, comprehensiveness, and has a narrow scope of applicability. His theory is unoriginal because it is essentially the rational-thought version of the scientific method. The steps are overly simplistic and impractical in many instances. Adair's problem-solving is a simple process, rooted in the unlikely assumption that problem-solvers are rational thinkers. His theory cannot handle the humanistic, emotional elements of the problem-solving process.

Adair assumes that problems are always well-defined and devotes no attention to the problem-state, leaving the user with no direction regarding the larger problem-solving context. He also advocates the collection of relevant, but not necessarily truthful information to solve problems. Adair does not account for the timing of the problem-solving process, and, based on the presentation of the framework, he assumes the steps in his model can or must be followed in order.

Adair's model is also inconsiderate of the role of resource availability and management in solving problems—simple or complex. It seems like he spends more time concerned with presenting problem-solving as a subset of decision-making, advocating

the “do something instead of nothing” method of many extant theories of problem-solving. Finally, Adair fails to account for the humanistic component of problem-solving and ignores the group dynamics inherent in many efforts to resolve problems and manage crises. Although I could not locate any studies that cite Adair (1997) in particular, it can be argued that any evidence of the scientific method’s effectiveness would constitute as evidence for his model, as it mirrors that process.

Firend’s 5 WH Problem-Solving Model

Al R Firend is a management scholar whose problem-solving model is also rooted in decision theory (Drucker, 2008; Taylor, 2013) and management literature. He argues that management science is essentially an attempt to create a methodology to solve problems (Firend, 2014). Management, as it stands, however, is still defined as a science that aims to *control situations* rather than one that exists to *solve problems*. Firend’s Problem-solving Model (PSM) involves the asking of six questions at each of the six stages of the model.

The six stages of the problem-solving model (PSM) are:

1. Collecting data
2. Classification of data
3. Analyses of data
4. Planning solution using 5WH
5. Implementation of solution
6. Measurement & correction

The six questions include:

1. Who are the people involved?
2. What are the elements (key points, issues, units of analyses) involved?
3. Where is the location (places, units, departments, members)?
4. When is the series of events going to occur?
5. Why do things happen?
6. How do things work, happen, or behave?

Although Firend's theory is as much conventional wisdom and common sensical as he claims, and he attempts to back his theory with evidence of its effectiveness, there are several problems with the 5WH model and the accompanying research.

Firend claims that, "the application of PSM at the personal and professional levels demonstrated clarity and a systematic methodology to designing and formulating an approach to dealing with new, repetitive, and complex tasks or situations with [a] P-value of ($p<.03$)". He mentions a qualitative study, with data about PSM's effectiveness among graduate students collected over four months but Firend does not provide any additional demographic statistics about the sample(s) beyond sample size or any descriptive statistics regarding the groups' problem-solving experiences; and does not include any direct quotes from the interactive interviews he claims that he's conducted.

With regard to the model itself, similar to Adair's model, its content is extremely unoriginal. His six steps closely mirror the scientific method, with an extra (sixth) step for the evaluation of the results. Also like Adair, Firend's model does not place any focus on the problem-space or context beyond where, geographically, problems occur. He does discuss the humanistic element of problem-solving, but in a pejorative way, only: "The

human factor is the primary factor in causing deficiency, problems, flaws, and ineffectiveness." (Firend, 2013:8). This pessimism may be warranted but does little to inform the problem-solver on how to overcome our instinctual shortcomings.

Similarly, Firend's PSM does not include a group dynamic, despite being billed as an organizational management theory. His model also lacks the verification of data, neglects the role of resource allocation in shaping the planning process, and does not say anything regarding procedural fairness. These are all important factors to consider when solving problems in groups, organizations, and corporations. Unfortunately, Firend's theory, as its written, is unable to fully support the complex problem-solving process.

Bardach's Eightfold Path

Eugene Bardarch (2015) offers another spin on the scientific method, this time geared towards policy analysis. His model, called The Eightfold Path, consists of eight steps:

1. Define the problem;
2. Assemble some evidence;
3. Construct the alternatives;
4. Select the criteria;
5. Project the outcomes;
6. Confront the trade-offs;
7. Decide;
8. Tell your story.

In Bardach's (2015) model, he is less reliant on the scientific method and offers a framework that is slightly more original than Adair's and Firend's. In the definition stage, he advocates an evaluative statement of the problem that diagnoses the root causes of problems. Step two, he is sure to delineate his evidence assembly process from the traditional academic research practice to reflect the real-world settings in which policy analysis is done. He suggests an economical data collection phase, collecting only data that can be turned into information, that can be converted into evidence that has some bearing on your problem. The solution planning phase is step three, where users propose alternative strategies of intervention *processes* to solve or mitigate the problem. In step four, evaluative standards are selected to judge the goodness of the projected policy outcomes associated with each of the alternative processes proposed in step three. Bardach (2015) notes that the most important evaluative criterion is whether or not the projected outcome will solve the policy problem to an acceptable degree. Other evaluative criteria to apply to the final outcome include: efficiency, equality, equity, fairness, justice, freedom, and community. After the criteria for evaluating the proposed processes are selected, in step five, outcomes are projected for each of the alternatives proposed in step three. Step six is all about the cost-benefit of the outcomes projected in step five. Step seven is the solution phase, where users decide what to do based on previous steps. In step eight, problem-solvers share their experiences with some audience, whether it be a one-time-only event, or the first effort in a planned long-term campaign to gather support behind a legislative or executive change (Bardach, 2015).

Social Problem-Solving

Similar to Adair's Decision-Making and Problem Solving Model and Firend's PSM, there appear to be no formal tests of Bardach's model in real-world settings. This does not mean that they are ineffective or irrelevant, as many studies are coincidentally indirect tests of the cycles presented by these authors. Although many problem-solving models go untested, there are, however, some problem-solving experiments in the fields of computer-science, education, and therapy/medicine. In the following section, because of the extensive high-quality research done in the area, I discuss social problem-solving as an example of how problem-solving strategies like the ones presented above have been found to be effective in clinical settings.

Social Problem-Solving and the Social Problem-Solving Inventory

Social problem solving seeks to solve problems as they occur in the natural environment or the "real world" (D'Zurilla, 1986; D'Zurilla & Nezu, 1982). The study of social problem solving is involved with all types of problems that might influence one's adaptive functioning in the real-life social environment. The social problem-solving model for clinical practice was originally introduced by D'Zurilla and Goldfried (1971) and was later expanded and revised by D'Zurilla and others (i.e., Maydeu-Olivares & D'Zurilla, 1995, 1996; D'Zurilla & Nezu, 1982, 1999). Social problem-solving has three major components: (1) the problem; (2) problem-solving; and (3) solution:

The problem is defined as any life situation or task (present or anticipated) that demands a response for adaptive functioning, but no effective response is immediately apparent or available to the person or people confronted with the situation because of the presence of one or more obstacles (D'Zurilla & Nezu, 1982;1999). Such problems

include impersonal problems (i.e., lack of financial stability), personal or intrapersonal problems (emotional, behavioral, cognitive, or health problems), as well as broader community and social problems (i.e., crime) (Chang et al., 2004).

Problem-solving is the cognitive behavioral process through which effective solutions for specific problems are identified or discovered (D'Zurilla & Nezu, 1982;1999). Social problem-solving ability consists of two general, partially independent components: (a) problem orientation and (b) problem-solving skills [later referred to as "problem-solving proper,'' (D'Zurilla &I. Nezu, 1999), and then "problem-solving style," (D'Zurilla et al., 2002)]. Problem orientation was described as a metacognitive process involving the operation of a set of relatively stable cognitive-emotional schemas that reflect a person's general beliefs, appraisals, and feelings about problems in living, as well as his or her own problem-solving ability.

Applying a problem-solving orientation usually involves defining problems as challenges, believing that the problems can be solved, and realizing that effective problem solving tends to require time and systematic effort (Nezu, 2004).

Problem-solving style involves using rational problem-solving skills to search for solutions (D'Zurilla & Nezu, 1982;1999). Rational problem-solving skills include:

(1) attempting to identify a problem when it occurs;

(2) defining a problem;

(3) attempting to understand the problem;

(4) setting goals related to the problem;

(5) generating alternative solutions;

(6) evaluating and choosing the best alternatives;

(7) implementing the chosen alternatives; and

(8) evaluating the efficacy of the effort at problem solving (D'Zurilla & Nezu, 1999).

These steps are generally used in the clinical applications of social problem solving, such as Problem-Solving Therapy, which is discussed in a later section.

A solution is a situation-specific coping response or response pattern (cognitive or behavioral) that is the product or outcome of the problem-solving process when it is applied to a specific problematic situation (Chiang et al., 2004).

Based on this theoretical model, D'Zurilla and Nezu (1990) developed the Social Problem-Solving Inventory (SPSI), which today consists of five major scales: two problem-orientation dimensions and three problem-solving styles dimensions. The two problem-orientation dimensions are *positive problem orientation* and *negative problem orientation*, whereas the three problem-solving styles are *rational problem solving* (i.e., effective problem-solving skills), *impulsivity-carelessness style*, and *avoidance style*. These five dimensions of social problem-solving ability are measured by the Social Problem-Solving Inventory-Revised (SPSI-R; D'Zurilla et al., 2002). The most favorable problem-solving outcomes are likely to be produced by individuals who score relatively high on measures of positive problem orientation and rational problem solving while scoring relatively low on measures of negative problem orientation, impulsivity-carelessness style, and avoidance style (D'Zurilla et al., 2002). The SPSI-R is used by

evaluators to assess the effectiveness of social problem-solving interventions like Problem-Solving Therapy (PST), discussed below.

Problem Solving Therapy (PST)

Problem Solving Therapy (PST) involves teaching therapy clients how to use a step-by-step process like the ones discussed above to solve life problems (Malouff et al., 2007). PST is a derivative of social problem solving, which, as stated above seeks to solve problems as they occur in the natural environment (D'Zurilla, 1986). Evaluators of PST typically use the PSI-R to assess whether individuals' problem-solving abilities have changed after being exposed to problem-solving therapies that incorporate D'Zurilla and Nezu's social problem-solving model (discussed above). Like the problem-solving strategies employed in the social problem-solving model, the PST process is iterative: if the efforts to solve the problem fail, one may return to any step and try again. PST typically involves oral and written presentation of problem-solving steps by the therapist, along with guided practice, both in session and as home assignments, in solving real problems. Developers of PST recommend that clients receive 8–16 sessions of 1.5 to 2 hours each (D'Zurilla & Nezu, 1999).

An evaluation of the effectiveness of problem-solving therapy by Malouff et al. (2007) included thirty-one studies, which encompassed a total of 2895 participants, and produced 39 effect-size analyses. Overall, PST had a significant effect size, when compared to being on a waiting list, treatment as usual, and an attention/placebo comparison group. The results provide strong evidence that PST tends to be effective in treating mental or physical health problems. Further, PST studies that included both rational problem-solving style and training in problem orientation had larger effect sizes

than studies that did not. This finding is consistent with the finding of Nezu and Perri (1989) using an experimental research method that depression improved more when clients received problem orientation training in addition to training in the rational steps of problem solving.

A more recent study by Kirkham et al. (2015) also found that problem-solving therapy is effective for treating depression. A meta-analysis of six studies evaluating the effect of PST on depression found a significant reduction in depression associated with PST. In studies reporting this outcome, PST was also effective in reducing disability. Further study is required to understand long-term outcomes associated with PST and its efficacy when compared to other treatments.

Problem-solving therapy has also been identified as an effective stand-alone treatment when adapted for diabetes self-management. Schumann et al. (2011) found that PST is a promising behavioral intervention for improving health-related problem-solving, diabetes self-care behaviors, and disease control. Finally, PST is a promising intervention for depressed older adults with executive dysfunction who are at risk for suicide (Gustavson et al., 2016).

Problem-Solving Models in Criminology

Criminology is also home to some evidence of the effectiveness of problem-solving. In fact, all of criminology is problem-solving. Reducing juvenile delinquency, ending gun violence, understanding drug epidemics, and maintaining order are just some of the problems criminologists face daily. In criminology and criminal justice, however, problem-solving is most clearly observed within the context of problem-oriented policing.

Problem-oriented policing (POP) is a police management philosophy, under which community policing problems are defined as recurring and substantive community concerns (Knuttson, 2003). Problems in this context have been defined in a more narrow sense than they are usually defined, which essentially saves a step in the problem-solving process. For example, instead of focusing on disorder, problem-oriented policing adherents would focus on the specific *types* of disorder in a community. Problem-oriented policing is primarily a preventive approach where solutions to serious community problems ideally do not rely upon use of the criminal justice system (Knuttson, 2003). This more wholistic, humane approach to justice is widely supported in the United States and abroad (Knuttson, 2003). According to Knuttson (2003), the main idea of problem-oriented policing is to persuade police to move away from incident-driven policing by identifying the problems that lead citizens to call for assistance, and then to intervene in the mechanisms that cause the problems. This is referred to as root cause analysis. Root cause analysis is somewhat self-explanatory: the goal is to get to the "root" of the problem, rather than addressing immediate causes or problem symptoms (Knuttson, 2003).

At a higher level of abstraction, problem-oriented policing may therefore be characterized as *a much more analytic way of conducting police business* than practiced hitherto. The goal is to get away from a reactive incident-driven mode in favor of a proactive and preventive way of conducting police business.

Problem-oriented policing was developed because local departments experienced difficulty when it came to addressing reoccurring criminal justice problems in local communities. Goldstein (1979) admonished the police's current practice at the time as

largely reactive, and in turn ineffective. His goal was to encourage departments to move away from trial and error, towards a more systematic, preventive approach to solving criminal justice related issues. Although his paper was published almost 40 years ago, the problem-oriented approach to policing is still one of the most popular policing strategies. Numerous reviews, case studies, and experiments tout the effectiveness of problem-oriented policing (Weisburd et al., 2000).

. In an evaluation of their problem-oriented policing intervention Eck and Spelman (1987) present five problem-solving strategies. These steps have been edited to fit the broader context of problem-solving.

1. *A problem can be solved by completely eliminating it.*
2. *A problem can be solved by reducing the number of symptoms or incidents it creates.*
3. *A problem can be solved by reducing the harmfulness of the incidents it creates.*
4. *A problem can be solved by removing it from consideration.*
5. *A problem can be solved by designing methods for better handling the incidents.*

As the authors note, not all of these types of solutions are equally satisfying in the abstract (Eck & Spelman, 1987). It is unlikely that most problems can be totally eliminated, but a few can. For problems that cannot be totally eliminated, ameliorating the problems' effects and impact is preferred. Removing a problem from consideration is not ideal but, some problems lack feasible solutions and must be managed or accommodated until further notice.

Below, I detail two subsets of problem-oriented policing, the SARA and CAPS models of problem-solving.

SARA: Scan, Analysis, Response, Assessment/Evaluation

SARA is the specific problem-solving framework used in problem-oriented policing. It was initially developed in practice, and later modified based on the experiences and feedback from police and practitioners. SARA was a huge hit, gaining traction quickly since its introduction in 1987 (Eck and Spelman, 1987). Today, SARA is, in many cases, used synonymously with problem-oriented policing (POP). Before delving into the nuts and bolts of the model, I will share its benefits:

- SARA takes a common-sense approach to questions dealing with crime and disorder;
- SARA makes problem-oriented policing easier to learn;
- SARA is "catchy";
- SARA can be used to measure departments' fidelity to the POP model;
- And, perhaps most importantly, it has gone viral within the world of policing and crime prevention.

SARA is an acronym used to describe the four essential stages of a problem-oriented policing project: Scanning, Analysis, Response and Assessment (Eck and Spelman, 1987).

During the Scanning phase: problems are identified that are of recurring concern to the public and the police; the consequences of the problem are identified; problems are prioritized; broad goals are developed; there is confirmation of the problems' existence; frequency and duration of the problem are determined; and problems are selected for closer examination (Eck & Spelman, 1987).

The Analysis phase determines which of the conditions producing problems might be open to preventive intervention. This is accomplished by: identifying and understanding the events and conditions that precede and accompany the problem (root cause analysis); identifying relevant data to be collected; researching what is known about the problem type; taking inventory of how the problem is currently addressed and the strengths and limitations of the current response; narrowing the scope of the problem as specifically as possible; identifying a variety of resources that may be of assistance in developing a deeper understanding of the problem; and developing a working hypothesis about why the problem is occurring (Eck & Spelman, 1987).

During the Response phase, problem-solvers put in measures to remove, reduce, or ameliorate the effects of the problem. These individuals: brainstorm for new interventions; search for what other communities with similar problems have done; choose among the alternative interventions; outline a response plan and identifying responsible parties; state the specific objectives for the response plan; and carry out the planned activities (Eck & Spelman, 1987).

Finally, SARA concludes with the Assessment phase, where evaluators assess the effects of problem-solving efforts. This phase involves: determining whether the plan was implemented (process evaluation/fidelity assessment); collecting pre and post response qualitative and quantitative data; determining whether broad goals and specific objectives have been attained; identifying any new strategies needed to augment the original plan; and conducting ongoing assessment to ensure continued effectiveness (Eck & Spelman, 1987).

In 2010, Weisburd and colleagues conducted a systematic review on the effects of problem-oriented policing initiatives following the SARA model. After reviewing 10 quasi experimental studies, he authors concluded that there was a modest, yet statistically significant impact on crime and disorder (Weisburd et al., 2010). Some studies showed backfire effects, which the authors attributed to a lack of fidelity to the treatment model. In their analysis of less rigorous pre-post-test studies sans comparison groups, the authors noted a "remarkable" consistency of positive outcomes. Weisburd et al. (2010) concluded that problem-oriented policing as an approach has significant promise to ameliorate crime and disorder.

Another study by Weisburd et al. (2008) offered insight into the types of problem-oriented policing interventions that appear to be most effective. These programs are: Hot spots policing programs; programs with demonstrated fidelity to the tenets of POP; realistic programs; programs that emphasize collaboration with outside criminal justice agencies; and those that are constantly evaluated for effectiveness (Weisburd et al., 2008).

The Center for Evidence Based Crime Policy notes that, although POP has promise, it is so broad that departments find it difficult to give specific recommendations for dealing with certain problem types. The Center for Problem-Oriented Policing recognized this problem and created more than 70 guides for solving specific problems. Examples of the specific problem types for which expertise is provided include: robbery of pharmacies, elderly abuse, and home invasion robbery.

Chicago Alternative Policing Strategy (CAPS)

The Chicago Alternative Policing Strategy (CAPS) is a community-based initiative that was introduced by the Chicago Police Department (CPD) in 1993 to enhance the efficiency of policing efforts in Chicago (Kim and Skogan, 2003). A subset of problem-oriented policing, CAPS follows a five-step process:

1. Identifying and prioritizing problems, incorporating community input;
2. Analyzing information about offenders, victims, and crime locations;
3. Strategizing solutions for problems by "thinking outside the box" of traditional police enforcement tactics, using new resources that were developed by the city to support problem-solving efforts;
4. Implementing the solutions; and
5. Evaluating effectiveness through self-assessments to determine how well the plan has been carried out and what good can be accomplished by it (Kim and Skogan, 2003).

The structure of the program allows for monthly meetings with law enforcement and community advisory committees, and regular, extensive trainings that include both groups (Kim & Skogan, 2003). Like the traditional problem-oriented policing model, SARA, CAPS is dedicated to prevention and community welfare. Examples of CPD's community-based crime control efforts include the use of civic education, media ads, billboards, brochures, festival booths, and rallies to advertise CAPS and build awareness throughout neighborhoods in Chicago. To fight crime more effectively, CAPS uses city services and new technology to target crime and manage small crime problems before they surmount to larger ones (Kim and Skogan, 2003).

Kim and Skogan (2003) used a time-series analysis to test the effectiveness of CAPS. First, the research team aggregated crime data from 3.9 million individual crime incidents reported over a 78-month period. The data on 911 calls were aggregated from 23.4 million calls, over a 40-month period. Data collection was then separated into two data sets. The first data set included 74 geographical units—47 beats (units) reviewed CAPS and the remaining 37 beats were used as a control group. Due to missing data, only 66 units (33 control and 33 experimental) were used in the study. The second data set included 50 units, with 25 receiving the CAPS intervention and 25 serving as controls. Kim and Skogan (2003) found that 15 out of the 33 beats in the first group (45.5 percent) that received CAPS had better crime control outcomes than the comparison group. While one intervention beat had unchanged crime in comparison to the control group that saw an increase in crime, the other 14 beats saw a decrease in crime. In 2 of the 33 intervention beats (6 percent), the crime rates actually increased, while crime in comparison beats remained unchanged. With regard to crime reduction, CAPS demonstrated modest, yet relative effectiveness in crime reduction. The second component of the study examined calls to 911, a more liberal measure of effectiveness. In this case, 13 out of 25 beats, or 52 percent of cases receiving the intervention saw successful call reduction outcomes (Kim & Skogan, 2003).

The Community Problem-Solving and Change Framework

Although the social problem-solving models discussed above are excellent resources, and have informed the development of Transformative Framework, to me, the best example of an existing problem-solving model given the current context is the Community Problem-Solving and Change Framework, developed by the Community Anti-Drug Coalitions of America (Yang et al., 2012). The Community Problem-Solving and Change Framework (CPSCF) is a popular problem-solving model embraced by the Institute of Medicine (Institute of Medicine, 2002), the Centers for Disease Control and Prevention (Fawcett et al., 1995), and the Workgroup for Community Health and Development at the University of Kansas (Collie-Akers et al., 2007; Fawcett et al., 2001). It is used primarily in efforts to improve population-level health outcomes. The model includes four components (Yang et al., 2012):

1. Coalition operational and problem-solving capacity;
2. Comprehensive community change strategies;
3. Community changes;
4. Population-level changes.

The model assumes the use of coalitions to address macro-level problems. Coalitions are collaborative entities comprised of two or more stakeholders temporarily or permanently working together in a partnership to address a common goal (Yang et al., 2012). Coalitions vary significantly in their size, budget, and geographic locations, and these characteristics have important implications for coalition functioning (Office of National Drug Control Policy, 2007). Evidence shows that effective community coalitions create

conditions for improving population-level outcomes (Hingson et al., 2005), such as reducing teen pregnancy (Paine-Andrews et al., 2002), cardiovascular disease (Francisco, Paine, & Fawcett, 1993), or substance abuse (Hallfors et al., 2002). These studies are based on social-ecological theories that suggest that population-level health behaviors are strongly tied to environmental conditions: when communities have policies, programs, and practices in place promoting healthy behavior and preventing risky conduct, population level health outcomes will improve (Yang et al., 2012). In other words, the community problem-solving and change framework assumes that "it takes a village" to solve a macro-level problem. The following sections explore the four stages of the CPSC framework.

Coalition Operational and Problem-Solving Capacity

The first stage of the community problem-solving and change (CPSC) framework focuses on the coalition itself. Specifically, it addresses the activities required to create, improve, and maintain the coalition (Butterfoss, 2007; Foster-Fishman, Berkowitz, Lounsbury, Jacobson, & Allen, 2001). Research suggests that coalitions with strong internal operations are more likely to achieve their goals (Watson-Thompson et al., 2008; Zakocs & Edwards, 2006) and that group cohesion and leadership are among those factors that are related to effective internal operations (Zakocs & Edwards, 2006). Enhancing the effectiveness of internal coalition operations in the CPSC model also involves building operational and problem-solving capacity. This stage comprises three dimensions: (1) coalition use of essential decision-making processes; (2) development and use of quality planning products; and (3) expanded coalition membership.

Essential decision-making process are “modifiable factors or activities that have been shown to increase the likelihood of making an impact” (KU Work Group for Community Health and Development, 2007). By engaging in these essential decision-making processes, coalitions are more likely to bring about changes in the community programs, policies, and practices they seek to address (Watson-Thompson et al., 2008). Examples of essential decision-making processes may include: assessing community needs and resources in the community; developing a framework of change to describe how the coalition will achieve outcomes; identifying, adapting, and implementing interventions; and evaluating the coalition (Yang et al., 2012). A typical problem-solving model would stop here, but the CPSC model goes on to include the development and use of quality planning products as another sub-step in the problem-solving process.

Planning products are items such as: community assessments, logic models, and evaluation plans (Yang et al., 2012). Quality planning products are critical to effective problem-solving capacity because they improve coalition functioning (Fawcett et al., 2001; Hays, Hays, DeVille, & Mulhall, 2000; Watson-Thompson et al., 2008). In a case study of a coalition’s ability to decrease risk for cardiovascular disease, planning products (a strategic plan, logic model, and action plan) were key determinants in the coalition’s effectiveness (Collie-Akers et al., 2007).

The third dimension of coalition operational and problem-solving capacity is expanded coalition membership. Recall, coalitions are groups of stakeholders that work together to achieve a common goal. This substage encourages aggressive membership recruitment and retention, based on evidence demonstrating that coalitions with more members may have more expertise and assets to put into play at addressing the targeted

community concern and are more likely to have a broader reach within their community change efforts (Foster-Fishman et al., 2001; Mays, Halverson, & Kaluzny, 1998, Lasker, Weiss, & Miller, 2001).

Comprehensive Community Change Strategies

Stage two of four of the CPSM focuses on the coalition's ability to engage in multi-strategy, comprehensive action (Yang et al., 2012). Coalition interventions must be broad-based, comprehensive, and seek change at multiple levels (Sorensen, Emmons, Hunt, & Johnston, 1998). Several researchers have found evidence that going beyond individual-level solutions, to more broad-based, far-reaching strategies is more effective than single-level strategies (Hingson et al., 2005; Paine-Andrews et al., 2002; Roussos & Fawcett, 2000; Watson-Thompson et al., 2008). Pain-Andrews et al. (2002) provide seven strategies for enhancing comprehensiveness of coalition-based efforts.Coalitions should ask themselves if they do each of the following tasks (examples in parentheses):

1. Provide information (i.e., educational presentations and media campaigns);

2. Enhance skills (i.e., parenting classes and skill-building workshops for youth);

3. Provide support (i.e., mentoring and alternative activities);

4. Enhance access/reduce barriers (i.e., make community services and supports more available);

5. Change consequences of behaviors (i.e., create incentives and disincentives such as community awards, taxes, and citations);

6. Change the physical design of the environment (i.e., build parks and hospitals);

7. Modify/change policies (i.e., target government, community, and organizational policies).

According to Yang et al. (2012), coalitions that target more of these strategies, with greater intensity, are considered to be more comprehensive in their approach to change. Strategies like the last four listed here (Enhancing access/reducing barriers; Changing consequences; Changing the built environment; and Modifying/changing policies) are considered the most intensive because they target environmental changes (Yang et al., 2012). Environmental or systems changes are more effective, sustainable mechanisms for producing population change because they shift the form or function of a context or setting (Foster-Fishman et al., 2007). Thus, coalitions with a more comprehensive array of strategies also pursue more types of environmental changes.

Community Changes

The final component of the problem-solving model before population change is achieved is the facilitation community change (Yang et al., 2012). The facilitation of community change is defined as the development of new or modified programs, policies, and practices that are related to the mission and goals of the coalition (Francisco et al., 1993; Fawcett et al., 1995). Research indicates that effective coalitions promote numerous community changes: In a case study of a chronic disease coalition, the coalition facilitated 321 community changes within a 2-year period of time (Collie-Akers et al., 2007). Although not the distal outcomes for a coalition (see Figure 1), community changes are an important intermediate step toward long-term population changes.

Population-Level Changes

The final component of the Community Problem-Solving and Change Framework is population-level changes (Yang et al., 2012). Yang and colleagues (2012) do not specifically address this stage, but they imply that it refers to the observed outcomes related to the problem-solving effort. The population change stage appears to be an extension of the community changes stage, where changes to the conditions addressed are observed. In the population-level change stage, these changes are expected to extend across larger segments of the population.

The Effectiveness of CPSCF

Although the effectiveness of some of the subcomponents of the Community Problem-Solving and Change Framework have been incorporated into the discussion above, Yang et al. (2012) conducted an evaluation of the overall model's effectiveness in addressing local substance abuse problems. The sample included in the study was comprised of 625 unique coalitions that participated in a national survey conducted in 2007 by Community Anti-Drug Coalitions of America (CADCA), which aimed to gain a better understanding of anti-drug coalitions in America (Yang et al, 2012). Participating coalitions were required to have at least three community sectors (i.e., law enforcement, schools, and youth organizations) represented in the coalition. The final sample, after excluding missing data, included 551 coalitions, mean age of 8.6 years, with 21.6 different sectors represented in their memberships (Yang et al., 2012). Most coalitions had a budget less than $100,000. The study's findings suggest that coalitions are more likely to produce community changes and thus achieve important intermediate outcomes when they develop their operational and problem-solving capacity, as measured by

coalition use of essential processes, the development and use of quality planning products, and expanded coalition membership (Yang et al., 2012). Coalitions are also more effective when they pursue a more comprehensive array of strategies. Similarly, coalitions are more likely to pursue a breadth of comprehensive strategies when they have strong operational and problem-solving capacity (Yang et al., 2012). The pursuit of more comprehensive strategies, in turn, is related to higher levels of community changes. In addition, according to Yang et al. (2012), the mediating effect of comprehensive strategies on the relationship between coalition capacity and community changes provides further support for the community problem-solving model, CPSCF. Although this research only included substance abuse coalitions, the sample of coalitions reflected considerable diversity in age, budget, membership size, and geographic location, suggesting the application of the model to a variety of coalitions (Yang et al., 2012). In addition, the robustness of the problem-solving model is further indicated by the fact that the framework was not moderated by coalition age or geographic location (Yang et al., 2012).

These findings highlight the importance of building a coalition's operational and problem-solving toolkit, including the development and use of planning and evaluation tools (Collie-Akers et al., 2007; Hays et al., 2000; Watson-Thompson et al., 2008) and expanding coalition membership (Foster-Fishman et al., 2001). They also highlight the importance of coalitions pursuing comprehensive strategies, particularly strategies that highlight environmental change. In addition, this research suggests that effective community problem-solving can produce key macro-level outcomes (Yang et al., 2012). Yang and colleagues (2012) note that future research should consider the role of training

and technical assistance in the process of community problem-solving capacity development.

Problem-Solving: A Recap

Like the definition of problem-solving, there is considerable variability in the types of problem-solving methods on the market. This is not necessarily problematic as, despite the diversity in method, there tends to be consistency in the effectiveness of standalone problem-solving strategies and problem-solving models across various disciplines. One common thread that I have identified throughout the various models is the stepwise approach to finding solutions to problems. I also observed that many of the models mirror the scientific method and/or the Socratic method of asking a series of questions. In addition, most models are cyclical and reflect an iterative process. Another commonality is the careful definition of problems to be solved. Because these three features are present in effective problem-solving models, any new model should incorporate one or all of these characteristics (the scientific method, iterative process, and asking key questions). The model I present below, Transformative Framework, includes these three features and is a conglomeration of each of the models presented above, with an added focus on group dynamics, procedural justice, resource management, and professional development.

Chapter Two: Transformative Framework

The original model I introduce here, Transformative Framework, is a set of alliterative concepts, also known as The Ten T's. The model is designed to be straightforward, intuitive, and easy to remember, even for those with little or no analytical training. It conveniently balances breadth and specificity and, as I demonstrate below, it is able to subsume each of the popular problem-solving models described in earlier sections. The model includes the following components:

Turbulence

During this stage, problem-solvers assess the environment's instability and set realistic goals for a more stable environment. This stage addresses the problem-state, or the environmental context within which problems occur and are to be solved. In this stage, the problem solver(s) is/are identified and the environment is scanned for problems. For example, in this phase one might identify similar problems to see how they were solved, determine how many people the problem affects, and identify the gaps in the current strategy to address the problem. In practice, this might look like surveying a community to determine what the problems are, identifying a lead problem-solver or group of problem-solvers to undertake the problem-solving process, and determine what infrastructure has failed to produce current problems. During this stage the problem solver and individuals experiencing the problem(s) should also understand that the goal of the problem-solving exercise is to find a solution for the identified problem or crisis. For instance, a community dealing with civil unrest might want to see an end to protests.

Translate

During this phase, problem-solvers get to the root of the issue(s) by translating circumstances into solvable problem(s). For example, the observed problem in a community may be civil unrest, with a root cause of racism, but a solvable problem might be structural inequality (i.e., poverty, lack of opportunity structure). While it may not be possible to eradicate society of racial discrimination, it may be possible to solve the symptomatic problems associated with racism.

Truthfulness

This is the information-gathering and data analysis phase. Here, problem-solvers should ask the question, "*what are the verifiable, objective, bare facts related to the problem(s)*?". Sophisticated statistical analyses are not required as truthfulness is unique from empirical projections or forecasting. Truthfulness refers to those facts that are indisputable. Empiricists usually refer to these factual data as descriptive statistics. Continuing with the example of a community dealing with racism, some relevant statistics to collect might be the percentage of minorities who experience disparate outcomes in education, employment, housing, incarceration, and health. Then, it might be useful to conduct a survey to determine which of these areas are of most concern to the community, who the community feels is most apt at addressing these problems, and what they feel are the largest contributors to the problems.

Trial

This stage involves two components: *identification* and *implementation.* During the identification phase, problem-solvers should identify possible solutions, in light of the information gathered in the Translate and Truthfulness phases. In the example above,

suppose there are 2 community problem solvers who identify the problems related to the root cause of protests as poverty. During the trial-identification phase, the problem solvers would identify potential solutions to the poverty problem. One problem-solver might advocate vocational training, while the other might support funding opportunities for emerging entrepreneurs. During the trialimplementation phase, problem-solvers should develop an implementation plan and/or implement solutions for problem-solving strategies identified as most appropriate during the identification phase. The implementation phase is also where problem-solvers should develop educational materials, survey measurement instruments, or other material for implementing and evaluating solutions. Continuing with the civil unrest, racism, poverty example, in this stage, the problem-solvers should develop strategies for implementing their proposed solutions. Both problem solvers would need to prepare educational materials to explain and promote their solutions to stakeholders. Problem solvers would also need to develop a metric that would determine whether their solutions effectively solve the problem at hand (poverty). An example would be a survey of individuals who participate in a vocational program or receive a business development grant to see if these programs have improved their economic state. Surveys could also assess whether these programs have an effect on the community at large.

Timing

This is the first of two resource-management phases. During this stage, problem-solvers should create a “time budget”, or hypothetical timeline, that outlines the amount of time you can spend on solution-based activities. In the example above, problem solvers would need to establish timelines for developing a vocational education program and for

establishing a fund for budding entrepreneurs. Problem solvers should set specific deadlines for each activity related to the proposed solutions.

Teamwork

This second resource-management phase focuses on stakeholder recruitment and retention. In some ways, the problem-solver doubles as a manager. At this stage, one should ask: What group-level accommodations are necessary to increase efficiency *and* effectiveness in the implementation process? Using the example of a community trying to solve the problem of poverty, it would make sense to include stakeholders who have considerable resources in the problem-solving process. The problem solvers should identify a list of stakeholders to include members of the local government, members of the school board, residents, and business partners. Once stakeholders are identified, they should be contacted to invite them to participate in plenary meetings where Transformative Framework is introduced. Once introduced to the Framework, the stakeholders should be integrated into the problem-solving process as secondary problem-solvers and the Turbulence and Translate stages should be repeated for each stakeholder. During the process, there should be a system in place to ensure that each stakeholder's voice is heard.

Transparency

Problem-solving, in many cases is about compliance—compliance with methods on behalf of the researcher, compliance with policies, compliance with implementation plans, compliance with timelines, etc. Due to this, Transformative Framework also includes two phases rooted in procedural justice concepts. In short, procedural justice theories hold that compliance is more likely when processes are transparent and

trustworthy (Tyler, 1994). Thus, in the first of two procedural justice-based stages, the Transparency stage is intended to ensure that the problem-solver's motives are clearly stated. Problem-solvers should make sure the following questions are answered for their audience(s): *What are the reasons for choosing to solve the problems at hand? Why were the proposed solutions selected? Is there any information that the public should know that is not clearly stated during earlier stages?* All stakeholders should be honest about their role in the problem-state. For instance, if the problem is poverty, the local government should be transparent about their role in ameliorating poor economic conditions for residents, the school board should be candid about how they accommodate students with limited financial resources, and business owners should be frank about their hiring practices and reinvestment activities.

Trust

The second procedural justice-based stage is Trustworthiness, which emphasizes building and maintaining trust among stakeholders. Problem-solvers should consider the following: *What specific actions will be undertaken to build trustworthy relationships among stakeholders and the populations they serve?* In criminological problem-solving situations, one should ask: *How can the solutions proposed maximize procedural justice, or perceptions of fairness and equity in the administration of justice?* When stakeholders are communicating, it is important that they show respect to one another and do not speak in condescending or patronizing terms. It is important that stakeholders keep their promises to one another and that there are no unrealistic expectations. Trust among stakeholders ensures that the problem-solving process goes smoothly and increases the likelihood that relationships will last.

Training and Technical Assistance

If the problem extends beyond the individual, to a team, group staff, or community, the Training stage ensures that individuals remain compliant and comfortable implementing the solution(s) you've decided on. Here, problem-solvers should develop instruments to assess problem solvers' competency in achieving assigned tasks. During this stage problem-solvers should also partner with the public to provide technical assistance. Problem-solving strategies should be documented and scaled up or disseminated for maximum impact. Suppose the problem solvers in the example above are able to accomplish their goals of implementing a vocational training program and an entrepreneurship grant program. During this stage they would take the lessons learned during the planning process and develop a training and technical assistance strategy to inform community leaders and residents of how to take advantage of the new programs, how to develop similar programs, and what to expect during the process. There also needs to be training in place for the facilitators of the new programs and for participants.

Troubleshoot

This is the evaluation arm and final stage of the Framework. At the Troubleshoot stage, it is important to establish credibility by demonstrating the effectiveness, or potential effectiveness of the proposed solutions. Here, problem-solvers or some other appointee should use the instruments developed in the Trial stage to determine how well solutions hold up when they are under scrutiny and the instruments developed in the Training and Technical Assistance stage to assess fidelity.

The Generalizability of Transformative Framework

Transformative Framework is generalizable, comprehensive, and applicable to a wide range of problems. For example, in an engineering context, the Framework could be applied to the development and roll-out of a controversial product. An example of an engineering problem might be the functionality of a robotic arm. It may be the case that a new software update requires the recall and reprogramming of the apparatus. An engineer using Transformative Framework would accomplish the following: in the *Turbulence* phase, she would research the markets for which the recall needs to take place and determine the extent of the crisis. In the *Truthfulness* stage she finds that the majority of customers can update the software themselves, save elderly customers. Now, she can *Translate* the issue into a problem of recalling the robotic arm for customers over the age of 65. (Notice how the stages, like in other iterative problem-solving models, need not occur in order.) After narrowing the problem and the problem-state, she can identify successfully retrieving and returning the apparatus to, let's say 500 customers as the potential solution to the unstable environment. With a problem and potential solution in hand, she can conduct research to determine how much shipping and repair costs are, including labor, during the *Truthfulness* phase, assess the company's proposed timeline during the *Timing* phase and implement the recall during the *Trial* phase. Group dynamics are addressed during the *Teamwork* phase and employees are trained on how to update the software during the *Training* phase. Customers are put at ease during the *Transparency* and *Trustworthiness* phases and any issues with the roll-out are addressed and documented during the Troubleshoot phase.

In agricultural contexts, the Framework can be applied to address a crop shortage and farmers' management of the public in light of this type of problematic or crisis situation. For example, suppose there is national outcry regarding a corn shortage at one of the country's leading corn producers, identified in the *Turbulence* phase. In the *Translate* phase, a problem-solver identifies the root cause as deaths of an abnormal number of cornstalks, caused by bacteria. The bacteria, he realizes, is from the crop-sprayer. It has not been cleaned in months. During the *Truthfulness* phase, he tabulates the number of sprayers affected and the costs for replacing or cleaning them, to see which is a better option. The farm cannot afford to replace all of the sprayers, they realize, so in the *Trial* – Identification phase, the problem-solver eliminates replacement as a viable solution and chooses to implement the cleaning strategy. In the *Timing* phase, the team calculates the timeline based on the time required to order products, hire additional staff, and test the sprayers. In the *Teamwork* phase, the farm owners decide to partner with several public relations firms and community organizations to determine how they can balance *Transparency* with *Truthfulness* to regain the nation's *Trust.* Employees are *Trained* in a new cleaning program, which mandates monthly cleanings and, during the *Troubleshoot* phase, the team fine tunes the cleaning system but realizes the sprayers are still building up bacteria. Finally, the farm owners and problem-solver realize a different solution is required to prevent another national recall, and the *Transformative Framework* cycle begins again.

For politicians, Transformative Framework can be used to develop campaign strategy, such as reaching a particular demographic or lobbying on behalf of special interests. Suppose a certain United States president, who coined a controversial dad-hat slogan, had

trouble securing the Black vote because of said slogan being popularized by racist group, such as the Neo-Nazis. Identifying his lack of support by African-Americans as the problem during the *Turbulence* phase, the President later *Translates* this issue as a problem reaching young urban millennials of all races, after research conducted during the *Truthfulness* phase. During the *Trial* phase, he identifies a number of strategies to win both the black vote and the urban millennial vote and decides to implement a strategy involving a controversial rapper. The fictitious president analyzes his schedule during the Timing phase and realizes that he has time to do lunch with the rapper around the same time the Music Modernization bill is formed, and voter registration drives are taking place. For the *Teamwork* phase, he forms a team of rap experts that court the controversial rapper to gain his *Trust*, which will in turn help gain the *Trust* of the black community and the urban millennials. To evoke *Transparency*, he films the entire meeting and invites a slew of reporters. The strategy proves to be ineffective, as the rapper simply uses the time to go on a nonsensical rant. During the *Troubleshoot* phase, the President decides to try again, this time inviting a controversial athlete to a public meeting to discuss protests he has led. Although the protesting athlete declines, the President uses his experiences to *Train* lower-level candidates on what *not* to do to secure the African-American and urban millennial votes.

These hypothetical scenarios illustrate the flexibility and generalizability of Transformative Framework. Put simply, I find it more difficult to identify a context where Transformative Framework *wouldn't apply* than to identify contexts within which the Framework is applicable. This is because Transformative Framework balances heuristic (exploratory) and deductive (evidence-based) approaches to problem resolution

by combining common sense, cognition, creative thinking, relational teambuilding, and traditional problem-solving skills into a model that can be used to solve any problem, from the simplest to the most complex. It can be used iteratively (cyclical) or linearly, and as a guide for empirical models or developing metrics (i.e., survey instruments). It is designed to support and organize both quantitative and qualitative research in criminology. Students can also rely on the Framework to develop and address innovative, well thought-out research questions. Academics, practitioners, and other professionals can use Transformative Framework to assist project management, proposal writing, and professional development.

As these hypothetical scenarios show, Transformative Framework has the potential to organize work across a variety of contexts, is useful in conducting scholarly research, and can be easily adapted by consultants across various industries. Next, I will address how Transformative Framework compares to other problem-solving models. By pairing each step in the models described in earlier sections with a corresponding stage from Transformative Framework, I demonstrate how these models are subsumed under The Ten T's:

Transformative Framework vs Adair's 5-Step Model (Adair, 2007)

1. Define objective = Translate (set goals to increase stability)

2. Collect relevant information = Truthfulness

3. Generate feasible options = Trial – Identify

4. Make Decision = Trial – Implement

5. Implement and Evaluate = Trial – Implement; Troubleshoot

Transformative Framework vs Firend's 5 WH Problem-Solving Model (Firend, 2014)

1. Collect data = Truthfulness

2. Classify Data = Truthfulness

3. Analyze Data = Truthfulness

4. Plan solution using 5WH = Trial – Identify

5. Implement Solution = Trial – Implement

6. Measurement and Correction = Troubleshoot

Transformative Framework vs Bardach's Eightfold Path (Bardach & Patashnik, 2015)

1. Define problem = Translate

2. Assemble evidence = Truthfulness

3. Construct alternatives = Trial – Identify

4. Select criteria = Trial – Identify

5. Project outcomes = Trial – Identify; Truthfulness

6. Confront tradeoffs = Troubleshoot

7. Decide = Trial – Implement

8. Tell story = Train

Transformative Framework vs D'Zurilla & Nezu 's Social Problem Solving (D'Zurilla & Nezu, 1982)

1. Identify problem = Translate

2. Define problem = Translate

3. Attempt to understand problem = Translate

4. Set goals related to problem = Trial – Identify

5. Generate alternatives = Trial – Identify

6. Evaluate and choose = Trial – Identify

7. Implement = Trial – Implement

8. Evaluate efficiency of effort = Troubleshoot

Transformative Framework vs SARA (Eck and Spelman, 1987)

1. Scan = Turbulence

2. Analysis = Trial – Identify; Truthfulness

3. Response = Trial – Implement

4. Assessment = Troubleshoot

Transformative Framework vs CAPS (Kim and Skogan, 2003)

1. Identify and prioritize problems = Translate

2. Analyze info = Truthfulness

3. Strategize solution = Turbulence; Trial – Identify

4. Implement = Trial – Implement

5. Evaluate = Troubleshoot

Transformative Framework vs CPSCF (Yang et al., 2012)

1. Coalition operational and problem-solving capacity = Teamwork

2. Comprehensive community change strategies = Trial – Identify

3. Community changes = Trial – Implement

4. Population level changes = Trial – Implement; Troubleshoot; Train

Transformative Framework Subsuming other Models

As I demonstrate in the previous sections, the steps/phases that constitute all of the extant problem-solving models discussed in this paper are built into Transformative Framework. None of the models, however, incorporate all of the steps/phases that make up Transformative Framework. The bare-bones problem-solving model typically involves the identification of a problem, the definition of a problem, the proposal of solutions to said problem, a strategy/analysis phase, and the execution of the chosen solution(s) (Barduch & Patashnik, 2015; D'Zurilla & Nezu, 1982; Eck & Spelman, 1987; Firend, 2014; Kim & Skogan, 2003; Yang et al., 2012). Transformative Framework, in contrast, includes all of these steps (Turbulence, Translate, Trial, Truthfulness), but adds additional ones that inform group dynamics (Teamwork), enhance procedural justice (Transparency and Trust), consider available resources (Timing), promote professional development (Training) and evaluate the problem-solving process (Turbulence). In fact, the majority of steps in the model (six) are steps not typically found in other problem-solving models. So, not only does Transformative Framework subsume these models, it is much more comprehensive in nature than other popular problem-solving models.

The Relevance of Transformative Framework to Criminology and Criminal Justice

Although I have already discussed the general relevance of Transformative Framework, a question that has been posed to me while developing this model is: *why is Transformative Framework important for criminologists in particular?* As I mentioned earlier, to date, although there are problem-solving models designed to address problems in policing, the field of criminology lacks a single, comprehensive, overarching, systematic, *universal* approach to problem-solving and crisis management. Jones (1998) notes that without structured problem-solving methods:

- We rely on our "intuition" to identify potential solutions—this can potentially result in inaccurate determinations of the true problem-state and feasible solutions.
- We tend to view the world in terms of patterns, which can easily mislead us when trying to solve problems—an overreliance on patterns sometimes results in perceiving random events as nonrandom.
- We seek to explain/solve everything—when we bite off more problem-solving than we can chew, it is easy to sacrifice accuracy for efficiency.

In short, using formal problem-solving models in place of haphazard, unstructured problem-solving reduces the likelihood of erroneous decision-making. This is especially important in high-stakes environments such as the criminal justice system where one mistake could prove fatal and any small problem can evolve into a crisis. No problem too small to be blown out of proportion. In other words, even the slightest problem can

snowball into a full-blown crisis if the proper mechanisms are not undertaken to prevent this.

Frameworks like mine exist to serve as a go-to for criminal justice agencies and organizations looking to streamline the decision-making process *and* to address crisis-based public relations outcomes. Transformative Framework's key contribution to the criminology problem-solving landscape is its focus on transparency, trust, timing, and training whereas other frameworks focus mainly on fact-finding and solution identification.

Another anticipated criticism is that criminology's dedication to rational choice models subsumes any other problem-solving methodologies. In other words, problem-solving can be simplified as a form of decision-making, rendering a separate Framework or theory of problem-solving obsolete. To this, I answer: Unlike theories and models of rational decision-making, problem-solving frameworks are not a *substitute* for thinking, or a means to simulate the cognitive processes that underly the planning process. Instead, structured problem-solving is a means of facilitating and empowering thinking so that individuals and groups can manage complex circumstances. It is an aide, or a companion to our instinctive, built-in thought calculi—not a means for explaining or extrapolating the decision-making process. Also, decision-making is distinct from problem-solving as there is no built-in undesirability of the current circumstance in general decision-making models. Problem-solving, on the other hand, involves some level of discomfort. Some might argue that the need to make a decision is a problem—to this I respond that there are several decision-making processes that are actually enjoyable. For example, a student is accepted into 15 graduate departments in criminology with full funding and must

choose one. Or, a newly minted officer must choose her new division because of an impending promotion. On the other hand, problems, by definition, are *always* inconvenient or unwanted.

So, back to the original question of why problem-solving a necessary focus for criminologists: Well, criminologists handle the world's most difficult and controversial problems. From juvenile delinquency to mass incarceration to terrorism, criminologists definitely have our hands full. In 2018, policing crises plague our nation on a weekly or bi-weekly basis. These incidents tend to draw intense emotional responses and usually must be addressed very quickly to avoid a media circus or unmanageable protests. In situations where time is of the essence, it is helpful to be able to systematically think through problems versus haphazardly addressing them. Put simply, structuring the problem-solving process helps the mind make sense of complex problems and can bridge the gap between competing perspectives on how to solve them. Complex problems are problems without clearly identifiable solutions. These problems tend to require more resources, more manpower, and more acumen to solve than traditional problems. Structuring the problem-solving process also allows for us to compare and weigh one element of the problem-solving process against another. Naturally, problem-solving occurs in stages. Problem-solving models neatly capture some of the key steps required to solve problems. Streamlining the problem-solving process also helps us focus our analysis on a set of important issues. It is easy to get carried away when first presented with a complex problem. By breaking the problem into smaller components, ranked in terms of importance, problem-solving frameworks make finding solutions more manageable. Focusing on one element at a time is more systematic, more thorough, and

more productive of relevant ideas than overly general or crude problem-solving strategies (Jones, 1998).

Despite these benefits, I argue that no criminologist has proposed a comprehensive, relational, evidence-based model for resolving *all* of our field's (*and* everyone else's) most pressing issues. Introduced here, Transformative Framework is a structured problem-solving model for complex problem-solving designed to address the limitations of the "best" problem-solving models. This work does not seek to drive a competitive wedge between models; instead, I hope to highlight the shortcomings of previous work to encourage collaboration and demonstrate that we do not have to "reinvent the wheel" or pit models against one another in order to innovate the problem-solving process.

In short, unlike context-specific problem-solving models (i.e., the "SARA" model used in policing), Transformative Framework can revolutionize the field of criminology by providing an overarching model for solving problems in all of our field's most pressing subareas: crime control and prevention, courts and sentencing, corrections, juvenile delinquency and policing. Although the principles overlap with extant models of problem-solving, *I argue that Transformative Framework is the most exhaustive, applicable, and flexible model of its kind*. Throughout this paper, I maintain the following two (2) assumptions underlying Transformative Framework: (1) Transformative Framework can subsume all other models for problem-solving, irrespective of the discipline of origin; (2) and that Transformative Framework is the most appropriate model for answering complex research questions, resolving conflicts in criminal justice policy-making, organizing criminological research, and managing criminal justice related

crises. I realize that these assumptions are controversial and am fully prepared to defend them should criticisms arise.

Before applying Transformative Framework to the #FreeMeekMill controversy, which involves a controversy between a judge and the community she serves, I find it necessary to provide an overview of judicial selection, with a special emphasis on judicial campaign finance, which is relevant to the proposed solution of forming an interest group to remove Judge Brinkley. The next chapter will review the history of judicial selection, provide an overview of modern judicial selection, and introduce cases where incumbent judges have been unseated for perceived lack of accountability to the public.

Chapter Three: Judicial Selection

This dissertation is unique in that, instead of simply answering a question or a set of research questions, it aims to help solve a real-world problem experienced by a group of real-life citizens. This is not to say that other papers do not indirectly contribute to a problem-solving process, but that traditional criminologists outside of policing tend to stop short of situating the problems they aim to solve within a formal problem-solving model. Further, these projects do not generally consult actual communities on what specific steps to take to address issues of public concern. The current research not only proposes a set of research questions, it proposes and gives directives for an actual solution to the overarching problem, dissatisfaction with the current judiciary. To reiterate, the problem in focus here is Pennsylvanians' disagreement and, implied dissatisfaction with Judge Genece Brinkley's decision to incarcerate Philadelphia-based rapper Meek Mill. In an earlier section I propose an original problem-solving model, which I argue can be used to frame the situation at-hand. Before applying Transformative Framework to the #FreeMeekMill controversy, I find it necessary to provide an overview of the literature on judicial selection to frame the analysis that follows. Those interested in mobilizing to defeat Judge Brinkley should first familiarize themselves with the judicial selection landscape and the role of money in judges' electoral success. This section overviews how and whether money can buy access to the judiciary, and how money and public sentiment have been instrumental in the defeat of incumbent judges in the past.

It is important to note that almost all of the information that follows pertains to state supreme courts, which are the nation's mid-level appellate courts, where the decisions made are less "final" than the US Supreme Court, and more "final" than intermediate appellate courts. Judicial research in general is scarce, but research into trial court selection is virtually nonexistent (Bonneau & Hall, 2009). This is because, ironically, the judiciary, which is the only branch of government whose actors make a wide range of decisions that are *directly* relevant to the everyday lives of individuals is also the most elusive branch of government (Baum, 2012). Legislators tend to make macro-level decisions that affect citizens indirectly and, while members of the executive branch enact some policies that could affect individuals directly, judges frequently make individual-level decisions across all areas of interest to the general public (Baum, 2012). One judge, in one day, could theoretically decide whether an individual can open a business, keep her home, and divorce her husband. The following day, the same judge might also be responsible for determining who goes to jail or prison, who can build infrastructures, and where an individual can reside or develop real estate based on zoning laws. In the same week, this same judge could determine who pays in a torts dispute and who is "wrong" in a disagreement between employers and their employees. By week's end, this judge might even decide which medical doctors can keep their licenses when issues of malpractice arise, and whether members of either of the other two government branches discriminate against private citizens. Needless to say, when compared to other elected officials, members of the judiciary face a unique set of concerns and operate within a peculiar institutional environment. Because judges are important, so is the selection of judges (Baum, 2012).

Different people behave differently as judges and different methods of selections create differential incentive structures for judges' decision-making (Bonneau & Cann, 2009). As Baum (2012) notes, judicial selection is also where judges are most affected by external influences. Trends in judicial selection have been driven by debates regarding what people want from the courts and how to achieve it (Bonneau & Hall, 2009). Two issues have been prominent regarding judicial selection: the disagreement over whether judicial independence or accountability is more important to preserve and what method of selection will produce the most competent judges (Baum, 2012). One view, that of judicial independence, is that judges should be independent, or free from external pressures. Another perspective is that judges should be accountable to their constituents (Carrington, 1998). The various selection methods reflect one or both of these perspectives. Before overviewing modern judicial selection methods, the following section gives a historical overview of judicial selection in the United States.

History of Judicial Selection

The current judiciary selection process has its origins in the early English Common Law tradition (Newman and Isaacs, 2004). Under King William the Conqueror (1066-1087), also known as William the Bastard, the judiciary was not a separate branch of government but was instead a subsidiary of the *Curia Regis*, or the King's Court (Newman and Isaacs, 2004). According to this system, judges advised the King alongside his other counselors, but the Crown had ultimate authority in decision-making and could depose sitting judges at will. King-appointed judges were essentially cabinet members whose tenures, like the King's, extended until their deaths (Newman and Isaacs, 2004).

After the reign of King William the Conqueror, laymen who did not serve at the pleasure of the King were also granted the authority to settle disputes, resulting in the formation of an independent judiciary (Newman & Isaacs, 2004). Law merchant judges who were either elected by their peers or appointed by their governing unions and an advisory commission were able to adjudicate commercial cases for a short period before being replaced by the King's appointed judges (Newman & Isaacs, 2004). Judges appointed by the King enjoyed lifetime terms until The Act of Settlement of 1701 that limited the judges' tenure to *quamdiu se bene gesserint*, or during "good behavior" (Newman & Isaacs, 2004). The Act, which narrowly passed through Parliament, also included a provision that subjected judges to impeachment by both houses of Parliament (Newman & Isaacs, 2004). A later statute, passed in 1761, posited that King-appointed judges' tenures could extend beyond the death of the King. Across the pond in America, colonial judges were also selected and retained by the Crown until America gained its independence as a nation (Newman & Isaacs, 2004).

Until the 1840s, judicial selection in the federal government and most states was handled by the other branches of government—the chief executive, the legislature or both (Newman & Isaacs, 2004). The federal government and a majority of states also gave judges life terms to maximize judicial independence (Streb, 2007). The logic behind this was that if judges serve for life, they are not susceptible to reappointment or reelection pressures (Streb, 2007). Most appointed judges served for life under the "good behavior" standard, that was eventually adopted for federal judges under the US Constitution (Streb, 2007). All the states that entered into the Union after the original thirteen until 1830 followed the appointment method as well (Streb, 2007). These practices of life tenure and

appointment by elected officials began to dissipate in the 1830s and 1840s as states opted for shorter terms for their state judges. Elections also began to emerge (Bam, 2013). In the early 1800s, Vermont, Indiana, and Georgia became the first states to allow localities the option to elect trial judges (Streb, 2007).

Mississippi was the first to adopt elections for all its judges in 1832 and in 1846, New York adopted elections for its state courts (Bam, 2013; Streb, 2007). Over the next five years, seventeen states adopted judicial elections. In the year 1850 alone, seven states changed their constitutions to popularly elect judges (Streb, 2007). Every single state that joined the Union between 1846 until Alaska's admission in 1959 chose to elect its judges in partisan elections. By 1912, nearly 75 percent of the states had implemented partisan elections for some, if not all of its state judges (Streb, 2007).

These elections were popular for several reasons, including: resistance to English Common Law, imitation by the states of other states, the difficulty of impeachment of life-tenure-serving judges, the believe that local judges should be responsive to their communities, and the idea that the judiciary should be independent from the state legislatures (Streb, 2007). These reasons, combined with the rise of Jacksonian democracy (which gave more power to the people) made judicial elections attractive, but not without introducing a whole new set of problems (Streb, 2007).

Because early partisan elections were dominated by the political machines of the time, there were allegations of cronyism and corruption (Streb, 2007). In a 1906 speech before the American Bar Association, Roscoe Pound argued that, "putting courts into politics and compelling judges to become politicians, in many jurisdictions has almost destroyed the traditional respect for the bench" (Bam, 2013). These concerns led the

American Bar Association, the Progressives, and the American Judicature Society to push for new reforms, including nonpartisan elections in which the candidates' party affiliations would not be listed on the ballot (Streb, 2007).

In the early 1900s, a number of states introduced nonpartisan elections to alleviate corruption and attempt to make judges "above politics" while still keeping judges accountable to the people (Streb, 2007). The Progressive reformers wanted to decrease the influence of parties and politics in judicial selections. They hoped that nonpartisan elections would cause more highly qualified jurists to be elected to the bench and cause voters to choose judges based on objective qualifications instead of partisan affiliation (Streb, 2007).

Nonpartisan elections did not silence the critics, however. Judges still had to campaign to be elected and re-elected, suggesting that politics would still likely play a part in judicial selection (Streb, 2007). There was also an issue of whether citizens would be able to make sound decisions while voting sans their "cheapest" cue—partisan affiliation (Bam, 2013). While twelve states elected judges in nonpartisan elections by 1927, three states had already tried nonpartisan elections but switched back to partisan elections due to these reasons (Streb, 2007)

Because of concerns over partisan and nonpartisan elections, the American Judicature Society advocated for another judicial selection reform that they believed captured the positive elements of all selection systems: retention elections (Streb, 2007). Retention elections are contests in which voters must decide whether a sitting judge should retain her seat on the bench. In these types of contests, judges run unopposed and must typically receive 50% or more of the vote in order to keep their seats (Streb, 2007).

One popular method of selection is the Missouri Plan (as Missouri became the first state to adopt the option in 1940), the merit-selection-plus-retention-election model. Under this type of electoral system, candidates are first appointed by a governor using a process of merit selection, and then must run unopposed in the next election cycle to remain on the bench (Streb, 2007). Typically, incumbents must receive 50% or more of the vote to retain their seats. Failure to retain the sitting judge results in the selection process starting anew (Streb, 2007).

Despite the various changes over the years and criticisms of elections, 39 states use some form of election at some level of court to select their judges (Caufield, 2007). For state trial courts of general jurisdiction, 76 percent of judges are elected to their initial term and 88 percent face the voters for subsequent terms on the bench. For state appellate level courts 53 percent of judges are elected to their initial term and 89 percent face the voters for subsequent terms on the bench (Caufield, 2007).

Overview of Modern Judicial Selection

Today, federal judges are nominated by the president and confirmed by the Senate. State supreme court and local trial judges are selected in one or more of the following procedures (Caufield, 2007):

Partisan Election

Judges are elected by the people, and candidates are listed on the ballot alongside a label designating political party affiliation.

Nonpartisan Election

Judges are elected by the people, and candidates are listed on the ballot *without* a label designating party affiliation.

Legislative Election

Judges are selected by the state legislature.

Retention Election

Judges are retained or removed in a vote by the people.

Gubernatorial Appointment

Judges are appointed by the governor. In some cases, approval from the legislative body is required.

Missouri System

A nominating commission reviews the qualifications of judicial candidates and submits a list of names to the governor, who appoints a judge from the list. After serving an initial term, the judge must be confirmed by the people in a yes-no retention election to continue serving.

There are almost as many selection methods as there are states as many states use different combinations of the above methods to select judges at different levels (Caufield, 2007). For instance, one state may use legislative election and retention elections for its lower courts and gubernatorial appointment for its higher courts (Caufield, 2007).

The Axiom of 80

Before continuing the discussion of modern judicial selection, it is worth nothing a few interesting facts, referred to as the Axiom of 80 (Geyh, 2003):

1. 80% of the public favors electing their judges;

2. 80% of the electorate do not vote in judicial elections;

3. 80% of voters are unable to identify candidates for judicial office; and

4. 80% of the public believe that money buys justice.

The irony of judicial elections is that most voters prefer electoral systems, but most voters are unaware of judicial candidates and/or do not vote in these contests (Geyh, 2003). Yet, the majority of the public believes that when judges are elected, they are subject to influence from their campaign contributors (Brandenberg, 2010).

The Current Research

Of all the selection methods, this research focuses on judicial elections because it is the most popular and most controversial selection method for judges (Baum, 2012; Bonneau & Hall, 2009). Specifically, I examine whether local judges buy-in to the "new style" of judicial elections rampant among state supreme court judges (Sample et al., 2010; Arbour & McKenzie, 2009) to determine whether everyday citizens have an opportunity to mobilize financially to elect judges that reflect their preferences. New style refers to the large sums of money pouring into judicial campaigns (Arbour & McKenzie, 2009). If judges are "new style", chances are individual citizens will not have a financial voice in electing them. New style judicial elections, in which large amounts of money are raised, are more likely to reflect the interests of big business and powerful "big money" donors (Gibson, 2008). Traditional elections, in which little to no money is raised are more likely to reflect the preferences of everyday citizens (Hojnacki & Baum,

1992; Arbour & McKenzie, 2009). The following sections describe new style judicial elections.

New Style Judicial Elections

Decades ago, judicial elections were cheap, low-profile affairs (Arbour & McKenzie, 2009; Hojnacki & Baum, 1992). Candidates for judicial office relied on support from friends and neighbors; incumbents rarely lost and candidates, who often ran unopposed, relied on handshakes and word of mouth to reach voters (Arbour & McKenzie, 2009). Judicial prospects refrained from making promises to voters, did not take positions on hot-button issues, and rarely engaged in personal attacks against their opponents (Gibson, 2008). Today, however, a so-called "new politics" of judicial elections has emerged. Over the last few decades, judicial elections have become "nastier, nosier, and costlier" (Gibson, 2008). "New style" judicial campaigns are characterized by "an unprecedented injection of money from "interest groups and legal activists" that "influenc[e] the outcomes" of these contests (Gibson, 2008).

As noted previously, 80 percent of the public believe that money buys justice (Geyh, 2003). Recent polling data, for example shows that a majority of Americans believe campaign contributions can tilt the scales of justice by influencing courtroom decisions (Brandenberg, 2010). These concerns are not unwarranted: from 2000-2009, judicial elections were characterized by the tens of millions of dollars raised by candidates from parties who may appear before them, millions more poured in by interest groups, nasty and misleading ads, and pressure on judges to signal courtroom rulings on the campaign trail (Sample et al., 2010). As Sample and colleagues (2010) note, the so-called "new politics" of judicial elections is marked by trends including: the explosion in

judicial campaign spending—most of it poured in by "super spender" organizations seeking to sway the courts; the parallel surge of nasty and costly TV ads as a prerequisite to gaining a state Supreme Court seat; the emergence of secretive state and national campaigns to tilt state Supreme Court elections; litigation about judicial campaigns, some of which could boost special-interest pressure on judges; and growing public concern about the threat to fair and impartial justice—and support for meaningful reforms (Sample et al., 2010).

With regard to the surge in spending, campaign fundraising more than doubled, from $83.3 million in 1990-1999 to $206.9 million in 2000-2009 (Sample et al., 2010). All but two of the 22 states with contestable Supreme Court elections broke records for their costliest ever contests in the 2000-2009 decade (Sample et al., 2010). This spending was notable as special interest "super spenders" played a key role in this surge (Sample et al., 2010). In a study of 29 elections in the nation's 10 most costly election states, it was revealed that the top five spenders in each of these elections invested an average of $473,000, while the remaining 116,000 contributors averaged $850 each (Sample et al., 2010). In the most popular case during this time, one coal executive, Don Blankenship, spent $3 million to elect a West Virginia judge, leading to the landmark Caperton v. Massey case where the judge was ordered to recuse himself from a case where the donors were present (Sample et al., 2010). This disparity suggests that a small number of special interests dominated judicial campaign spending even before the 2010 Citizens United case ended bans on election spending by corporations and unions (Sample et al., 2010). One representative from Ohio AFL-CIO union noted that, "…it's easier to elect seven judges than to elect 132 legislators" (Sample et al., 2010). Almost all super spenders in

the 29 elections were organizations, some with documented backing from corporations, unions, or plaintiff's lawyers.

The 2013-14 cycle was no different from the previous decade, as the outside spending by special interest groups continued (Greytak et al., 2015). Fundraising success was highly correlated with electoral success in this election cycle (Greytak et al., 2015). Over 90 percent of contested seats were won by the candidate whose campaign raised the most money. Outside spending by special interest groups made up a record percentage of total spending (Greytak et al., 2015). Spurred in part by the 2010 US Supreme Court ruling in Citizens United v FEC, which removed contribution limits from interest groups, special interests are increasingly taking out their own ads and sponsoring other election materials in judicial races instead of contributing directly to candidates (Greytak et al., 2015). In 2013-14, outside spending by interest groups were a higher percentage of total spending than ever before, accounting for $10.1 million, or 29 percent of total spending—topping the previous spending record of 27 percent in 2011-12 (Greytak et al., 2015). When outside spending by political parties is also included, the percentage of spending rises to 40 percent, a record for a non-presidential election cycle (Greytak et al., 2015). Most of this spending was dark money—or money that came from groups that were not required to disclose their expenditures under state law, making it hard to discern who was really behind the spending in judicial races (Greytak et al., 2015).

The top 10 spenders of the 2013-14 cycle accounted for nearly 40 percent of spending nationwide (Greytak et al., 2015). This economic power held by the few was even more concentrated when it came to television spending as the top 10 TV spenders paid for 67 percent of total TV spending (Greytak et al., 2015). Also, in 15 of the 19

states where candidates raised money, a majority of their contributions were $1,000 or more—a substantial figure in the context of relatively low-cost judicial elections (Greytak et al., 2015). Nearly one-third of these direct contributions came from lawyers or lobbyists, many of whom could be expected to be seen in court before the judges they funded. National groups and their state affiliates spent approximately $4.8 million on state Supreme Court races, suggesting that national groups paid greater attention to these races in 2013-14 than in other recent cycles (Greytak et al., 2015). Most of this spending came from the political right, with the Republican State Leadership Committee (RSLC) leading the pack with nearly $3.4 million spend across four state Supreme Court elections, as well as one county court race through its "Judicial Fairness Initiative" (Greytak et al., 2015). Other major spenders included the Center for Individual Freedom and American Freedom Builders (Greytak et al., 2015).

In the 2015-16 election cycle, twenty-seven justices were elected in $1 million plus races, compared with the high of 19 justices elected in million-dollar contests in 2007-08 (Bannon et al., 2017). Pennsylvania also set an all-time national record for the 2015 election, attracting a total of $21.4 million in spending for three open seats (Bannon et al., 2017). These numbers mean that more judges will be tempted to curry favor with wealthy interests who can subsidize the increasingly high costs of future elections. Also, during the 2015-16 cycle, political action committees, social welfare organizations, and other non-party groups engaged in a record $27.8 million outside spending spree, making up an unprecedented 40 percent of overall supreme court election spending (Bannon et al., 2017). Funneling spending through these groups is attractive to donors because they can avoid campaign contribution limits and disclosure requirements. Supreme court

elections also saw an influx of dark money—or secret money (Bannon et al., 2017). Found that only 18 percent of interest groups' outside expenditures during 2015-16 could easily be traced to transparent donors (Bannon et al., 2017). In terms of the remaining expenditures, donors were either undisclosed or hiding behind donations from one group to another, making it difficult or impossible to discern the ultimate funding source. This lack of transparency risks leaving voters uninformed about who is seeking to shape the outcomes in state high courts and leaves litigants, and even judges, without the tools to identify potential conflicts of interest (Bannon et al., 2017).

These trends are sweeping the nation: by the start of 2017, 20 states had at least one sitting justice who had been involved in a $1 million race during his or her tenure (Bannon et al., 2017). By contrast, in 1999, there were only 9 states with million-dollar justices. As of January 2017, one-third of all elected judges sitting on the bench had run in at least one $1 million plus election (Bannon et al., 2017). These numbers highlight that the "new style" judicial elections are becoming the new norm (Bannon et al. 2017).

The previous sections discussed the large sums of money pouring into initial election contests, known as petition elections. This study, however, focuses on mobilizing to unseat a judge in a retention contest, where she will not face an opponent. Retention elections are historically less eventful but, like petition elections, judicial retention elections have also become political battlegrounds in recent election cycles (Greytak et al., 2015). These races used to be low-salience and low cost. Although many still are, on average, in a handful of states retention campaigns have become "intense, high-profile, and expensive" (Greytak et al., 2015). Average spending in retention elections over the period 2009-14 reflects a tenfold increase from the average over the

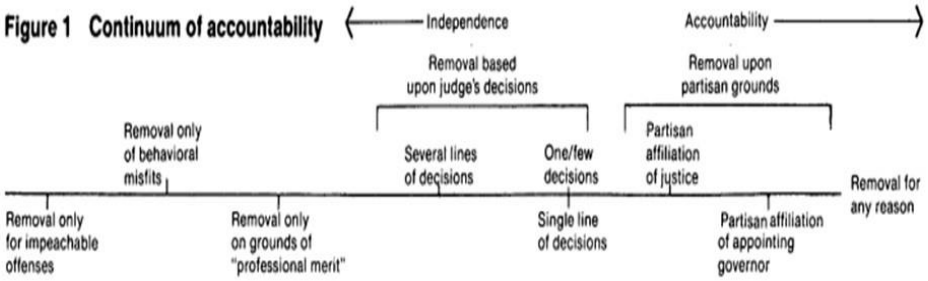
previous eight years (Greytak et al., 2015). Overall, nearly $6.5 million was spend in retention races in four states in the 2013-14 election cycle (Greytak et al., 2015). Multi-million dollar elections in Illinois and Tennessee were some of the most expensive and contentious races this cycle (Greytak et al., 2015). This trend puts new pressure on judges up for retention for these seats (Greytak et al., 2015). The next section elaborates on competition in retention elections.

Mobilizing to Unseat Incumbent Judges

The previous section reviewed the judicial selection process and highlighted the role of money in shaping judicial contests. This section provides examples of how money can buy justice. Specifically, it examines the cases of judges who have been unseated via financial mobilization due to a lack of public support for their decision-making while judge. Dissatisfaction with a sitting judge is the problem that this dissertation seeks to address, and I discuss these issues to support my suggestion for Pennsylvania citizens to mobilize financially for the purposes of unseating Judge Genece Brinkley. Before discussing these failed retention cases, however, it is important to introduce the concepts of judicial independence and accountability. Judicial independence is the idea that the judiciary should be independent of external influences, such as public pressures—including electoral politics (Bonneau & Hall, 2009). Appointing judges is the selection method proponents of judicial independence prefer. Judicial accountability, on the other hand, is the judiciary's responsibility to The People to be fair and just. Proponents of judicial accountability argue that judges have considerable discretion and should be held accountable for their choices. Those in favor of judicial accountability favor electoral systems to select judges. Although the Constitution embraces judicial independence, most states have rejected this model (Bonneau & Hall, 2009). In the Supreme Court and federal judicial systems, judges are appointed and cannot be directly removed by voters. On the contrary, in electoral systems, which inherently embrace judicial accountability, judges can be removed for arousing the anger of the public (Wold, 1986).

Wold (1987) provides a helpful chart for understanding the continuum from independence to accountability, in terms of reasons for removing judges (Figure 1):

Figure 1. Continuum of Accountability



The Continuum of Accountability highlights the various reasons to remove judges, ranging from those that are completely independent of public opinion to reasons completely based on accountability. To fully maximize independence, judges are only removable via impeachable offenses. To fully maximize accountability, judges can be removed for any reason. In this paper, I propose a problem-solving model to remove a Philadelphia judge based on a single line of decisions related to rapper Meek Mill. On the continuum, this reason for removal is in the middle of independence and accountability, but closer to accountability. Although not many have systematically studied electoral competition in judicial elections, Bonneau and Hall (2009) report that voters tend to support accountability over independence and are consistently hesitant about replacing elections with appointive systems. According to Geyh (2003), 80 percent of the public favors electing judges. Bonneau and Hall (2009) also note that, when polled, voters continue to reject efforts to replace elective systems with appointive ones. The following sections review retention elections and highlight instances where voters have taken advantage of accountability in judicial elections.

Retention Elections

A retention election or judicial retention is a periodic process whereby voters determine whether an incumbent judge should remain in office for another term. The judge, who does not face an opponent, is removed from the position if a percentage of voters (often 50 percent) indicate that he or she should not be retained (Canes-Wrone et al., 2010). Retention elections have been part of judicial selection and retention systems since 1934 (Dann & Hansen, 2000). The purpose of retention elections is to make the removal of judges fairly difficult to preserve judicial independence while also retaining (no pun intended) a small degree of judicial accountability. Today, 20 states hold judicial retention elections for their appellate courts and 12 states, including Pennsylvania use retention elections for at least some trial courts. Retention elections have historically been characterized by high rates of retention, with some studies showing approximately 1 percent of judges having been defeated (Dann & Hansen, 2000).

The awareness this project brings to the judicial retention process is much needed as voting in retention elections is lower than in partisan and nonpartisan elections (Aspin and Hall, 1987). This is because retention elections occur in even lower information environments than traditional judicial elections, which already lack the participation levels and visibility as contests for other offices (Aspin and Hall, 1987). McKnight et al, (1978) found that less than 5 percent of voters can identify trial court candidates. This speaks to the need for this research, which seeks to inform citizens of their ability to mobilize to remove unpopular judges—a right many might not even know they have.

The section that follows highlights some retention elections that demonstrate the type of outcome I am advocating that Pennsylvania citizens accomplish for Judge

Genece Brinkley in 2023. Although the circumstances surrounding most retention elections are not newsworthy, recently, retention elections have become increasingly political. As I describe below, some retention elections have been battlegrounds where incumbents are removed because of judicial philosophies, specific decisions, or a series of decisions. In these races, special interest groups and politicians have successfully targeted specific state supreme court justices for defeat:

Justices Bird, Grodin, and Reynoso

Prior to 1986, California had never failed to retain any of its state supreme court judges (Dann & Hansen, 2000). In 1986, however, not only was the Chief Judge Rose Bird unseated, but so were two other justices. Along with Justice Bird, judges Joseph Grodin and Cruz Reynoso failed to receive enough votes to remain on the bench due to their opposition of the death penalty and perceived leniency towards criminal defendants (Wold, 1986). Bird was rejected by 66 percent of voters, Reynoso by 60 percent, and Grodin by 57 percent (Dann & Hansen, 2000). The majority of the opposition was targeted towards Justice Bird but Grodin and Reynoso were linked to her, according to many (Wold, 1986). Bird had voted to reverse every one of the sixty-one death penalty cases that came before the court since her appointment. Reynoso and Grodin had voted with her in nearly all of those cases (Dann & Hansen, 2000).

A pre-election survey found that together, being too lenient/soft on criminals, opposing the death penalty, and ignoring the rights of victims constituted the majority of reasons voiced by Bird's opponents for opposing her reelection (Wold, 1986). Several groups and individuals came together to oppose Bird, including Californians to Defeat Rose Bird, Crime Victims for Court Reform, then-governor Deukmejian, the prosecutor's

working group, most law enforcement organizations, the San Diego Tribune, and other Republican incumbents and challengers. As to why Bird did not launch her own successful counter-campaign, Bill Zimmerman, the first consultant she retained attributed her loss to a focus on judicial independence versus judicial accountability (Wold, 1986).

In addition to public sentiment, money played a large role in the three justice's defeat. According to Wold (1986), the amount raised and spent by pro- and anti- Bird groups was phenomenally high. Although Bird, Reynoso, and Gordon spent $2 million combined, their opponents outspent them, expending $5.5 million. One of their opposing groups, Crime Victims for Court Reform claimed that the majority of the money they raised was from donations on behalf of private citizens in amounts of $100 or less, suggesting the potential for grassroots fundraising to unseat unpopular judges. Also according to Wold (1986), the 1986 results are not to be ignored by judges when contemplating their own chances for retention. He notes that judges should consider the potential reactions to their decisions by affected interest groups and the public at large. In other words, what happened in California 30 years ago could easily happen today in other jurisdictions.

Justice Penny White

In 1996, Tennessee Supreme Court Justice Penny White lost her seat in the first unopposed retention election under Tennessee's newly adopted merit selection system (Reid, 1999; Dann & Hansen, 2000). Justice White faced politically and emotionally charged attacks because of her stance as being too "soft on crime," in general. She was also targeted because she would not vote in favor of the death penalty (Reid, 1999; Dann & Hansen, 2000). The campaign against her, run by Tennessee Conservative Union

(TCU), a conservative-populist group, centered on her concurrence in the opinion that overturned the defendant in the 1996 State v. Odom case. The Odom involved a defendant who had been convicted and sentenced to death for the rape and multiple stabbing of an elderly woman (Reid, 1999). In the appeal trial, all five justices of the Tennessee Supreme Court upheld the conviction but ruled that the commission of several reversible errors during the sentencing phase of the trial required the case to be remanded for a new sentencing proceeding (Dann & Hansen, 2000). Although all five justices supported the decision to provide Odom with another sentencing, they disagreed about the application and interpretation of Tennessee's definition of aggravating circumstances. On this one issue, the justices split: A bare majority, which included White ruled that Odom deserved a new sentencing phase because of a misinterpretation of the state's aggravating circumstances statute.

Because of White’s stance in this case, the Tennessee Conservative Union (TCU) initiated a "just say no" campaign to remove all three justices constituting the Odom majority. Because White was the judge scheduled for retention in August of 1996, she took the brunt of the heat from the Odom decision and, thus, became the target of the campaign (Reid, 1999). In addition to TCU, victims' rights groups, religious conservatives, and law enforcement organizations also mobilized in favor of the the anti-White effort and successfully orchestrated her removal. In terms of strategy, the TCU coalition's underground campaign relied substantially on faxes to likeminded groups and individuals to portray Justice White as being "procriminal" and "anti-death penalty (Dann & Hansen, 2000; Reid, 1999)."

Justice David Lanphier

Also in 1996, Justice David Lanphier was voted off of the Tennessee Supreme Court for his apparent, "total disregard for the safety of our communities, the value of [the citizens'] vote and the importance of the people's opinion through the petition process" (Reid, 1999). Like the other defeated Justices, Justice Lanphier was also targeted for being "soft on crime". Justice Lanphier voted in favor of overturning a number of murder cases on the grounds that they did not reflect malice on the part of the defendants, which was not a requirement prior to 1994. In addition to being soft on crime, Justice Lanphier was also targeted for voting to overturn a term limits amendment to the state constitution that would have restricted the number of times state and federal officers could seek reelection. The campaign for his removal was led by the group, Citizens for Responsible Judges which stated that Lanphier's "opposition to term limits and his willingness to set convicted murderers free on minor technicalities.. .renders him unfit to serve on the court. (Reid, 1999)" Citizens for Responsible Judges led a very open, negative, and well-funded campaign to remove judge Lanphier, raising an estimated $200,000 (Dann & Hansen, 2000). Lanphier's removal eliminated the bare majority that supported what Citizens for Responsible Judges believed to be a pro-criminal definition of second-degree murder (Dann & Hansen, 2000).

Judge Persky

In some cases, it may not be necessary to wait until a judge's next election to have him or her removed. Take, for instance, the case of Judge Aaron Persky who was recalled by California voters in 2018: In 2016, Judge Persky sentenced a Stanford student facing a maximum of 14 years in prison to just 6 months for sexually assaulting an unconscious

woman (Astor, 2018). The verdict drew national attention and eventually led to him becoming the first judge in over 80 years to be recalled by voters. Public sentiment regarding Judge Persky's recall was mixed, with some supporting his removal and others lamenting the injection of politics into the judiciary. The debate largely reflected the differences in opinions of those in favor of judicial independence versus proponents of judicial accountability. Both sides demonstrated their resolve financially, with recall supporters raising $1 million and Persky supporters raising $800,000 (Levitsky, 2018).

The recall campaign was led by Stanford law professor Michele Dauber, whose daughter is friends with the victim (Astor, 2018). Two interest groups, No Recall of Judge Persky, and Retain Judge Persky—No Recall led efforts to keep Persky on the bench. Although many expressed their views by donating large amounts to the campaigns to recall and retain Judge Persky, not everyone was enthused about the fundraising outcomes. Retired Judge LaDoris Cordell said, "…$1.2 million or more is being spent on one person, just to get rid of one person. And I just find that very, very sad."

Overview

In short, these four examples demonstrate not only how money can buy justice, but how citizens can successfully mobilize to remove unpopular judges. The interest groups involved in the removal of the Justices discussed here targeted judges who made unpopular decisions to achieve their policy objectives and preserve judicial accountability. It is important to note that, to date, conservative interests have dominated the judicial removal efforts described above. This does not mean that liberal views or the views of those who do not believe in a system that is "tough on crime" are invalid, but that something must be done to ensure that these views are also reflected. In the

following section, I use Transformative Framework to provide Pennsylvania citizens with the tools they need to accomplish similar feats, with a focus on mobilizing to reduce corruption at the hands of individuals who are too “tough on crime”.

Chapter Four: Transformative Framework Applied

Hypotheses

The previous section provided an overview of judicial elections and highlighted examples of how concerned citizens have mobilized to unseat incumbent judges. This dissertation addresses the problem of dissatisfaction with a sitting judge and uses an original problem-solving model, Transformative Framework, to propose a plan to solve this problem. Although the strategy presented here relates to Philadelphians, mostly, it can be adapted to fit other contexts. In this section, I address the below set of research questions and corresponding hypotheses. Questions 1-3 will be addressed in the *Truthfulness* stage of the problem-solving model and Question 4 is addressed throughout the model in its entirety.

Research Question 1:

How much money do trial judges in Pennsylvania raise, on average?

> *Research Hypothesis:* Trial judges in Pennsylvania will raise less than $380,000 per judge on average.
>
> *Null Hypothesis:* Trial judges in Pennsylvania will raise $380,000 or more, on average per judge.
>
> *Basis:* This question provides a benchmark for how much money is necessary to win a trial judgeship in Pennsylvania. Before residents can mobilize financially, they must have clear fundraising goals. The sample is fitting as all of the judges sampled have won an election and are sitting judges. The dollar amount, $380,000 is rounded up from $378,494, the average spending for winners of all state

supreme judge contests over the period from 1990-2004 (Bonneau and Hall, 2009:78). The hypothesis is in the negative direction because, as Arbour and McKenzie (2009) found, trial judges are unlikely to experience the high levels of campaign spending state supreme court judges engage in. This study is the first to report statewide campaign finance totals for trial judges.

Research Question 2:

How much do interest groups donate during election years?

Research hypothesis: Interest groups will donate less than $213,000 to each campaign.

Null Hypothesis: Interest groups will donate $213,000 or more to each campaign.

Basis: As will be discussed in later sections, the primary solution to the problem of judicial dissatisfaction I propose is the formation of an interest group, in the form of a Political Action Committee (PAC). In order for citizens to mobilize successfully, they must know what proportion of the campaign funds must come from in-house donations, versus donations from individuals, law firms, and other sources. Because Bannon et al. (2017) found that the two most popular types of interest groups, donated approximately 56% of total campaign funds, on average, I simply took 56 percent of the $380,000 average campaign cost reported in Bonneau and Hall (2009) to get an interest group donation amount of $212,800. This amount is for state supreme courts, however. Since trial court campaigns are expected to be primarily funded friends and family (Arbour & McKenzie, 2009), I argue that these judges will reflect the opposite trend. I use state supreme court

interest group donations as a benchmark, however, because this study is also the first study to examine the amount of money interest groups donate to trial courts on a statewide basis. Thus, there are no other comparable figures.

Research Question 3:

Which interest groups donate to Pennsylvania trial judges?

Research Hypothesis: Law firms will be the most popular donors.

Null Hypothesis: Other donors will be more popular than law firms.

Basis: Bannon et al. (2017) found that the most popular donors to state supreme court campaigns are lawyers and lobbyists (31.7% of funds). Although trial judges are expected to raise considerably less than state supreme courts, the candidates should appeal to similar bases. For citizens to mobilize financially to remove a sitting judge, they must know who the most popular donors are, so they know where to solicit funds from.

Research Question 4 (explored, not tested):

How can citizens mobilize to remove unpopular judges from office?

Research Hypothesis: Transformative Framework is a suitable model for capturing the process of forming a Political Action Committee and organizing to unseat Judge Genece Brinkley.

Supporting Evidence: In the cases of Justices Bird, Grodin, Reynoso, White, Lanphier, and Persky interest groups were key determinants in their removal from the bench, according to sources (Dann & Hansen, 2000; Reid, 1999; Wold, 1986).

Why Pennsylvania?

Since 2004, Pennsylvania has been one of nine states where judges are initially selected via a partisan election. Since then, the state has been rife with scandal, independent of the controversy examined here. Lucerne County, PA was home to the 2008 "Kids for Cash" scandal involving President Judge Mark Ciavarella and Senior Judge Micheal Conahan who were accused of accepting money from a private, for-profit juvenile detention center developer. In return for their payments, the two judges imposed harsh sentences on juveniles who were seen in their courts in order to increase the number of youth held in their business partner's institutions (New York Post, 2014). Two years later, former Justice Joan Orie Melvin was arrested and indicted on nine criminal counts for her role in using judicial staff to perform campaign work (Pittsburgh Post Gazette, 2014).

Other Pennsylvania judges, Chief Justice Ronald Castille and Justice Seamus McCaffery have also received negative media attention for their ongoing feud. After the two went head to head in a series of publicly shared messages in which they competed over their respective "toughness" on crime and military experience, Castille exposed McCaffery's wife for abusing her husband's office. In addition to allegedly avoiding a traffic citation, she also received almost a million dollars in a single referral fee from a law firm that had been before her husband in court at least once (Philly.com, 2014).

Pennsylvania is also home to big-spending in judicial elections. Greytak et al. (2015) found that 98 percent of donations in the 2013-14 cycle in Pennsylvania were in excess of $1,000. Spending and fundraising for these Supreme Court justices exceeded a half million dollars, making Pennsylvania rank in the top 10 in both spending and

fundraising (Greytak et al., 2015). Pennsylvania also set an all-time national record for the 2015 election, attracting a total of $21.4 million in spending for three open seats (Bannon et al., 2017).

The controversy upon which this paper is focused is the Meek Mill incarceration by Judge Genece Brinkley. Although this issue was not related to judicial campaign financing, it is relevant to this discussion. Despite many of them being multi-millionaires, none of Meek Mill's supporters have used their financial resources to call for the removal of Judge Brinkley. In my view, it appears as though that none of the major advocates for Meek Mill were aware that Judge Brinkley was selected in a popular election or that celebrities could mobilize their funds to have her removed from office in her next retention election in 2023. It may be that the retention is too far off for it to be the focus of concern. Only time will tell whether these individuals were solely concerned with having Meek Mill released or if they are interested in taking their displeasure with that verdict to the next level.

In short, Pennsylvania, we can conclude, is no stranger to the pressures of judicial elections and mobilizing financially to elect judges. Given its history in judicial controversy and its role as one of the top judicial fundraising states, Pennsylvania appears to be an ideal location for the current study. The following sections will address the research questions proposed earlier in this document and will apply Transformative Framework to the issue of judicial dissatisfaction in Pennsylvania.

Transformative Framework Applied

In this section, I use Transformative Framework to answer the research questions proposed in the current study:

Turbulence

During this phase, it is important to set the stage for the conversation by describing the atmosphere of the problem at hand. In a real-life setting, the following questions/instructions would be addressed by the problem-solver and/or the individual(s) experiencing the problem. Here, for research purposes, I function as both the problem-solver and the audience:

1. What is the problem/problem(s)?

The problems are dissatisfaction with a decision made by Judge Brinkley and the potential dissatisfaction with Judge Brinkley's potential reelection. The larger, underlying problem may be corruption in the judiciary and/or a criminal justice system that is too "tough on crime".

2. When did you first sense or become aware of the problem or the need for a decision regarding judicial selection? If you are reading this, it is likely that something piqued your interest. What happened? Why are you concerned with the functioning of the judiciary?

I became aware of this issue almost immediately after Meek Mill was arrested earlier this year. This case piqued my interest because I have direct connections to the rapper and had previously expressed to him my interest in helping him in any capacity I could should he ever need a criminologist. I was already conducting research into Pennsylvania judicial elections for a separate project, and when I found out who the

sentencing judge was, I remembered her name from my dataset. Once the protests got heavy, I did some further research and realized that she raised $0 in her last retention election and was up for reelection in the next 5 years. My immediate instinct was to use her reelection to rapper Meek Mill's advantage. Although it was too far off to ask citizens to vote, with the money and connections Meek Mill has, compared to her $0 in campaign spending, I figured that the threat of her removal by his supporters, alone, would cause her to rethink the harsh sentence she imposed on the rapper and community leader.

3. Do you know relevant policies, rules, limitations and procedures?

Yes, the most relevant laws in this case are that trial judges in Pennsylvania are elected at the district-level (which is essentially the county-level), in odd years; they serve 10 year terms and the Governor appoints judges in the event that there are vacancies.

4. How risky is your environment?

Risk here is defined as danger or as turbulence in an organization. This is not a situation that involves the safety of individuals, but the judiciary is threatened by the turbulence regarding this judge and rapper Meek Mill. The biggest risk in allowing Judge Brinkley to remain on the bench is the threat to judicial accountability, which is the value that judicial elections are supposed to preserve.

5. What is the geographic location of the problem, conflict, or crisis?

The outcry regarding this case has been nationwide, but the problem-solving strategy will be implemented in Philadelphia, Pennsylvania, United States of America. Trial judge elections in Pennsylvania occur at the district-level, not statewide. There are

60 judicial districts in Pennsylvania, some of which span two counties. Judge Brinkley is a judge in Pennsylvania's 1st judicial district, housed in Philadelphia.

6. What are the environmental effects of the problem, conflict, or crisis?

Based on my observations of protesters' social media accounts and public speeches, the primary effects on the environment this crisis seems to have generated are a decrease in public faith in the judiciary and an increase in legal cynicism (Ewing, 2018). If Judge Brinkley continues to make these types of unpopular decisions, there will exist a lack of judicial accountability. What remains to be determined is whether her constituents hold the same views as the general public, governor, and prosecutor with regard to the Meek Mill case.

7. Who are the victims/perpetrators?

I believe the victims are Meek Mill, the segment of the voting public that values judicial accountability, and the wealthy individuals that are, in the literature discriminated against for using their power to influence elections (Bonneau & Hall, 2009; Reid, 1999; Dann & Hansen, 2000; Wold, 1986). I believe judge Brinkley and other overly punitive criminal justice administrators are the perpetrators.

9. Clearly define organizational objectives.

The organizational objective of the state judiciary is to strike a healthy balance between judicial independence and judicial accountability, in theory. In practice, the organizational goal of the judiciary has been to preserve judicial independence (Bonneau & Hall, 2009). In contrast, the objective of the concerned citizens is to enhance judicial accountability.

10. Who is/are decision maker(s)?

Essentially, the decision makers are the public—the voters and other individuals who choose to mobilize against or support Judge Brinkley. In this hypothetical scenario, I will act as the problem solver.

Translate

During this phase, it is important to specify the bounds of the problem:

1. What is the unit of analysis of your problem? Is this a problem for a community, organization/business, unorganized group of individuals, dyad (pair of individuals), or individuals?

This was once an individual problem but is now is a problem for a community and an unorganized group of individuals who wish to remove Judge Brinkley from the bench.

2. Define the problem(s). What is causing the inconvenience, harm? What is unwarranted, unwelcome, or about the situation?

There are several problems that could exist in this context. There is an issue of a "tough on crime" climate of justice in the United States, the issue of corruption in the judiciary, and the realities of a probation and parole system that functions as a revolving door for offenders who make even the slightest mistakes. The immediate problem that I choose to focus on here, however, is the dissatisfaction with Judge Genece Brinkley's chain of decision-making with regard to Meek Mill. This problem has shifted my attention to another problem, the current absence of efforts to mobilize for judicial reform in the wake of the Meek Mill controversy.

What is unwarranted is the harshness of the punishments Judge Brinkley handed down to Meek Mill. What is unwelcome is the lack of judicial accountability, which could lead to diminished trust in our courts, which, in my opinion is detrimental to maintaining justice. Theoretically speaking, if people do not trust the courts, they will not respect the judiciary. If people do not respect the judiciary then we have problems with

deterrence. If we have problems with deterrence, we have problems with crime control. If we have problems with crime control, we have issues with public safety and perceptions of safety, in addition to the collateral consequences of crime and punishment.

3. Prioritize the problem(s).

The primary issue is dissatisfaction with Judge Brinkley's chain of decision-making. The secondary concern is the absence of a strategy or campaign to remove her and/or reform the judiciary.

4. Who or what is the cause of the turbulence?

One cause of the turbulence is Meek Mill's perceived lawfulness among his network of supporters juxtaposed with the harshness of the punishments rendered by Judge Brinkley. Another cause could be the unbridled discretion of criminal justice administrators and the need for more oversight in the criminal justice system.

5. What are the most controllable features of the turbulent situation?

The most controllable feature of this situation is the impending retention election.

6. How long has this problem existed?

The arrest leading to the controversy occurred in 2007 so, 11 years as of 2018.

7. Why must this situation be addressed?

This situation must be addressed to enhance judicial accountability in Philadelphia and across the nation.

8. How many are affected by the problem, conflict or crisis?

Philadelphia has a voting population of 1,035,418 voters, as of 2018 (dos.pa.gov). In addition, there are others who are passionate about this controversy. An accurate total count of individuals is not possible in this case.

9. What is your target audience?

Voters in Philadelphia and others interested in mobilizing to unseat Judge Brinkley

10. Have previous solutions caused current problems?

No.

11. How do industry politics affect potential solutions to problem(s)?

The requirements for forming PACs vary by jurisdiction but federal oversight actually makes the process easier to understand and follow. The most significant political barrier will be the stigma associated with using money to unseat judges, the prevailing view that there is something inherently wrong with being lenient on criminal defendants ("soft on crime"), and the popular professional opinion that judges should be impartial and independent versus accountable to the public.

12. Do you know relevant policies, rules, limitations and procedures?

The Federal Election Commission (FEC) is the government agency that oversees the formation of PACs. The instructions and regulations for forming PACs are found on their site, www.fec.gov.

13. Where do we need to innovate our current processes?

Now that the protests are over, citizens should consider becoming well-versed in judicial affairs, and specifically campaign fundraising14. Where do we need to change our existing thinking?

As Silva (2015) notes, we need to change the mindset that protesting is our last resort to combat injustice. In this case, Philadelphia voters and Meek Mill's wealthy supporters have more power than they may realize. Perhaps a single vote is inconsequential, but money talks—especially in judicial elections. In fact, money is a necessary condition for electoral success in most cases because money buys access to voters. Voters are more likely to select candidates with whom they are familiar and money ensures that candidates are visible (Bonneau & Hall, 2009). In terms of academia, we need to get away from the obsession with state supreme court justices and consider the role of trial courts, which handle 90 percent of court business (Aspin & Hall, 1987), in shaping pertinent outcomes. The "truthfulness" section will provide an overview of the PACs that are heavily involved in these contests.

Trial-Identification

During this stage, as the problem solver, I will identify a set of potential solutions. The most logical solution to the problem I chose to solve in the Translate stage is to remove Judge Brinkley. I understand that there are larger issues at hand but it is important that problem solvers focus in on the most solvable problems *first.* Recall, there are often more than one problem solver, each of whom might have different views of the most important or most solvable problem. No perspective is right or wrong and all viewpoints should be considered during the problem solving process. In this case, however, I am hypothetically solving this problem alone so I will proceed with my proposed solution to the Meek Mill crisis, which is to remove and replace Judge Brinkley. That said, according to the National Center for State Courts, there are two ways in which Pennsylvania judges may be removed:

1. The judicial conduct board investigates complaints regarding judicial conduct filed by individuals or initiated by the board. The board determines whether probable cause exists to file formal charges, and presents its case to the court of judicial discipline. The court has the authority to impose sanctions, ranging from a reprimand to removal from office, if the formal charges are sustained.

2. Judges may be impeached by the house of representatives and convicted by two thirds of the senate.

In addition to these removal methods, there is also the option of letting a sitting judge remain in office until they are up for retention, then voting her out of office. Regardless of what strategy is pursued, it will be necessary to raise awareness and funds to get out the message that overly punitive judges are not welcome in Philadelphia. The best way to

educate the public on a political issue and to simultaneously raise funds is to form a political action committee (PAC). Below, I will discuss the implementation of the solution I am proposing, which is the formation of an interest group in the form of a Political Action Committee to combat judicial corruption and remove Judge Genece Brinkley. Because the other two options involve more bureaucratic red tape, the proposed PAC will focus on removing Judge Brinkley via her next retention election in 2023.

Trial-Implementation

For this case study, the most important question during this stage is, how do you develop a task force/committee?

1. The first step is establishing a need.

   The popularity of the #FreeMeekMill controversy has accomplished this already. To establish further need, review Judge Brinkley's sentencing history to identify similar cases.

2. Gather information related to fundraising in Pennsylvania trial court elections.

   This has already been accomplished in the Truthfulness stage. $100.

3. Set a fundraising goal.

   Based on the evidence presented in the Truthfulness phase, and evidence from previous removal campaigns (Dann & Hansen, 2000; Reid, 1999), a suitable fundraising goal is anywhere from $100,000-200,000.

4. Once you've gathered your information, it is time to delegate.

First, the designated problem-solvers should go through your personal contacts. For every individual, assign a role in the PAC formation process, if you can. From there contact individuals to see if they *or* other individuals they know are interested in helping.

5. If your personal contacts are not enough to get started, do some grassroots advertising.

I suggest civic organizations and faith-based groups as target audiences as these individuals are usually predisposed to be civically engaged.

Once the taskforce is established and the political action committee is formed, members should elect 1-3 leaders to facilitate the deliberative democracy exercise. The leaders should ensure that the team is well-versed in the facts provided in the Truthfulness stage and that the task force develops and abides by the timeline proposed in the Timing phase.

I suggest asking the following questions during the democratic deliberation proposed in the Teamwork stage:

1. What is the ideal selection method for judges?
2. If judges are elected, where should money come from?
3. What types of judges should be elected?
4. If appointed, who should select judges? How should committees be composed?
5. Is the current judicial system fair?
6. Most importantly, if there is a judge the public does not favor, should this judge be removed and/or replaced?

The deliberative setting requires that questions be posed to a representative audience of individuals who discuss their views with the common goal of reaching a consensus. Once this exercise is complete, participants should create and register their political action committee(s).

Watson (2010) published a white paper that provides a blueprint for building a successful political action committee.

First, citizens must choose a name for the PAC that represents their goals. In this case, an example of a suitable name would be, “Citizens for the Removal of Judge Genece Brinkley”.

Once a PAC is named, the group must select a board. Board members should be elected by the committee at-large and should be assigned specific responsibilities and terms of service. The committee should also decide how often board members will be elected and how often the board will meet. The Federal Election Commission also requires PACs to have a treasurer responsible for recording and collecting donations to the PAC. The committee at-large should elect an individual with some bookkeeping experiences to occupy this role. Other officers the PAC should elect include an assistant treasurer, a chairperson, and a secretary. Other positions to fill include internal support roles such as human resources, payroll, IT, communications, and market research professionals. There should also be at least two members whose primary role is to file the required periodic reports with the FEC and the Pennsylvania Department of State.

To be successful, the committee should also clearly establish its mission and goals. In this case, an example of the mission would be, “Citizens for the Removal of Judge

Genece Brinkley is a unique community program to elect judicial candidates that support the fair administration of justice. Citizens for the Removal of Judge Genece Brinkley seeks to inform the voting public about issues pertaining to judicial selection and grassroots fundraising". Goals might include: educate Pennsylvanians to mobilize for judicial reform; end draconian punishments and unjust sentences; reduce judicial corruption; improve voter awareness to mitigate the problem of voter ignorance; and utilize deliberative democracy to enhance community involvement in the judicial selection process.

Marketing is also an essential component of managing a successful PAC. The PAC should host a user-friendly website where donations can be hosted and emails can be sent and received. There should be a password-protected section of the website for members to be able to communicate with one another. The PAC should establish a paper and/or digital newsletter that could include judicial selection trivia questions or cartoons to captivate the committee's audience. Develop a listserv to communicate with potential donors electronically and motivate individuals to give by hosting special meetings and events. Most importantly, regularly thank committee members and donors for their participation and support.

A PAC should also establish a set of bylaws to guide its basic operations, a set of operating policies, contribution criteria, recommended contribution guidelines, and a database of eligible individuals with whom the committee will communicate and whom the committee will solicit.

Next, the group must register the PAC with the federal government (fec.gov) and the Pennsylvania Department of State (dos.pa.gov). In order to register a PAC with

Pennsylvania, the committee must complete the Political Committee Registration Statement form. While operating as a political action committee, the group must record all donations and expenditures and report them to the Pennsylvania Department of State.

Finally, the group should develop a fundraising plan to get their message to voters.

Timing

In this phase, it is important to consider the timing aspect of the problem-solving process. Time is a valuable resource because it is the only resource that cannot be regained or replaced once spent or lost. Luckily, in this case, time is on the side of the problem-solvers as the retention election is 5 years off. It would probably take 3-4 months to brainstorm and organize a core fundraising committee, another 6 months to form a solid Political Action Committee (PAC), and 6 months to campaign for Judge Brinkley's removal in 2023. In total, problem-solvers should donate about a year and a half to the removal campaign, and another 4-6 months to identifying and promoting a replacement candidate.

Trust

Shared trust or lack of trust are significant determinants of problem-solving effectiveness (Zand, 1972). Forbes Coaches Council (2017) offers 12 ways leaders can establish trust with the groups they serve. Once selected, the chief problem-solver should consider these suggestions when forming the interest group to maximize its problem-solving effectiveness:

1. Earn trust by being transparent about how changes will affect the committee; talk to committee members, not at them; have an open-door policy, and then follow-up; be willing to pitch in to help; and make kind gestures such as providing lunch for the group on occasion.

2. Tell committee your name, not your title. Get to know committee members and look for opportunities to say “yes” to them more often.

3. Ask the committee what is most important to them.

4. Listen effectively.

5. Do not surprise committee with reviews, news, or anything serious. Instead, build trust with regular communication, scheduled updates, and transparency about the health of the committee.

6. Offer your own trust first by letting the committee complete some tasks on their own.

7. Be respectful and recognize accomplishments to drive engagement, and ultimately performance.

8. Show the committee that you are not afraid of failure by owning up to your mistakes.

9. Lead with integrity by keeping your word with the committee. Show them that you are leading in alignment with the goals of the organization.

10. Allow committee members to evaluate themselves to develop a sense of personal accountability.

11. Build people up in any situation by providing support during rough patches.

12. Do not have all of the answers, even if you do. Be inquisitive and ask lots of questions rather than supplying answers.

Incorporating these suggestions in one's leadership model is expected to enhance trust, which is expected to enhance problem-solving effectiveness. It is also important, in this case, that the problem-solvers maintain the trust of the members of the electorate that may be skeptical about holding judges accountable. The best way to gain and maintain the trust of these voters is to demonstrate the Judge's record of harsh punishment, if possible. Another necessary step in gaining and maintaining voters' trust is to remain transparent—which is discussed in the next stage.

Transparency

In addition to securing the trust of the organization and its audience, problem-solvers should also remain transparent throughout the problem-solving process. According to Forbes magazine (Llopis, 2012), 5 powerful things happen when a leader is transparent:

1. Problems are solved faster.

2. Teams are built easier.

3. Relationships grow authentically.

4. People begin to promote trust in their leader.

5. Higher levels of performance emerge.

Being transparent is also one of the four pillars of procedural justice (Tyler et al., 1994). In order for compliance to occur, the problem-solving process must be seen as fair, leaders must be transparent in actions, there must be opportunity for individuals to voice their opinions, and leaders must be impartial in decision making. The best way to maintain transparency is for the committee to make group decisions regarding the selection of the interest group's leadership. Once elected, the leadership team should keep the interest group abreast of its decision-making and publish regular reports of its activities. Lead problem-solvers should also keep an open line of communication and involve committee members in PAC operations as much as possible. Transparency is also important to maintain with the public. The interest group should be clear about its reasons

for removing Judge Brinkley and should not make baseless attacks or withhold any evidence of her inappropriateness as judge.

Teamwork

To enhance the problem-solving process in this case, interest group members should engage in democratic deliberation. Deliberative democracy is a field of political inquiry concerned with improving the collective decision-making process (Dryzek and Niemeyer, 2012). It is defined as, a conception of democratic government that secures a central place for reasoned discussion in political life. In laymen's terms, deliberative democracy is using the art of group discussion to affect political change. I argue that it is an excellent strategy for teams to work together in cases like the current context.

Deliberative Democracy

Deliberative democracy emphasizes the active participation of individuals in making decisions via consequential deliberation (Dryzek and Niemeyer, 2012). Anchored in accountability as the conceptual core of legitimacy, and in public discussion, deliberative democracy involves turning away from liberal individualist or economic understandings of democracy toward more collective conceptualizations of fairness. As a process, deliberative democracy focuses on processes of opinion and will formation that precede voting, versus focusing on the act of voting itself. It is important to note that deliberative democracy is not an alternative to, but an expansion of traditional representative democracy.

Deliberative Democracy is a form of civic and political engagement, or the participation in the political process by making one's opinions and beliefs known (Cook & Jacob, 1998). Civic engagement is important because it brings out the best version of every single person in the community (Carpenter, 2018). Proponents of this philosophy believe that engaging with others helps us learn things we don't know. I argue that

deliberative democracy also increases social capital, defined as, the networks of relationships among people who live and work in a particular society, enabling that society to function effectively (Gastil & Levine, 2005). Deliberative democracy also bolsters the civic infrastructure, which is defined as a way in which a region or community comes together to hold itself collectively accountable for implementing its own unique cradle-to-career vision and organizes itself to identify what gets results (Gastil, 2000). Together, social capital and civic infrastructure foster more effective citizen participation: Increasing social capital should enhance the civic infrastructure, which should not only increase citizen participation in important political and social decisions, but should improve satisfaction with extant policies/social structure (Gastil & Levine, 2005).

The following are some other hypothesized effects of deliberative democracy (Carpini et al., 2004):

1. Citizens will become more engaged and active in civic affairs;
2. Tolerance for opposing viewpoints will increase;
3. Citizens will improve their understanding of their own preferences and be able to justify those preferences with better arguments;
4. People in conflict will set aside their adversarial, win-lose approach and understand that their fate is linked with the fates of others;
5. Faith in the democratic process will be enhanced as people become empowered and begin to view government as truly of the people;

6. Political decisions will become more considered and informed by relevant reasons and evidence;
7. Community's social capital will increase as people bring deliberation to their civic activities;
8. The legitimacy of the constitutional order will grow;
9. Citizens will become more enlightened about their own and others' needs and experiences;
10. Citizens will be better able to resolve deep conflict;
11. Citizens are more engaged in politics; and
12. Citizens perceive their political system as legitimate and lead a healthier civic life (Caripini et al., 2004);

In short, deliberation should result in empathy with the other and a broadened sense of people's own interests via the process of reasoned argumentation. The deliberative process has been demonstrated as effective in several other team-based environment, some of which are described below:

1. Gastil (2000) reviews a 1984 "community visioning" process in Chattanooga, TN which involved 50 community activists and volunteers meeting over a 20-week period. Attendees produced a list of priorities and solutions including a shelter for abused women and a riverfront park. Also, from this initiative came a series of neighborhood associations and new nonprofit organizations. By 1992, most of the solutions emerging out of the forums had been implemented.

2. Gastil (2000) cites a situation where a nonprofit in Oregon organized hundreds of neighborhood forums across the state from 1980-1990, in which citizens discussed the states' health care problems. As a result, in 1990 the state legislature created the Health Services Commission, which adopted the same citizen forum model to provide more official guidance and input. Within a year these forums produced a list of state-wide health care priorities, used to guide government action in this area.

3. Delli Carpini (1997) reported that citizens who participated in a series of deliberative discussions about the role of money in politics became more knowledgeable about the issue, more trusting of their fellow participants, and more likely to report participating in other forms of civic engagement. They also overwhelmingly agreed that the recommendations summarized in the project's final report accurately reflected the consensus of the group, even when these recommendations did not reflect their own personal view.

4. Cook & Jacobs (1998) reviewed a quasi-experimental pre-post-test comparison group design study that found that participants in a deliberative forum for discussing Social Security increased their levels of interest in Social Security, knowledge about the program, and plans for political involvement on the issue as compared to a random sample of community residents and nonattending forum invitees.

Applying Deliberative Democracy in the Current Context

The examples of results-based teamwork via the use of deliberative democracy presented above highlight its potential effectiveness in the current problem-solving process. To cultivate collaboration and to increase the likelihood that the group's efforts will result in the removal of Judge Brinkley, it is necessary that the problem-solvers continuously engage in a dialogue with interest group members focused on their needs and views regarding the problem and proposed solutions. In addition to focused discussions, other examples of deliberative democracy include: sending letters to local representatives, participation in public consultation, some forms of protesting, Citizens' juries, Consensus conferences and Planning Cells (Dryzek and Niemeyer, 2012). Deliberative democracy also includes the collection of information aimed towards making a more informed consequential decision. The next stage provides an example of how to collect relevant information to aid in the problem-solving process.

Truthfulness

During this stage, it is important to collect relevant data before implementing the proposed solution. Here, we are concerned with what facts can be verified that will help with fundraising and PAC formation. With regard to the current research, in this section I explore Research Questions 1-3.

Sample

To complete this data collection initiative, I examined the Pennsylvania Department of State campaign finance records from one randomly selected judge from each judicial district (N=60). I collected information regarding the total contributions to each judge and his or her committee, as well as the proportion of each judge's contributions that were from political committees, or interest groups. I then recorded the amount each interest group or political committee contributed to each judge during election years for all donations over $500. The election years examined were 2003, 2005, 2007, 2009, 2011, 2013, 2015, and 2017. Table 1 (Appendix) includes the campaign finance totals from each candidate.

Findings: Research Question 1

Together, trial judges raised a total of $3,084,219.68. Split across candidates, this breaks down to an average of $51,403.66 per candidate. *Thus, I reject the null hypothesis for Research Question 1, that judges raise more than $380,000 on average*. This suggests that Arbour and McKenzie's (2009) assertion is correct: Pennsylvania trial judges do not conform to the same "new style" fundraising as their state supreme court counterparts.

The candidate who raised the most money was John J. Mead of Erie County. He raised $240,554.29, which is still under the $380,000 threshold. The median amount

raised, however, was $32,561.28, meaning that half of candidates raised less than $33,000 and half raised more than the median amount. This suggests that *the majority of trial judges in Pennsylvania may not rely on exorbitant amounts of money to secure elections.* These figures are helpful for the committee's fundraising goal setting. Essentially, it costs between $30,000-$50,000 to elect a candidate to the Pennsylvania Court of Common Pleas. It would cost around $250,000 to have the greatest chances of getting a candidate into office, which is similar to how much other removal campaigns have costed (Dann & Hansen, 2000; Reid, 1999)

Findings: Research Question 2

Table 2 (Appendix) illustrates the amount of money donated to trial judges' campaigns by political committees. Political committees donated a total of $107,000, across all candidates based on records of single donations over $500. This breaks down to only $1,783.33 per candidate. Thus, as predicted, *I also reject the null hypothesis associated with Research Question 2, that political committees will donate $213,000 or more per candidate, on average.* This suggests that local judicial elections are still friends and family affairs, and that forming an interest group should be a viable option for removing Judge Brinkley as there is little competition overall.

The judicial candidate that received the most money in political donations was Brandon P. Neuman of Washington County, who received $24,900 in political contributions, which is still much less than the $213,000 threshold. In contrast to the 56 percent of interest group donations Bannon et al. (2017) report, the highest grossing judge in this sample's interest group contributions only constituted 21 percent of his total election year contributions. David R. Cashman, trial judge in Allegheny County received

the largest proportion of donations from political sources, with only $9,500 in contributions amounting to 28 percent of his total election year contributions. The average percentage of political contributions for this sample is 2 percent, suggesting that political committees are *not* a significant source of contributions to trial judges in Pennsylvania like they are for state supreme court judges. This is great news for the problem-solvers who should look to influence judicial elections by forming political action committees. Only $100,000 in political donations across 60 candidates means that if the committee was to raise $100,000 individually, its removal efforts should be successful.

Findings: Research Question 3

Table 3 illustrates some PACs that have donated to Pennsylvania trial judges in this sample (political parties and candidate sponsored PACs have been excluded in lieu of special interest groups). Excluding donations from political committees and candidate PACs, candidates raised a total of $66,900 from special interest groups. This only breaks down to $1,115 per candidate. The majority of political donations to candidates were from labor unions, such as the International Brotherhood of Electrical Workers, the International Brotherhood of Boilermakers, Ironworkers, Carpenters Legislative Program of Greater Pennsylvania, International Union of Operating Engineers, Plumbers Local Unions, and United Association Local Union. Other donors tended to make small, single donations. *Here I fail to reject the null hypothesis for Research Question 3, that the majority of donations do not come from attorneys and law firms.* It seems like lawyers and law firms are not as involved in local judicial elections as their State Supreme Court counterparts. Labor unions are much more popular, perhaps because they operate at the

local level like trial elections. State supreme courts may not hear these cases frequently enough for labor unions to donate to appellate judges' campaigns. Trial judges, on the other hand make a variety of decisions relevant to union members, such as labor disputes, personal injury claims, and zoning decisions, which affect building opportunities, which provide labor unions with work. This information suggests that labor unions should be targeted as potential fundraising partners for the removal of Judge Brinkley.

Train

Individuals participating in this process should be trained in deliberative democracy principles. The Kettering Foundation offers a Deliberative Democracy Institute where people from diverse nations explore a range of ideas that can improve public life at the community level and beyond. The Institute encourages citizen participation and advancing knowledge of democratic principles (https://www.kettering.org/shared-learning/ddw). The institute takes place in Dayton, Ohio each summer and hosts scholars, journalists, community leaders, civil society practitioners, and others. All participants have a common goal: a desire to understand and develop ways for ordinary people to have a greater role in shaping their own futures. Participants come from all over the world and must be nominated before being invited to the exchange.

The Deliberative Democracy Institute is a weeklong training where participants describe challenges faced in their communities in solving common public problems and what they have learned. Kettering shares insights from its research. This feedback process allows for an ongoing exchange of ideas and continues beyond the Institute. The first session explores the idea of a deliberative public and considering new ways for organizing political work in communities. Participants situate their own experiences through the lens of deliberative politics. Many people return for a second session to share the work they have done over the previous year and how they have used the skills learned in session one to solve problems in their communities. This program is ideal for those looking to reform the judicial selection landscape, but it is understandable that it is not accessible for everyone. Still, the program model can be adapted in Pennsylvania by

using the research into deliberative democracy conducted by the Kettering and the research on judicial selection conducted by Brennan Center for Justice and the National Center for State Courts:

The Brennan Center for Justice is housed at the New York University school of law. Brennan is a nonpartisan law and policy institute dedicated to protecting the rule of law and the values of Constitutional democracy. It gathers and publishes statistics related to judicial campaign finance in two series entitled “New Politics of Judicial Elections” and “Justice at Stake”. The National Center for State Courts is an independent, nonprofit court improvement organization founded at the request of Warren E. Burger, Chief Justice of the Supreme Court. Its services are focused on helping courts make critical decisions and ensuring that judicial administration supports fair and impartial decision-making. The National Center for State Courts manages the website, www.judicialselection.us, that summarizes the judicial selection process by state, provides voter guides, and highlights research into judicial selection reform efforts. Both the Brennan Center for Justice and the National Center for State Courts are excellent resources for developing a training programme.

Troubleshoot

After the democratic democracy exercise, questions should be asked that test participants' knowledge of judicial elections in Pennsylvania *and* their satisfaction with the deliberative democracy process:

1. What are the different methods of judicial selection in the United States?

2. How are judges in Pennsylvania selected?

3. Why are judicial elections important for justice?

4. How much does the typical judicial candidate raise in a single election in Pennsylvania?

5. How much, on average, do interest groups donate to judges in Pennsylvania?

6. Why is voter ignorance a problem that needs to be solved?

7. How does deliberative democracy enhance justice?

8. Did the exercise in deliberative democracy increase your understanding of judicial elections?

9. Did the exercise in deliberative democracy change your views regarding judicial selection?

10. What would you change about the deliberative democracy exercise?

If participants are able to answer the questions with regard to judicial selection, the deliberative democracy exercise and training were successful, and these individuals are prepared to hit the campaign trail. A separate survey should be developed and

administered post-election to determine whether the interest group was a suitable strategy for removing Judge Brinkley and how future efforts can be informed by this project.

Overview

This section illustrates how Transformative Framework can be used to better understand judicial elections in Pennsylvania *and* how citizens can mobilize for change when they are unhappy with the current judicial landscape. During the Turbulence phase, we gain a better understanding of the context of the problems and during the Translate phase, we gained a better understanding of the problems at hand. The primary problem was defined as dissatisfaction with a sitting judge, followed by the secondary issue of the need to mobilize for change. The Timing section offered a sample timeline, while the Truthfulness phase answered the three quantitative research questions of this study. In short, trial judges do not appear to be inundated by special interest funding. Trial court elections still appear to be friends and family affairs (Hojnacki & Baum, 1992; Arbour & McKenzie, 2009). The Transparency and Trust sections incorporated management principles to inform political action committee leaders. In the Teamwork phase, deliberative democracy was introduced as a strategy for collaborative problem-solving, while the Trial section put things into perspective by providing instructions for setting up a political action committee and a deliberative democracy exercise. The Train phase highlighted a particular training and training resources. Finally, the Troubleshoot section provided evaluative questions for committees to ask amongst themselves once the deliberative democracy exercise is over.

Taken together, these steps help understand judicial selection in Pennsylvania and the process of mobilizing to affect justice reform. Most analyses would begin and end with the Truthfulness phase, without giving thought to the larger context, or the human element of research. This is the first judicial campaign finance analysis I have come

across that (1) itemizes trial court fundraising activity at the state level, and (2) provides everyday citizens with instructions on how to get involved. Most studies reviewed in this manuscript simply answered quantitative research questions. Here, I not only answer quantitative questions, but I explore qualitative research questions and consult on how these findings can be applied in the real-world context.

Chapter Five: Discussion and Conclusion

Translational Criminology

The theme of 2011's National Institute of Justice annual conference was. "Translational Criminology: Shaping Policy and Practice with Research". Translational criminology is the idea that if we want to prevent, reduce, and manage crime, *we must be able to translate scientific discoveries into policy and practice* (Laub, 2011). According to NIJ's website, the goal of translational criminology is to break down barriers between basic and applied research by creating a dynamic interface between research and practice. It involves cooperation between practitioners and scientists to discover new tools and ideas to overcome challenges and evaluate the impact of research. Translational criminology goes beyond the traditional "research-to-practice" idea to systematically study the process of knowledge dissemination and recognizing that *the successful adaptation of research may require multiple strategies*. It goes beyond "what works" to determining how to implement the evidence in real-world settings. Translational criminology prioritizes applicability—or research with the potential for real-world implementation. This type of approach is especially attractive in today's climate of limited funding for criminological research. Most practitioners do not want to hear p-values. They want to hear answers to the most pressing questions, discover new ways to approach problems, and exposure to the most viable solutions to real-world problems. Overly complex statistics and complicated research designs mean little when causality is in question. With the exception of formal experiments, most traditional studies overstate their value or remain agnostic. Even randomized controlled trials suffer from their limited sample sizes and generally only prove to be efficacious, not effective.

The research presented here is admittedly simple, yet integral to the current landscape of judicial elections research. The statistics presented here cannot be challenged, as they are purely descriptive and based solely on observable facts. The tables are straight-forward and the data housed in them can be accessed by readers free of charge. The qualitative findings presented here can be adapted in real world deliberations sans any modification. Instead of simply reviewing the contributions of big money PACs, I provide intel for individuals to start their own political action committees that can be mobilized to impact judicial selection in *any* state. The deliberative democracy exercise I proposed is also easily generalizable to a larger audience. Citizens all over the world deserve to have a say in the justice process and active participation in democracy requires knowledge like the information presented here.

Contribution

In addition to furthering the mission of Translational Criminology adherents, this dissertation accomplished several goals. First, this paper established that the new style of judicial campaigning, marked by large amounts of money being poured into elections from special interests, has *not* reached lower court elections. Here I also introduced an innovative analytical framework for solving complex problems to decrease the likelihood of voter ignorance in Pennsylvania and used it to: situate the study's four Research Questions, assess the current state of judicial finance among Pennsylvania trial judges, propose a deliberative democracy exercise for citizens interested in judicial reform, and provide instructions for developing a political action committee (interest group) for concerned citizens unhappy with the current judicial climate. In addition to accomplishing the primary research goals of this study, I also introduced the problem-

solving, management, and political science literatures to the field of criminal justice in this interdisciplinary inquiry. I developed the first comprehensive, general problem-solving framework and methodology in the field of criminology by: extending my research beyond the scientific method to incorporate procedural justice, assessing the larger social environment in which the research takes place, accounting for time resource management in developing solutions, building in professional development, evaluation, and fidelity management, and informing efforts in the pre-, present, *and* post-problem-solving states.

This research is also unique in its focus on legitimacy in the criminal justice system as a formal problem needing solving and introduced a recent high-profile case involving rapper Meek Mill, that may not have been of knowledge to mainstream criminologists, despite being all over the news. This dissertation used mixed methods, combining quantitative analyses with qualitative research. It is innovative in its practicality and ability to be understood and applied outside of academia. I wrote this paper for a general audience with hopes that it will be useful in real-life contexts to solve important problems. Specifically, I wanted to give the supporters of Meek Mill and residents of Pennsylvania an alternative to griping about the current state affairs by providing a blueprint for decisive action.

To recap, this study began by introducing the case of rapper Meek Mill, who is currently in an ongoing feud with Judge Genece Brinkley and the Pennsylvania Court of Common Pleas. I used this story to illustrate how citizens can be highly dissatisfied with government, particularly the judiciary, but ignorant with regard to how to best solve their problems. From here, I transitioned into a discussion of judicial dissatisfaction as a

problem that I believe is best solved by mobilizing financial resources to oust unpopular judges. I briefly introduced the field of problem-solving, and my Transformative Framework, providing an overview of the history of judicial selection. I overviewed the various methods of judicial selection, driven by historical attempts to balance judicial accountability and judicial independence and highlighted instances where money helped unseat incumbent justices.

I then turned to the literature review of judicial campaign finance, centered upon the idea that justice is for sale. I highlighted the drastic increase in money spent on judicial contests since the year 2000 and focused on the role of special interests in funding these elections. I support my research here with evidence demonstrating that fundraising success is highly correlated with electoral success (Champagne, 2000; Greytak et al., 2015; McCall, 2003) and that retention elections (such as the one Judge Brinkley will face in 5 years) are also fierce battlegrounds where money shapes electoral outcomes. I justify my decision to study Pennsylvania by noting the state's 2015 record spending in judicial elections (Bannon et al., 2017). Next, I link judicial fundraising to judicial behavior, demonstrating that there is some evidence of a quid pro quo relationship (Shepherd and Kang, 2014). This study, however, departs from traditional research that shuns such relationships by encouraging citizens to take advantage of this landscape, if it exists. This is especially true for individuals like Meek Mill who can afford to buy out virtually any interest group involved in judicial elections. This logic guides my suggestion that citizens mobilize to form their own political action committees.

Summary of Findings

The main takeaways from the quantitative analyses are as follows:

1. Sixty judges raised a total of $3.1 million.

2. Judges raised about $50,000 total, on average.

3. The median amount raised was approximately $33,000 per judge.

4. Political committees donated approximately $100,000 total, across 60 candidates when considering single donations over $500.

5. On average, political contributions only comprised 2% of judges' funds. The rest came from individual donors, political parties, the candidates themselves, or PACs representing other politicians.

6. Labor unions were the most popular donors to trial judges in Pennsylvania. Although labor unions and corporations are prohibited from donating to candidates directly, they can do so through their PACs.

7. Two of the hypotheses were supported, suggesting that trial judges do not partake in "new style" elections and one was refuted, concluding that unions, not lawyers and law firms were the most popular interest group donors. The fourth research question was addressed in an exposition of Transformative Framework.

Conclusion

Researchers, judges, and citizens are fearful that the new landscape of judicial elections is a threat to judicial independence. Specifically, many are concerned that "justice is for sale". While the research in this area is generally supportive of this notion,

these studies have been limited to a small subset of judges in a handful of states (Bonneau & Cann, 2009; Cann, 2007; Kang & Shepherd, 2011;2013; McCall, 2003; Palmer & Levendis, 2008; Shepherd, 2013; Waltenburg & Lopeman, 2000; Ware, 1999). Also, if this is true, judicial accountability is being preserved—which is not necessarily a bad thing. Nonetheless, trial judges, who decide the majority of cases in the United States, have been routinely excluded from the body of work examining campaign contributions, partisanship, and decision-making. This is disconcerting as decisions made by these judges, who are even more likely than appellate judges to be selected via popular elections, have extensive implications. State supreme court justices, the focus of the existing research on electoral incentives and judicial decision-making, typically decide very few, high-profile, policy-yielding or appellate cases per curiam or en banc. Trial judges, on the other hand, operate at the county- or city-level and adjudicate the majority of felony criminal cases and routine civil matters with very little oversight. In trial courts, where a single judicial officer presides over all matter, judges have more autonomy in shaping case outcomes than their counterparts at the state supreme court level. Yet, whether these judges abuse their discretion to appeal to their campaign financiers has not been explored, despite being the subject widespread complaints and allegations of corruption. Future research should explore these issues.

Future of Transformative Framework

In the near future, I hope to use the information presented here to support Meek Mill and his followers solve their problem of judicial dissatisfaction. Transformative Framework, however, is not just limited to examining judicial elections. For instance, Transformative Framework could be used to organize citizens in other states that use

different selection methods for their judges by modifying the questions asked in the Trial phase to match the context at hand and forming PACs to elect or appoint other individuals besides judges. For example, in states with appointive systems, citizens might mobilize to elect a new governor that will appoint judges that fit their preferences. In merit selection states, citizens can use Transformative Framework to determine how to rally in favor of a new electoral system or to have new members appointed to merit selection committees.

Transformative Framework can also be used outside of politics to solve other community problems such as those involving education or public health. Most importantly, however, Transformative Framework has considerable implications for criminology. For instance, the problems of school shootings, officer involved shootings, chronic theft/robbery, and bullying can all be addressed using Transformative Framework. What is missing in traditional analyses is the focus on procedural justice, empiricism, humanistic qualities, *and* evaluative components. Transformative Framework includes all of these elements and is suitable for all types of research, from survey research to randomized controlled trials. As stated in previous sections, it is more difficult to define a context in which Transformative Framework cannot be applied than to identify instances in which it can be applied.

Limitations

As an exploratory study, the primary goal of this work was to set the stage for further inquiry into this area. The limitations of this study include the small sample size of both judges and contributions and the absence of multivariate statistical analyses.

Although the sample is likely representative based on the sampling method, I am sure there are outliers whose information might change the conclusions drawn here. With regard to the statistical limitations, the absence of complex statistics is overcome by the originality of the research questions and the presentation of an innovative analytical framework that has the potential to serve as the backdrop for more advanced analyses.

In sum, this study was geared towards citizens in a particular jurisdiction who are upset with a specific judge. Future work will take a more empirical approach to the study of judicial elections. For instance, I plan to analyze the relationship between trial judge campaign contributions and outcomes such as sentencing, tort decisions, legitimacy, and retention success using the full range of available data. None of these relationships have been examined in the literature with respect to trial judges and I hope to continue to provide a fresh perspective to the fields of criminology, problem-solving, and political science.

Appendix: Tables

Table 1. Judges' Campaign Finance Totals

County	Judge	Total Contributions
Adams County	Shawn C. Wagner	$43,122.99
Allegheny County	David R. Cashman	$33,748.30
Armstrong County	James J. Panchik	$120,618.14
Beaver County	Kim Tesla	$32,985.21
Bedford County	Travis W. Livengood	$26,000.91
Berks County	James M. Lillis	$215,839.78
Blair County	Timothy M. Sullivan	$106,986.83
Bradford County	Evan S. Williams III	$44,554.65
Bucks County	Gary B. Gilman	$46,103.73
Butler County	S. Michael Yeager	$0.00
Cambria County	David J. Tulowitzki	$103,265.32
Carbon County	Steven R. Serfass	$41,070.00
Centre County	Pamela A. Ruest	$134,486.59
Chester County	John L. Hall	$65,320.52
Clarion County	James G. Arner	$0.00
Clearfield County	Paul E. Cherry	$34,207.28
Clinton County	Michael F. Salisbury	$0.00

County	Judge	Total Contributions
Columbia/Montour Counties	Gary E. Norton	$25,974.00
Crawford County	Anthony J. Vardaro	$0.00
Cumberland County	Thomas A. Placey	$41,122.81
Dauphin County	John J. McNally	$214,659.00
Delaware County	Richard M. Cappelli	$98,819.95
Elk/Cameron Counties	Richard A. Masson	$11,990.70
Erie County	John J. Mead	$240,554.29
Fayette County	John F. Wagner	$0.00
Franklin/Fulton Counties	Jeremiah D. Zook	$51,180.00
Greene County	Farley D. Toothman	$32,137.34
Huntingdon County	George N. Zanic	$17,300.00
Indiana County	William J. Martin	$1,425.00
Jefferson County	John H. Foradora	$553.00
Lackawanna County	Julia K. Munley	$76,295.00
Lancaster County	Howard F. Knisely	$29,809.08
Lawrence County	Dominick Motto	$0.00
Lebanon County	John C. Tylwalk	$0.00
Lehigh County	Edward D. Reibman	$0.00
Luzerne County	Tina Polachek Gartley	$169,727.77
Lycoming County	Joy Reynolds McCoy	$79,015.48
McKean County	John H. Pavlock	$14,948.28

County	Judge	Total Contributions
Mercer County	Robert G. Yeatts	$0.00
Mifflin County	Aaron L. Gingrich	$0.00
Monroe County	Arthur L. Zulick	$120,431.15
Montgomery County	Patricia E. Coonahan	$0.00
Northampton County	Samuel P. Murray	$88,215.98
Northumberland County	Charles H. Saylor	$0.00
Perry/Juniata Counties	Kenneth A. Mummah	$20,876.25
Philadelphia County	Jacqueline F. Allen	$0.00
Pike County	Gregory H. Chelak	$67,152.35
Potter County	Stephen P.B. Minor	$4,740.00
Schuylkill County	Jacqueline L. Russell	$13,385.00
Snyder/Union Counties	Michael H. Sholley	$31,497.76
Somerset County	Daniel W. Rullo	$79,500.00
Susquehanna County	Jason J. Legg	$0.00
Tioga County	George W. Wheeler	$0.00
Venango County	Oliver J. Lobaugh	$0.00
Warren/Forest Counties	Maureen A. Skerda	$52,013.59
Washington County	Brandon P. Neuman	$119,140.35
Wayne County	Janine Edwards	$72,700.00
Westmoreland County	Anthony (Tony) G. Marsili	$0.00
Wyoming/Sullivan Counties	Russell D. Shurtleff	$189,675.00

County	Judge	Total Contributions
York County	Andrea Marceca Strong	$71,070.30
Total		$3,084,219.68

Table 2. Political Contributions to Trial Judges

County	**Judge**	**Political Donations**	**% Political**
Adams County	Shawn C. Wagner	$500	1%
Allegheny County	David R. Cashman	$9,500	28%
Armstrong County	James J. Panchik	$3,500	3%
Beaver County	Kim Tesla	$3,500	11%
Bedford County	Travis W. Livengood	$500	2%
Berks County	James M. Lillis	$6,500	3%
Blair County	Timothy M. Sullivan	$5,800	5%
Bradford County	Evan S. Williams III	$0	0%
Bucks County	Gary B. Gilman	$0	0%
Butler County	S. Michael Yeager	$0	0%
Cambria County	David J. Tulowitzki	$0	0%
Carbon County	Steven R. Serfass	$0	0%
Centre County	Pamela A. Ruest	$0	0%
Chester County	John L. Hall	$500	1%
Clarion County	James G. Arner	$0	0%
Clearfield County	Paul E. Cherry	$0	0%
Clinton County	Michael F. Salisbury	$0	0%
Columbia County	Gary E. Norton	$0	0%
Crawford County	Anthony J. Vardaro	$0	0%
Cumberland County	Thomas A. Placey	$0	0%

County	Judge	Political Donations	% Political
Dauphin County	John J. McNally	$21,000	10%
Delaware County	Richard M. Cappelli	$500	1%
Elk County	Richard A. Masson	$0	0%
Erie County	John J. Mead	$4,500	2%
Fayette County	John F. Wagner	$0	0%
Franklin County	Jeremiah D. Zook	$11,000	21%
Greene County	Farley D. Toothman	$0	0%
Huntingdon County	George N. Zanic	$0	0%
Indiana County	William J. Martin	$0	0%
Jefferson County	John H. Foradora	$0	0%
Lackawanna County	Julia K. Munley	$2,000	3%
Lancaster County	Howard F. Knisely	$0	0%
Lawrence County	Dominick Motto	$0	0%
Lebanon County	John C. Tylwalk	$0	0%
Lehigh County	Edward D. Reibman	$0	0%
Luzerne County	Tina Polachek Gartley	$6,800	4%
Lycoming County	Joy Reynolds McCoy	$0	0%
McKean County	John H. Pavlock	$0	0%
Mercer County	Robert G. Yeatts	$0	0%
Mifflin County	Aaron L. Gingrich	$0	0%
Monroe County	Arthur L. Zulick	$1,000	1%

County	Judge	Political Donations	% Political
Montgomery County	Patricia E. Coonahan	$0	0%
Northampton County	Samuel P. Murray	$0	0%
Northumberland County	Charles H. Saylor	$0	0%
Perry County	Kenneth A. Mummah	$2,500	12%
Philadelphia County	Jacqueline F. Allen	$0	0%
Pike County	Gregory H. Chelak	$500	1%
Potter County	Stephen P.B. Minor	$0	0%
Schuylkill County	Jacqueline L. Russell	$1,000	7%
Snyder County	Michael H. Sholley	$0	0%
Somerset County	Daniel W. Rullo	$0	0%
Susquehanna County	Jason J. Legg	$0	0%
Tioga County	George W. Wheeler	$0	0%
Venango County	Oliver J. Lobaugh	$0	0%
Warren County	Maureen A. Skerda	$500	1%
Washington County	Brandon P. Neuman	$24,900	21%
Wayne County	Janine Edwards	$0	0%
Westmoreland County	Anthony (Tony) G. Marsili	$0	0%
Wyoming County	Russell D. Shurtleff	$0	0%
York County	Andrea Marceca Strong	$500	1%
Total		$107,000	

Table 3. Political Action Committees

Name of PAC or Political Committee	Total Amount Donated
520 Walnut Street Partnership	$500
Babst, Calland, Clements, & Zomnir, P.C. PAC	$1,000
Better Government for PA	$1,000
Bill PAC	$5,000
Boilermakers Local 154	$2,000
Build PA PAC	$5,000
Burns White LLC PAC	$1,000
Capital Blue PAC	$1,000
Capitol PAC	$2,500
Carpenters Legislative Program of Greater Pennsylvania	$2,200
Citizens for a Better Pennsylvania	$5,000
Clerk of Records Committee	$500
Cohen & Grigsby, P.C. PAC	$1,000
Commonwealth Heritage PAC	$1,000
Dickie McCamey & Chilcote PAC	$3,000
Duane Morris LLP Govt. Committee State & Local Fund	$1,500
Eckert Seamans PA Government PAC	$1,000

Name of PAC or Political Committee	Total Amount Donated
Erie Insurance Political Action Committee	$2,000
FNB Corporation PAC	$1,000
Feldstein, Grinberg, Stein, & McKee PAC	$1,500
FOP White Rose Lodge 15	$500
Franklin County Reagan Coalition	$1,000
Greenlee Partners State PAC	$500
Grogan Graffam PA	$500
Home Builders Assoc PAC	$500
IBEW COPE	$1,000
International Brotherhood of Boilermakers Local Lodge 154	$1,500
International Brotherhood of Electrical Workers	$1,000
Ironworkers PAL Multi Candidate Committee	$1,000
Ironworkers Political Action League	$5,000
IUPAT District Council 21	$2,000
Kozlodd, Diener, Payne, Fegley PAC	$5,000
Keystone Prosperity PAC	$3,000
Laborer's Political League	$1,000

Name of PAC or Political Committee	Total Amount Donated
Local 66 PAC Club	$3,700
LOU PAC	$1,000
LPAC Erie	$500
Matis, Baum, Rizza, O'Connor PAC	$1,000
Northwest Good Government PAC	$2,500
O.P.A.C.	$500
Operating Engineers Local 66	$5,000
PA Future Fund	$3,000
PA UAW Good Government Committee	$1,000
Pike County Bulders Assn. for Affordable Housing	$500
Pittsburgh Fire Fighters Local No 1 PAC	$3,000
Plumbers Local Union No 27	$2,000
Plumbers Union Local 690	$500
PSEA Pace	$1,500
PSPA	$2,000
Strategy PAC	$1,000
Tucker Arensburg P.C. PAC	$1,000
United Association Local Union 524	$1,300
USW PAC Victory Fund	$1,000
Western PA Laborers Political Action Fund	$1,500

Name of PAC or Political Committee	Total Amount Donated
Unknown	$2,800
Total	$66,900

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