

211-0007

ISSN: 2423-8783

378 Tenjinchou Kamimaruko Nakaharaku

Kawasakishi Kangawhken Japan

# International journal of criminal study

2016 1(1)

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# J-INSTITUTE

Publication state: Japan  
ISSN: 2423-8783

Publisher: J-INSTITUTE  
Website: <http://www.j-institute.jp>

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<http://dx.doi.org/10.22471/criminal.2016.1.1.01>

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## Anomic Social Environment & Youth CRIME Induced by Social Media in KOREA

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### Abstract

*There has been diverse changes in the age of first criminal offense and both types and patterns of crimes amid the changes in social structure. In relation to that, this study was intended to provide explanation from the standpoint of anomie theory postulated by Emile Durkheim.*

*Anomie refers to a state in which there is an absence of dual standards or norms. In other words, dual standards or absence of norms arise from failure to establish new norms in the midst of weakening influence of previously prevailing norms, thereby causing a confusion reverberating throughout the society.*

*Particularly, the spread and use of SNS, spurred by advancement of ICT(Information and Communication Technology), are weakening social norms, and furthermore, online norms are still remained in uncharted territory.*

*Amid such confusion over norms, juvenile delinquency has been increasing.*

*Social media is characterized by far-reaching dissemination, openness, accessibility, relationship, and diversity of contents. This kind of social media, which grows like an organism, is not subject to ordinary mechanism for consumption and production. Rather, social media is characterized by two-way communication allowing users to participate spontaneously, share information, and create contents in the process.*

*In particular, social network service(SNS) has the characteristics of media influencing the mode of thinking and behavior of users.*

*Thus, cyber space improves solidarity, bond, and mutual understanding which bring down the wall of race, ethnicity, gender, and transforms the structure of consciousness, viewpoint, and lifestyles of people based on formation of shared values, and tear down traditional social structure.*

*Social media has far-reaching ripple effect and influence as it is a service enabling simultaneous interchange and communication with many unspecific people without any constraint on time and space. Especially, social media functions as a stepping stone to recognize the peer group norms while the recognized norms serve as barometer of social value and efficiency. Therefore, social media is likely to open the path to juvenile delinquency.*

*Friends in cyber space on social media platform have some extent of mutual psychological relevance and tend to share many things over specific matters.*

*This share ability may lead to norm recognition among peer groups, and the recognized norms will function as universal norms in society.*

*As social media is triggering this anomic social environment and strengthening online interpersonal relationship, creating a social network structure separately from offline relationship through solidarity reinforced via SNS.*

*Social media has been widely accepted as a tool for communication, information gathering/exchange, and contact among adolescents, which eventually increases the chances of contact resulting in juvenile delinquency.*

*In Korea, however, institutional regulations or policies have not been clearly laid out in Korea despite some research findings that social media has direct or indirect influence on youth crimes or realistic issues swirling over adolescent criminal offenses.*

*This reality suggests that social media has been used as hotbed of crime and that cyberspace is likely to see an upswing in number of youth crimes for the upcoming period.*

**[Keywords]** Youth Crime, Anomie, Juvenile Delinquency, Social Media, SNS

## 1. Introduction

Recent years have witnessed changes in the age of first criminal offense and types and patterns of crimes amid the changes in social structure.

From the perspective of Emile Durkheim towards social structure, Anomie Theory assumes that social relationship, culture, technology transformation, etc., may have inherent elements triggering crimes, which is a theory providing an insight into relationship between social structure and crimes.

Currently, youth crimes are deemed to be fuelled by the influence of social network in contrast to the past when youth crimes were considered to be primarily attributable to broken families.

Anomie Theory is being leveraged as a tool to examine the factor of effect which the prevailing paradigm, such as social structure, social system, social institution, etc., may have on individual activities.

Thus, this study was intended to analyze juvenile delinquency which is triggered or induced by social environment of social media through the prism of anomie theory.

## 2. Informatization & Anomic Social Environment

Informatization refers to processing the knowledge and data, materials, etc., into any form of information to increase value[1], or means compiling the data/materials collected through observation or measurement in a useful form[1].

Therefore, the value of information is determined by the efficiency achieved in the course of such processing and use, rather than its value per se. This kind of information-based society is playing a decisive role in creating and ushering in future society.

The influence and risk of information throughout the society arise from such process. Internet and SNS(Social Network Service) are playing a pivotal role in bringing about changes and spur innovative changes in overall aspects ranging from daily lives of individuals to government systems.

In relation to that, cyber space opens up and expands boundaries of new virtual world, developing in a pattern contrary to real world.

Cyber space overcomes limitation of physical proximity, tears down the barriers of culture, expands the reach of personal area or local communities to a national or global level, and promotes value sharing in all fields including politics, economy, culture, etc., thereby bringing about devolution of monopolistic power of government or corporations[2].

Anomie theory, postulated by Emile Durkheim as mainstream Theory of Tension, refers to a state of dual standards or absence of norm. In other words, dual standards or absence of norms arise from failure to establish new norms in the midst of weakening influence of previously prevailing norms, thereby causing a confusion reverberating throughout the society[3].

Social media is triggering such anomic social environment. Such social environment characterized by absence of norm(anomic state) arises from failure of existing prevailing norms or failure in establishing new cyber norms, and has a direct normative influence on adolescents familiar to social media.

Thus, social media on a path to expansion can serve as platform promoting creative and unrestrained expression of ideas and innovation of new values while it is also used to satisfy individual desires under the cover of anonymity and non face-to-face nature of

cyber space not regulated institutionally and even used for deviations such as slander, fraud, illegal substance abuse, obscene materials, etc., which give rises to adverse effect on society[4].

According to a survey by Korea National Youth Policy Institute(2012) on current use of social media among adolescents, the adolescents with experience in using the SNS comprised 52.4% of all respondents.

Moreover, the study by Lee Bok-hee, et al., showed that the adolescents who had used SNS for 1-3 years accounted for 48.2%, the highest proportion, followed by those having used SNS for more than 3 years(23.2%) and those having used SNS for 6 months to 1 year(15.6%). Based on the time spent on the use of SNS per day, the adolescents who answered that they spent 2-5 hours per day, both weekdays and weekends, comprised the highest proportion(31.4%), followed by those who answered that they spent less than 1 hour(30.7%) and those that they spent 1-2 hours(25%) per day[5].

Social media has far-reaching ripple effect and influence throughout society as it is a service enabling simultaneous interchange and communication with many unspecific people without any constraint on time and space.

Especially, social media functions as a stepping stone to recognize the peer group norms while the recognized norms serve as bellwether of social value and efficiency. Therefore, social media is likely to open up the way for juvenile delinquency. Friends in cyber space on social media platform have some extent of mutual psychological relevance and tend to share many things over specific matters[6].

This shareability may lead to norm recognition among peer groups, and the recognized norms will function as universal norms in society.

Albert Bandura explains in the Theory of Social Learning(1977) that the attitude and behavior of peer group can be learned indirectly by observer without having first-hand experience[6][7].

A survey(2015), conducted by Korea National Statistical Office on current use of internet and social media among adolescents, showed that average time spent on use of internet per week was 14.4 hours among teenagers(20.5 hours among those in their 20s) in 2014 and that adolescent using the internet at least once a day accounted for over 97%, the highest proportion[8].

According to this survey, harmful media used by middle and high school students at least once in 2014 was obscene materials on mobile phone(52.6%), the highest percentage, followed by adult programs on cable TV(42.7%) and adult periodical publications(34.1%).

The number of adolescents who pointed to obscene materials on mobile phones and adult programs on cable TV, etc., as harmful media increased almost two-fold compared to 2012[8]. The data published by the Ministry of Health & Welfare of Korea Republic suggested that there has been a surge in use of adult games or speculative games amid the increased use of harmful media among adolescents.

81% of adolescents who played games indicated that they experienced disruption to external activities(31.7%) and learning(25.7%) or violent impulse(23.6%) as adverse effect of games[9]. Thus, contact with various social media, including internet, may be considered as the factor triggering speculative/adventitious crimes or curiosity – induced crimes among adolescents.

### **3. Characteristics of Juvenile Delinquency in Korea Based on Information Elements**

#### **3.1. Lowered average age of criminal offense**

As the focus of youth culture is shifting towards cyber environment, the age of youth crime has been lowered.

The data, published by Korea's Supreme Public Prosecutor's Office for 2014, showed that the age of adolescent offenders in violent crimes was 17 in 471 cases accounting

for 13.7%, the highest proportion, followed by the age of 16 in 397 cases(11.5%), the age of 15 in 373 cases(10.8%), and the age of 18 in 369 cases(10.7%).

Youth crimes tended to imitate adult crimes in many cases, and particularly, were influenced much by cyber environment.

Cyber environment represents a place and space that allows adolescents to log onto and act under the cover of anonymity without much restriction and special filtration process. That is considered attributable to the fact that SNS is a tool facilitating such login for adolescents.

### **3.2. Increase in violent crimes**

The data, published by Korean National Police Agency, showed that 13,846 teenagers(aged from 10 to 18) were arrested on charges of violent crimes, such as homicide, burglary, rape, and arson, etc., between 2011 and 2014, out of whom more than 1,000 adolescents committed homicide and arson and 2/3 of them were sexual offenders.

The surge in violent crimes was found driven by the use of various informatization media not subject to special regulations on login, and this trend is likely to continue in the period ahead.

### **3.3. Organized crime**

As cyber environment expands rapidly, youth crimes tend to be increasingly organized. This tendency of organized crimes is fueled by the characteristics of adolescents who are easily influenced by friends or circumstances and their desire to belong to a group, and particularly, is driven by the desire to find a social breakthrough abnormally by joining abnormal groups(delinquent groups) through cyber connection when they are not recognized by normal groups.

Groups formed in that way exhibit a tendency to hold informal meetings continuously and perform special rituals for stronger solidarity of members, and vent out dissatisfaction with society by engaging themselves in delinquent behaviors. Through such process, they feel recognized and secure within group and are swayed by mob psychology.

Those groups tend to have low morality and clouded judgment, and consequently, have high consciousness of resistance against the society and exhibit aggressive and irresponsible attitude towards criminal behaviors.

### **3.4. Low guilt consciousness**

Adolescents have yet to establish their self-identity and therefore seek their self-identity through imitation of surrounding environment. Thus, surrounding environment is very important for adolescents and interested only in their consumptions as they are not equipped with production ability.

Moreover, adolescents pursue social relationship with a focus on their friends or colleagues rather than family, place an added importance on leisure more than works, show challenging attitude towards adult culture, and furthermore, experience conflict between ideal and reality and between tradition and Western culture.

Particularly, they tend to use social media excessively and have excessive reliance on social media.

These wandering characteristics of adolescents are also revealed clearly in their view on society. According to "2013 survey on honesty index of adolescents", published by Young Korean Academy's Transparency Movement Ethics Research Center which surveyed 21,000 elementary, middle, and high school students nationwide, 47% of high school students answered that it would be ok to go to jail if they were given KRW 1 billion.

Meanwhile, 19% of elementary school students, 27% of middle school students, and 36% of high school students answered "Yes, I think so" to the proposition "Difficulties facing the neighbors would not matter to me if I could live well." This provides a window into awareness of adolescents towards crimes and shows the widespread tendency of self-centered thinking.

## 4. Countermeasures against Juvenile Delinquency

### 4.1. Institutional regulations

The Juvenile Protection Act in Korea specifies harmful media, harmful substances, harmful articles, and businesses harmful to adolescents, thus regulating distribution of harmful media, etc., and banning access to businesses harmful to adolescents and prohibiting employment in such businesses.

However, SNS is not regulated institutionally thus far, apart from government policies. There are pros and cons swirling around the regulation of SNS.

Those in favor of regulation of SNS point out that SNS is no more a private space and has already become a public space and therefore should be regulated in light of its far-reaching influence and ripple effect on contemporary society. By comparison, those against regulation of SNS lambaste the regulation for restricting the lives of the public who use the internet in their daily lives and infringing upon freedom of individuals, stating that SNS is a space to build community for private communication and therefore cannot fall under public realm.

However, minimal regulation may be deemed necessary to keep illegal contents or social harm at bay, like other media subject to regulations. Filtration may be needed to stave off negative effect caused by SNS in public realm, even when SNS falls under private realm.

### 4.2. Educational management

Education represents a process for development of wholesome persons and a means for social revamp. Specifically, education promotes formation of desirable personality, laying the cornerstone for happy and valuable lives in personal life, family life, and social life, and ultimately promoting advancement of society[10].

Education should be provided with consistent interconnectivity among family, school, community, guardian organization, etc. Particularly, adolescent period is characterized by sensitive reaction to social com-

munity tools such as mass media, internet, social media, etc., and unconditional following. Thus, family and school have important roles to play.

### 4.3. Self-regulations

Self-regulation can be the last resort for upholding social discipline in the absence of institutional systems and educational dysfunction. Self-control refers to the traits or characteristics with which a person performs works in accordance with his or her principles or exercises moderation by controlling himself or herself[1].

In other words, self-regulation relates to the thinking and behavior at their own free will without undue coercion or temptation of governmental authority or private groups, and always involves responsibility[1].

Thus, self-control refers to the freedom to act on his/her choice while upholding the principles for controlling and ruling his/her behaviors. The best solution to the issue of juvenile delinquency may be the self-regulation by which adolescents can control and rule themselves based on reasonable choice.

## 5. Conclusion

Youth crimes tend to become more violent and organized gradually.

Although social media has direct or indirect influence on such youth crimes, few unambiguous institutional regulations have been enacted to curb the youth crimes.

Thus, prevention of juvenile delinquency may hinge on enactment/enforcement of minimal institutional regulations, promotion of educational functions, and greater sense of responsibility on the part of adolescents for their delinquent behaviors.

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Publication state: Japan  
ISSN: 2423-8783

Publisher: J-INSTITUTE  
Website: <http://www.j-institute.jp>

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<http://dx.doi.org/10.22471/criminal.2016.1.1.07>

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## Analysis of Causes and Characteristics of Post-Abuse MURDER Cases of Children in KOREA

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### Abstract

*A recent series of shocking child abuse and murder cases has inspired the society to shed new light onto children's issues and welfare. After it was revealed that most of the perpetrators in those cases were the biological parents and stepparents of children, the society went into shock. Post-abuse murder cases of children are clearly distinguished from other murder cases in terms of motives and forms and have tremendous influences on the society.*

*Therefore, In the wake of recent cases of parents abusing and then killing their children, this study set out to analyze the causes and characteristics of major post-abuse murder cases of children in 2016 and search for preventive measures.*

*The causes of post-abuse murder cases of children were as follows: First, the study considered the causes of post-abuse murder cases of children with a focus on the characteristics of parents from a psychological perspective. The emotional, psychological, and personality characteristics of abusive parents are part of the major causes. Secondly, the causes come from the economic hardship of families from the perspective of social environment. The unstable economic situations of families cause conflicts among the family members and even lead to murder cases.*

*The case analysis results were as follows: first, many of abused children were seven years old or younger. When younger children were subjected to ongoing serious physical abuse, they might be killed, not enduring it. Secondly, most perpetrators of child abuse and murder cases were their biological parents. Finally, the causes of post-abuse murder of children include psychological issues such as depression, lack of parenting abilities, conflicts with their spouses, and economic difficulties. Some parents were addicted to games and abused and neglected their children.*

*Based on the case analysis results, the study proposed the followings to prevent child abuse and murder: first, there is a need to develop effective programs to separate children from their parents when child abuse is suspected, provide perpetrators with education, and treat victim children. It is also needed to secure professionals for such programs. Secondly, it is critical to offer low-income parents supports and aids and also education and training about parenting methods. Finally, it is the most important to establish a social atmosphere of respecting and loving children so that various measures can achieve their effectiveness.*

**[Keywords]** Domestic Crime, Domestic Violence, Parent's Child Abuse, Child Abuse, Killing

## 1. Introduction

The South Korean society has taken a lot of interest in crimes committed by children and adolescents, but its concern with crimes committed to children and adolescents has

been relatively insufficient. Most child and adolescent abuse cases involve their parents as the perpetrators. Since there is a widespread perception that abusive acts are part of child discipline, it has been difficult to approach those abuse cases.



A recent series of shocking child abuse and murder cases has inspired the society to shed new light onto children's issues and welfare. The society is trying to reestablish the essential roles of family and parents and put an emphasis on their importance after the child abuse and murder cases by their parents. When the parents abuse and even kill their children in the name of discipline, their families can no longer offer a warm nest to the abused children. After it was revealed that most of the perpetrators in those cases were the biological parents and stepparents of children, the society went into shock. It seems that abuse cases take place at home and can be manipulated or covered up as much as the perpetrators want, which explains why such cases have not been reported fully.

Filicide refers to a case of a parent killing his or her own child[1]. There are several types of family homicide, and the type of children becoming the victims raises an even more serious issue since the victims have excessively limited abilities or none at all. Previous studies that analyzed the current state of filicide reported that 60% of perpetrators were the parents in the murder cases of young children under five[2]. According to the Scientific Crime Analysis System(SCAS) of National Police Agency, a majority of child murder victims aged 15 or younger were killed by their parents[3]. Even though filicide cases hold a considerable percentage in the entire murder cases, the previous studies on family homicide paid no attention to them, which explains why the issue is emerging now of no practical and proper measures and protective plans for children being abused.

Post-abuse murder cases of children are clearly distinguished from other murder cases in terms of motives and forms and have tremendous influences on the society. The present study thus analyzed the major post-abuse murder cases of children in 2016 for their causes and characteristics and searched for preventive measures.

## **2. Analysis of Causes and Characteristics of Post-Abuse Murder Cases of Children**

### **2.1. Causes of post-abuse murder cases of children**

First, the study considered the causes of post-abuse murder cases of children with a focus on the characteristics of parents from a psychological perspective. The emotional, psychological, and personality characteristics of abusive parents are part of the major causes. Parents' aggression, stress, and depression can also be the causes. Parents, especially mothers, have aggressive affect toward their children and express it in the form of crime[4]. Mothers have aggressive affect toward their children and further an urge to kill them as their revenge on their husbands. The next motive of killing their own children comes from the psychological stress from raising them. When mothers get pregnant and give birth to a child against their wish at a young age, they feel shameful and guilty about parenting and have poor skills and difficulties with raising their children, which can cause them to kill their own children. In a related investigation, the mental disorders of parents turned out to be important motives of killing their children with over a majority of them displaying the symptoms of depression. For mothers, mental disorders were the biggest risk factor[5][6].

Secondly, the causes come from the economic hardship of families from the perspective of social environment. The unstable economic situations of families cause conflicts among the family members and even lead to murder cases. Given that most of abusive parents were in their thirties or forties, it seems that the breadwinners in that range of age, who are supposed to engage in active economic activities, suffer difficulties due to employment or business failure, lose desire for life, have conflicts with their spouses, and, at the same time, abuse and even kill their own children. When the characteristics of family environment are considered, the childhood experiences with abuse and abnormal growing experiences of abusive parents can be causes of post-abuse

murder cases of children. If such problems are passed down to their children, they may be perpetrators of child abuse themselves in the future and thus perpetuate the vicious cycle. Finally, such social and culture characteristics as the social atmosphere of tolerating corporal punishment and the culture of regarding children as the possession of parents can cause filicide.

It is critical to understand that child abuse issues and crimes occur by the complex operation of those factors above and that there is the integrated work of individual, family and social. cultural aspects behind child abuse.

## **2.2. Characteristics of post-abuse murder of children**

<Table 1> shows the causes and characteristics of major post-abuse murder cases of children in 2016. The general characteristics are as follows: first, children that were abused and killed were seven years old or younger in many of the cases, which indicates that the age of the children is younger than that of children with common abuse experiences[7]. The children were still young and had to live in the same space as their parents, who were the perpetrators. The parents regarded their children as their possession rather than independent human beings, which explains why it is difficult to detect child abuse cases[6]. The issue grows even bigger as it is difficult to make a social approach to it. Young children lack the strength to avoid and respond to abuse and are more vulnerable to violence and negligence. When they are subjected to ongoing serious physical abuse, it is more likely that they will endure it no more and end up getting killed. Those discovers point to the enormous importance of institutional improvement to detect child abuse early and prevent it[8]. In addition, most of victim children that were abused and killed did not have problems in certain areas, which indicates that they provided no elements to cause abuse and murder cases.

Secondly, the relations between victim children and their abusers become clear when it is considered that the most child

abuse cases take place at home. Biological parents and stepparents inflict serious and problematic abusive acts on their young children, who can get killed by their severe abuse. When children live with adults that have no biological relations with them, the possibility of them being abused and killed rises[9][10]. Unlike the report of overseas research, however, most perpetrators of child abuse and murder cases were biological parents in 2016, which sent shock waves to the society. In many filicide cases, mothers were the perpetrators and ended up killing themselves, as well. Considering that the main caregivers of children are mothers, it seems that they suffer the burden and responsibility of child rearing and may thus commit filicide[11].

When the characteristics of post-abuse murder cases of children in 2016 are put together, it is apparent that what led the children to death was not momentary acts of abuse but long, consistent, and repetitive abuse at a serious level. One of the common features among the perpetrators was that they were in a situation of social isolation that made it difficult for them to lead a social life. People in social isolation may make an extreme decision when their personal and collective circumstances grow even worse[6].

As for the causes of post-abuse murder cases of children, it was first found that the perpetrators were young parents in their twenties or thirties. They were unwed single mothers or were not prepared to be a parent, thus being in huge shortage of parenting skills. That is, they abused their children for not obeying them, crying loudly, and telling a lie because they lacked the parenting skills. Mothers killed their children because of their status as unwed single mothers, postpartum depression, hardships of life, or negative relationships with their husbands[11]. Secondly, there were cases in which the parents suffered severe depression, continued their abusive acts in a psychologically unstable state, and ended up killing their children. They had such psychological issues caused by the stress of conflicts with spouses and economic difficulties and tried to relieve their stress by abusing

their vulnerable children. Poverty and unemployment were common causes among those who killed their children as well as those who abused their children[12]. Finally, there were a few cases in which the parents were addicted to games, found no time and mental leisure for parenting, and ended up neglecting and abusing their children. Even though parents play games that are not much violent, they will develop an aggressive and impulsive tendency after long hours of game play and be more likely to abuse

their children with low defensive power[13]. In addition, the number of child abuse cases is on the rise every year, which indicates a serious phenomenon of family collapse. Complex motives work behind biological parents abusing and killing their children including the personal characteristics of perpetrators such as the inheritance of violence and behavioral disorders, the discipline issues, the trend of nuclear families, and practical issues of poverty and burden of parenting[14].

**Table 1.** Causes and characteristics of post-abuse murder cases of children in 2016.

	Cases	Causes of death	Details
1	A four-year-old girl, being abused in the bathroom and buried in secret in Cheongju in March	<ul style="list-style-type: none"> <li>- The girl died in the middle of torture in the bathtub filled with water for not being pot-trained.</li> <li>- It was disclosed five years after her death.</li> </ul>	<p>① Causes of abuse: The couple started to fight a lot after the four-year-old girl was brought home from the orphanage where she was before their marriage. Her biological mother had huge resentment toward her ex-husband and started to grow her resentment toward the girl, ending up abusing her.</p> <p>② Types of abuse: planned abuse and cover-up of murder: The couple put the girl on the list of residents of the apartment building into which they moved, made a registration for her enrollment in elementary school, and reported a moving-in notification after her death to cover up her murder.</p> <p>③ Characteristics of perpetrators</p> <ul style="list-style-type: none"> <li>- Biological mother(36): Killed her daughter through habitual abuse and committed suicide after writing a suicide note saying she was responsible for her death.</li> <li>- Stepfather(38): Abused the girl and abandoned her body(buried her body in secret in a hill).</li> </ul>
2	A seven-year-old boy named Shin Won-yeong, being buried in secret in Pyeongtaek in March	<ul style="list-style-type: none"> <li>- The investigator began after the stepmother stated that she discarded the boy in the street, classifying the case as a missing child case.</li> <li>- The body of the boy was damaged and buried in secret.</li> </ul>	<p>① Causes of abuse: The boy was trapped in the bathroom and abused there for three months for not being pot-trained.</p> <p>② Types of abuse: The boy was splashed with chlorine bleach and cold water for spilling some urine outside the toilet bowl. The parents neglected him for 20 hours without feeding him(malnutrition). The boy was subjected to complex and ongoing abuse.</p> <p>③ Characteristics of perpetrators</p> <ul style="list-style-type: none"> <li>- Stepmother(38): Spent 7~8 million won per month to purchase mobile game items for seven to eight months, being addicted to games. The role playing games she played demanded an investment of long hours, which suggests that game addiction played an intermediary role in the abuse and murder case.</li> <li>- Biological father(38): Turned his eyes from the abusive acts of his wife for the fear of punishment.</li> </ul>
3	A elementary school boy, being dismembered and killed in Bucheon in January	<ul style="list-style-type: none"> <li>- The boy was abused, neglected, and killed by his biological father.</li> </ul>	<p>① Causes of abuse: The biological father abused his son for telling lies and not obeying him.</p> <p>② Types of abuse: The biological father hit him in the face and kicked him in the head in the bathroom for two hours</p>

			right before his death, being drunk.
4	A ten-month-old baby, being killed in Hongseong in January	- The baby was hit by a toy thrown by its biological mother and killed.	① Causes of abuse: The biological mother was in hardship, raising her triplets, and abused the newborn baby for not obeying her
5	The skeleton of a middle school girl, being found in Bucheon in February	- The girl was abused and killed by her biological parents. - Her body was neglected for approximately 11 months after her death.	① Types of abuse: The pastor couple(47) hit their daughter, who came home after running away, with a broom for five hours. They reported that her daughter ran away from home 15days after her death.
6	A two-month-old girl, being abused, neglected, and killed in Bucheon in March	- The biological father dropped his daughter on the floor intentionally and neglected her for ten hours till her death.	① Causes of abuse: The couple was in economic hardship and regarded their daughter as a burden. ② Types of abuse - Biological father: Abused his baby daughter(pinching her in the stomach after putting the bottle in her mouth) while playing games, being drunk. Being vexed with the crying of two-month-old baby, he dropped her on the floor intentionally twice. Seeing blood coming out of her mouth, he put the bottle in her mouth, pushed down her stomach, and neglected her for more than ten hours till her death. - Biological mother: Pinched and hit her in the head and stomach. One day she was carrying her baby in her arms in the street and dropped her on the asphalt. Even though she knew her baby was injured seriously, she neglected her at home with no treatment.
7	A three-year-old nephew, being killed by an aunt in March	- The aunt(who turned out to be his biological mother) kicked him in the stomach, saw him vomit, and kicked him three more times till he died.	① Causes of abuse: She hated and abused her nephew for not obeying her most among her nephews and nieces. ② Characteristics of perpetrator: She raised five nephews and nieces for her sister with disabilities. The investigator found that she was actually the biological mother(she was raped by her brother-in-law and gave birth to children later).

### 3. Conclusion: Preventive Measures for Child Abuse

The recent post-abuse murder cases of children raise a suspicion about the safety net of society. The secret burial cases in Cheongju and Anyang had been kept in secret for over five years, which is just shocking. People are voicing their opinions about measures to eliminate child abuse only after such cases took place in sequence. A total inspection began for infants and young children, pre-school children, and students of long absence around the nation. The authorities are busy coming up with late measures to prevent child abuse including parent education and strict investigations.

The current systems are, however, insufficient to protect children in the process of preventing, detecting, and handling child abuse cases. There was no guard net for the victim children in those major cases of 2016. The concerned agencies and schools did not monitor the cases of long absence right, and the resulting long-term negligence led to horrible murder of children.

The present study is significant in that it identified the predicting factors of post-abuse murder cases of children and provided basic data for preventive measures. Based on the analysis results, the study made the following proposals to prevent child abuse and murder: first, there is a need to prepare

effective programs to separate children from their parents that are suspected to abuse their children, provide education to the perpetrators, and offer treatments to the victim children. It is also needed to bring up and deploy professionals to implement such programs[15]. Secondly, the analysis results of post-abuse murder cases of children indicate that most of abusive families were in the low income bracket. It is required to make regular visits to low-income families and provide them with supports after providing education on parenting skills to the parents. The low economic level has influences on the stress and parenting behavior of mothers and especially mothers, which promotes the importance of education and training about parenting skills for low-income parents and families as well as supports and aids for them[16]. Finally, it is the most important to establish a social atmosphere of respecting and loving children so that various measures can achieve effectiveness. Child abuse is clearly a crime. There should a firm social determination or warning that anyone that abuses children will be subjected to severe punishment. It is also required to take legislative, administrative, social and educational actions to protect children.

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Publication state: Japan  
ISSN: 2423-8783

Publisher: J-INSTITUTE  
Website: <http://www.j-institute.jp>

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<http://dx.doi.org/10.22471/criminal.2016.1.1.14>

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## The Recognition of KOREANS in Air Terrorism and CRIME Outbreaks in NORTHEAST ASIA

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### Abstract

*After the 9/11 terror attack in America in 2001, the world is modifying laws related to aviation safety for measures of air terrorism and crime prevention, and is reinforcing professionals.*

*However, Korea, the key point of the aviation distribution in Northeast Asia, air terrorism began mainly through the isolation of North Korea and conflict in the international society and these cases are : the kidnapping of Chang-rang aircraft of Korean National Airlines(1958), the kidnapping of YS-11 of KAL(1969), kidnapping of F-27 of KAL(1971), emergency landing of B747 of KAL of Murmansk attack(1978), attack of MIG-23 on KAL007(1983), attempted case of the kidnapping of B727 of KAL(1985), destruction of KE858 of KAL(1987), attempted case of the kidnapping of B747(1988), attempted case of the kidnapping of KAL388(1993), and the current isolation of North Korea is threatening Northeast Asia and is intensifying tension.*

*Furthermore, overseas tourists are rapidly increasing in Northeast Asia including Korea and the use of aircraft is expanding, so the safety of Northeast Asia is severely threatened through terror and crimes in the airplanes and airports.*

*Therefore, this study randomly selected Korean tourists who used airports and planes and investigated recognition in air terrorism outbreaks, and first, as the place of the occurrence of air terrorism and crime, 75.1% said airports and 24.9% said on board. Many of these thought air terrorism and crime could occur easily before boarding as it is freer and there is a big floating population so it is easier to hide bombs in baggage.*

*Second, the tourists thought the cause of air terrorism and crime outbreaks was because of the insecurity of the North Korean government with 86.9%, and 13.1% in the conflict of international society. Recently, because North Korea is suffering from the 3 generation leadership, nuclear development, lack of food, and the restriction and isolation of the international society, the tourists thought the internal conflicts that rise can lead to terror in South Korea.*

*With the discussion point of this study, Korean tourists thought the cause of air terrorism and crime outbreaks in Northeast Asia was North Korea.*

*However, these kinds of air terrorisms and crime can kill many lives at once and while these outbreaks can lead Northeast Asia into war, North Korea has committed many air terrorisms and crimes in the past. Therefore, the isolation of the international society which began from the nuclear development of North Korea, must make an effort not to threaten Northeast Asia into air terrorisms and crimes but for the peace of Northeast Asia.*

**[Keywords]** *Crime, Terrorism, Airplane, Airport, National Security*

## 1. Introduction

Recently in the Ministry of Land, Infrastructure and Transport in Korea, 「The 9th Flight Security Conference」 was held in the Training Center of Flight Security of Korea Airports Corporation in October, 2015. To improve the level of flight security, all security guards had a job performance test, and it was a competition to choose the best in-flight security officer among 4,000, but it also meant there was big concern on North Korea's nuclear development and air terrorisms.

According to Paragraph 7 of Article 2 in Korea's 『Aviation Security Act』, aviation security personnel is a judicial police officer that prevents illegal actions from happening inside the aircraft, or a person the air transportation business operator nominates to do the job, searches and examines suspicious passengers or carry-on baggage during the flight or at travel stops, performs procedures in the case of a suspicious explosive object is found.

Meanwhile, in the trend of overseas tourists rapidly increasing every year, users of aircraft are also increasing and is continuing to increase, and because of air rage, terror, kidnapping of aircrafts, the safety of passengers

and air transportation is being severely threatened[1].

Therefore this study aims to perform the recognition of air terrorism outbreaks on Korean tourists who use airports and airplanes frequently and discussed according to the results. The study questions are as below.

⇒ If air terrorism and crime occurs, where?

⇒ What is the cause of air terrorism and crime outbreaks?

## 2. The Case Analysis of Air Terrorism and Crime in Korea

Korea has had a dazzling economic growth after the 6.25 War, but because of the spies from North Korea, air terrorisms and crimes were committed, and it is seen that with the restriction of the U.N. Security Council and the serious lack of food in North Korea, the insecurity of this system can be connected to air terrorism and be used to stay in power. <Table 1> shows air terrorisms occurred from North Korea.

**Table 1.** Cases of North Korea's air terrorism and crime.

Year	Content
1950	The case of hijacking to North Korea by Kim Hyeong, a spy, on February 16th, 1958, of KNA which was flying 28 passengers and 3 flight attendants from Busan to Seoul.
1960	The case of hijacking to North Korea by Jo Young Hee, a spy, on December 11th, 1969 of YS 11 of KAL which was flying 47 passengers and was flying through the sky of Daegwallyeong from Gang-reung to Seoul.
1970	The case of the prevention of kidnapping on January 13th, 1971 of F-27 of KAL which was flying 60 passengers and 5 flight attendants from Sokcho to Seoul and was kidnapped by an armed man with bombs but by the killing of the suspect from a security patrolman and the sacrifice of a trainee pilot, the aircraft made and emergency landing on the sandy beach of Gang-reung.
1980	The case of the destruction of KAL858 on November 29th, 1987 that was headed to Seoul from Abu Dhabi and was flying through Bangkok. North Korea dispatched two terrorists and all 115 passengers were killed. One of the terrorists Kim Seung-il poisoned himself to death, and Kim Hyun-hee was arrested in Lebanon and was lead to Korea and was brought to trial. Kim was sentenced to death but was pardoned through political considerations.

### 3. Advanced Research on Air Terrorism and Crime

Advanced research on air terrorism and

crime was performed and discussed in various directions. <Table 2> shows advanced research related to air terrorism and crime through Korean researchers.

**Table 2.** Advanced research.

Researcher	Main content
Han, Lee (2001)	Compared flight security of Korea and America and proposed the direction of the flight security of Korea[2].
Kim (2004)	Discussed improvement plans for operation conditions and developing process in aviation screening[3].
Hwang, Lee (2007)	Asserted the prevention of flight crimes by actively using profiling in flight security[4].
Kang, Kang (2008)	Examined ground security activities for air terrorism prevention and asserted the importance of information activities[5].
Jin (2011)	Pointed out problems on the legal positions of in-flight security guards and proposed an improvement in the bill[6].
Chung, Shin (2012)	Sook plans for reaction on new threats focusing on Beijing's Aviation Terrorism convention[7].
Chung, Kim, Kim, Lee, Yi (2012)	Searched for job satisfaction factors of in-flight security guards and asserted there was an intimate relationship between service awareness of offer and job satisfaction[8].
Kim (2013)	Asserted the importance of beforehand security search in airport security[9].
Chang (2014)	Asserted improvement of legislative problems of prohibited items for safety of the airport and maintenance of order[10].
Lee (2015)	Asserted improvement in flight security related legislation and the flight security system[11].
Cho, Kim (2015)	Asserted national safety planning through the reinforcement of flight security based on terrorism occurrences[12].
Lim (2015)	Asserted the necessity of the revision of penal provision in 『Aviation Security Act』[13].

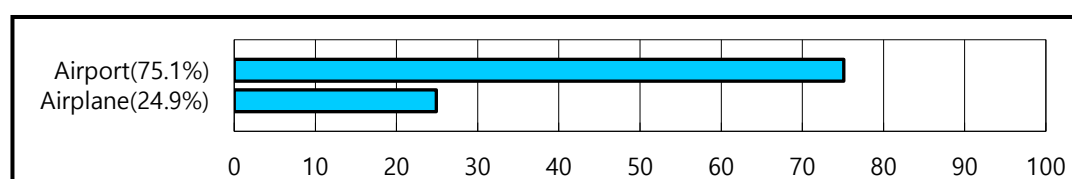
### 4. The Results of Interview Analysis on Air Terrorism and Crime Outbreaks

#### 4.1. The place of air terrorism and crime outbreaks

In order to take a look at the views of Korean tourists on the place of air terrorism and

crime outbreaks, first, closed-ended questions were asked, then open-ended questions. <Figure 1> shows a graph of the views of the place of air terrorism and crime outbreaks.

**Figure 1.** The frequency of air terrorism and crime outbreaks.



The Frequency Analysis Results show that Korean tourists think of the place of air terrorism and crime outbreaks was airports with

75.1% and inside the plane with 24.9%. It shows that they think air terrorism and crime outbreaks occur mostly in the airports.

**Table 3.** Content analysis on the place of air terrorism and crime outbreaks.

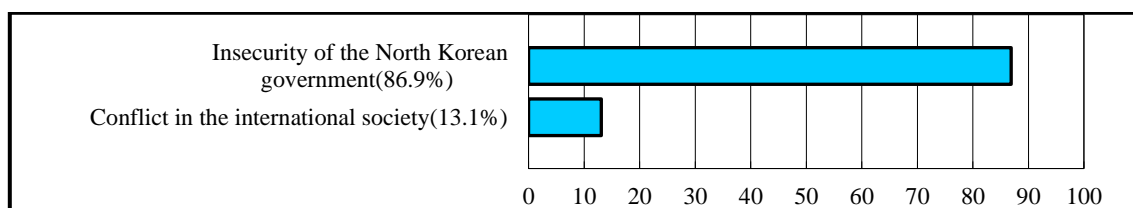
Sort	Main content
Airports	While the procedure is difficult to get into the plane, the airport is freer than thought.
	There is a big floating population, so it is easy to hide things in a suitcase or baggage.
On board	Most people were thinking about the destruction case such as KAL858.
	Hijacking could happen and change the route in force.

#### 4.2. The cause of air terrorism and crime outbreaks

In order to look at the cause of air terrorism and crime outbreaks targeting Korean

tourists, first closed-ended questions were asked, then open-ended questions. <Figure 2> shows a graph of the views of the cause of air terrorism and crime outbreaks.

**Figure 2.** The frequency of the cause of air terrorism and crime outbreaks.



According to the frequency analysis results, in the cause of air terrorism and crime outbreaks, 86.9% of tourists thought it was because of the insecurity of the North Korean

government, and 13.1% thought it was because of the conflict in the international society. It can be seen that Korean tourists are most concerned about the insecurity of the North Korean government. <Table 4> categorizes the pros and cons.

**Table 4.** Content analysis on the cause of air terrorism and crime outbreaks.

Sort	Contents
Insecurity of the North Korean government	<ul style="list-style-type: none"> <li>- 3 generations of leadership of government</li> <li>- North Korea's nuclear development</li> <li>- North Korea's lack of food</li> <li>- The restriction and isolation of the international society</li> </ul>
The conflict of international society	<ul style="list-style-type: none"> <li>- Expansion of indiscreet terror actions of Middle East terror groups</li> <li>- Struggle for leadership between countries</li> <li>- The existence of private military companies that benefit from conflict rather than world peace</li> <li>- Because of different awareness of religions</li> </ul>

## 5. Discussion

Air terrorism and crime has a characteristic of killing many lives at once and it is a typical terror action and at the same time an international crime action, and many Asians in Northeast Asia are using aviation traffic through the expansion of trade and rapid economic growth.

However, after the 3 generation leadership of North Korea, rapid shortage of food, and continuous nuclear development and the isolation of the international society, not only Korea, but the whole of Northeast Asia is being threatened and this is messing up the international order including world peace.

The committing of air terrorism and crimes of North Korea has become known through many past cases and this study showed Korean tourists are most concerned about terror in South Korea from North Korea and think air terrorism and crime can occur whenever and wherever. Therefore it is thought that not only in the international society but countries from Northeast Asian countries are being demanded on individual safety measures.

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Publication state: Japan  
ISSN: 2423-8783

Publisher: J-INSTITUTE  
Website: <http://www.j-institute.jp>

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<http://dx.doi.org/10.22471/criminal.2016.1.1.20>

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## The Cause of Child Abuse in Republic of KOREA and Search of Solution: Focused on the CRIME

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### Abstract

*This paper is for seeking a solution to establish a combined supporting system for child abuse prevention based on cause of child abuse and post management system.*

*Child abuse occurs in various places such as home, kindergarten, school, and child caring center but 80% of child abuse occurs in homes, therefore, it is more harmful than other crimes. Furthermore, the problem is that forms of child abuse by parents are becoming various and the severity and the damage from child abuse is becoming more cruelly serious than before. According to child abuse cases which have been reported more than once, total 6,332 child abuse cases were reported to child protective services for last decade. 20 child abuse cases reported in 2001 rose to 1,262 in 2010 so the number of cases reported is constantly increasing compared to consulting reports.*

*The number of child abuse cases reported in child protection centers across the nation were 9,199 in 2010, 10,146 in 2011, 10,943 in 2012, 13,076 in 2013, and 17,791 in 2014. The number of child abuse reported in 2014 increased up to 36% compared to 2013. The reason for this surge is that as many people became interested in child abuse through child abuse death occurred in Woosan in 2013 and Incheon kindergarten's child violence case occurred in January, 2015, the number of reports increased. Among the cases reported in 2014, the number of suspected child abuse cases including emergency cases were 15,025 which is 84.5%. Among the suspected child abuse cases, the number of actual child abuse cases were 10,027 which is 66.7%. Based on the statistical data, the number of child abuse crimes occurred in a year is almost 10,000 which is a very serious problem.*

*Child protection service needs to play a major role for solving child abuse and establishment and utilization of various connection of local community with many other related institutions and cooperation are required in stages.*

*Firstly, establishment of supporting system with law enforcement agencies is required.*

*Secondly, establishment of supporting system by a medical center is required.*

*Thirdly, supporting system with educational institutions is necessary. Teachers in daycare center, kindergarten, elementary, junior high, and high school have a responsibility to detect child abuse in the early stage and report child abuse to child protection center. Also, if necessary, teachers identify existence of child abuse through consultation with the victim's family and provide education for parents.*

*Fourthly, supporting system with administrative organizations needs to be built up. Administrative organizations requiring an establishment of supporting system include Ministry for Health, Welfare and Family Affairs, provinces and metropolitan areas, municipal governments, sexual abuse prevention and protection of victim of the Ministry of Gender Equality.*

*Fifthly, establishment of supporting system with private sectors is required. The role of private sectors is to actively participate in child abuse judgement committee and volunteer workers in various professional fields provide music therapy, art therapy, and play therapy to child abuse victims.*

*Finally, establishment of supporting system for child abuse prevention needs to be made in a level of province and metropolitan city. Based on child protection centers built in metropolitan cities, supporting system combined*

*with law enforcement agencies, medical centers, educational institutions, administrative organization, social welfare centers, private sectors need to be built up and utilized.*

**[Keywords]** *Crime, Child Abuse, Serious Social Problem, Welfare Law, Social Problem*

## 1. Introduction

Every child has a right to feel happy and grow healthy in a comfortable and caring environment as being away from all forms of abuse and exploitation. Convention on the Rights of the Child by the U.N. is declaring the rights of child and South Korea defined clearly about the rights of child on the Child Welfare Law and is institutionally supporting the rights of child with various child abuse prevention systems and promoting to increase budgets for child abuse related matters. Unfortunately, true reality is that many children are still inhumanely treated in public and private realms[1].

For last decade, the average number of death case by child abuse has been once a month which implies that child abuse is a serious social problem in this society, however, its seriousness and risk has not been greatly recognized by people. In fact, it is true that since child abuse crime has a particularity of that it is a hidden and domestic violence and children themselves are not able to claim their rights and defend themselves because of their psychological and physical immaturity, seriousness of the problem became reduced and socially ignored[2].

One of things disturbing children to have a happy life and hindering development in a healthy way is child abuse. Children who experienced child abuse not only generate serious social problems but also experience serious difficulties in playing as a normal parent, family life and social and economic aspects even after they became adults[3]. This negative side of child abuse becomes even worse in a case of that the child experience repeated abuse.

Child abuse occurs in various places such as home, kindergarten, school, and child caring center but 80% of child abuse occurs in homes, therefore, it is more harmful than other crimes. Furthermore, the problem is

that forms of child abuse by parents are becoming various and the severity and the damage from child abuse is becoming more cruelly serious than before[4].

According to child abuse cases which have been reported more than once, total 6,332 child abuse cases were reported to child protective services for last decade. 20 child abuse cases reported in 2001 rose to 1,262 in 2010 so the number of cases reported is constantly increasing compared to consulting reports[5]. As a result, it is necessary to pay closer attention to the cause of child abuse and its reoccurrence and searching for measures. The purpose of this paper is to identify the cause of child abuse and search a solution in response to the present time with serious child abuse.

## 2. Theoretical Background

### 2.1. The cause of child abuse

Kempe[6] points out that a married life is highly correlated with committing child abuse crimes and personality and psychological status of parents are not strongly related with child abuse but social and environmental factors are strongly related with child abuse.

#### 2.1.1. Psychopathological approach

Psychopathological approach is focusing on characteristics of major fosterers or parents for the major cause of child abuse and according to the approach, the major fosterers or parents who commit child abuse crime have a structural deficiency in their psychological status or personalities. It explains that social, economic, and demographical characteristics are not the direct factors for child battering[7]. Most of child abuse cases occurred by parents are results from a failure of suppressing their emotions and loss of self-control while the parents discipline their children. Also, it suggests that parents with low

self-esteem and low sensitivity takes child's disobedience or children's failure to come up to their expectation as a challenge to their authority and resistance. Consequently, the parents treat their children cruelly and this lead to a child abuse crime[8].

### **2.1.2. Social psychological approach**

This approach focuses on family background, economical status, and social and cultural characteristics. According to this approach, child abuse is related with various family traits, social structure surrounding family and cultural characteristics.

Firstly, characteristics of family background include a child-rearing attitude and characteristic of family structure. Low educational level, using same child-rearing way that their parents used, and using sadistic punishment are the examples of characteristic of the parent's child-rearing attitude. In the case of that parent's rearing attitude is hostile, controlling, idle, and ineffective, the frequency of child abuse tends to increase[9].

Secondly, a low financial status of the family leads to a financial pressure and this weakens parent's psychological mechanism for self-control with causing frustration and stress and results in committing a child abuse crime[10].

Thirdly, social and cultural characteristics include a losing job, careless for family, permission for punishment, and recognizing children as parent's possession. In other words, it includes a whole society surrounding the child and family and these characteristics occur as being compositively interacted with each other[7].

### **2.1.3. Developmental approach**

Developmental approach says that child's specific individual character can be a major reason for causing child abuse. That children are abused by their parents because of their own problems means that parents abuse their children when their children have a delay in social, physiological, and educational

development and specific physical problems or chronic disease.

### **2.1.4. Ecological approach**

Ecological approach systematically analyzes and combines a cause of child abuse suggested in various perspectives. According to this approach, the interplay of personality of child and parents, characteristic of family background and local society is related to child abuse[11].

## **2.2. Reality of child abuse**

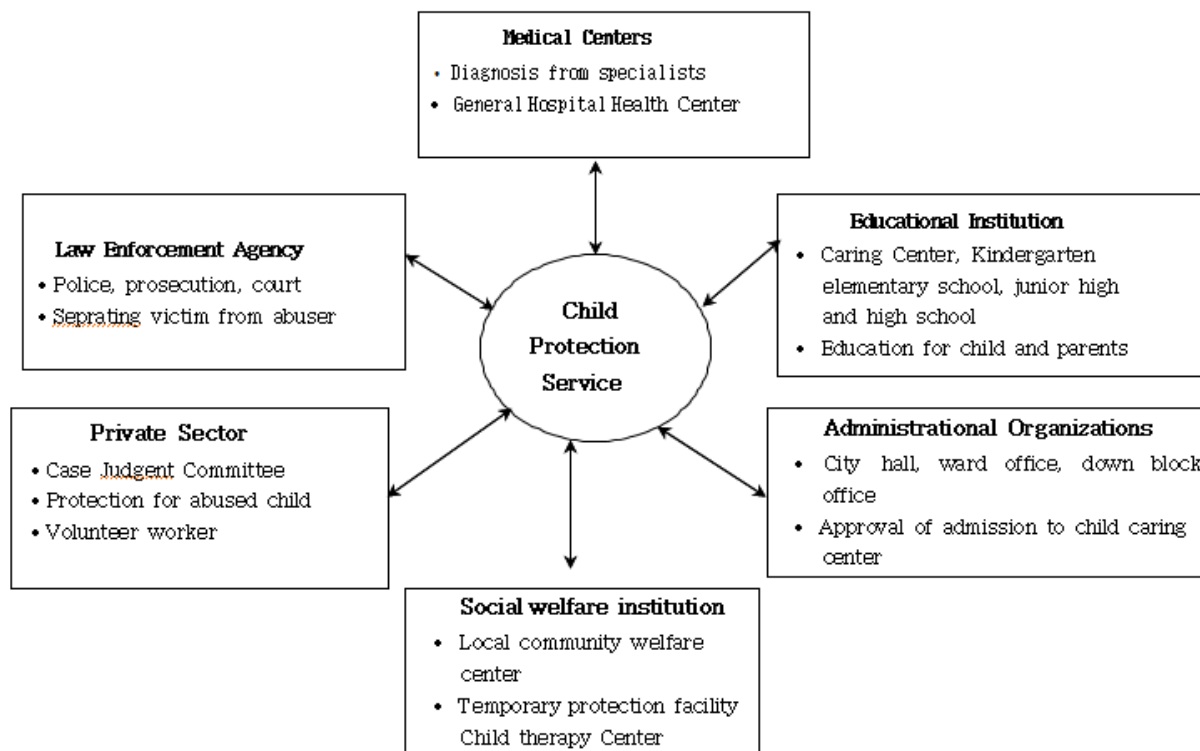
The number of child abuse cases reported in child protection centers[12] across the nation were 9,199 in 2010, 10,146 in 2011, 10,943 in 2012, 13,076 in 2013, and 17,791 in 2014. The number of child abuse reported in 2014 increased up to 36% compared to 2013. The reason for this surge is that as many people became interested in child abuse through child abuse death occurred in Woosan in 2013 and Incheon kindergarten's child violence case occurred in January, 2015, the number of reports increased. Among the cases reported in 2014, the number of suspected child abuse cases including emergency cases were 15,025 which is 84.5%. Among the suspected child abuse cases, the number of actual child abuse cases were 10,027 which is 66.7%. Based on the statistical data, the number of child abuse crimes occurred in a year is almost 10,000 which is a very serious problem.

## **3. Solutions**

This paper is for seeking a solution to establish a combined supporting system for child abuse prevention based on cause of child abuse and post management system.

Child protection service needs to play a major role for solving child abuse and establishment and utilization of various connection of local community with many other related institutions and cooperation are required in stages.

**Figure 1.** Supporting system for child abuse prevention[13].



Firstly, establishment of supporting system with law enforcement agencies is required. The role of police is, once a child abuse case is reported, to set out for the scene of child abuse with an advisor of child protection center. Police separates the victims from the abuser to protect victims and protects advisors if the abuser is a threatening to advisors.

Secondly, establishment of supporting system by a medical center is required. In the case of that if there is an emergency child abuse case, the victim receives a medical care and admitted to a hospital and if victim's physical damage is severe, a doctor writes a note and this note is used as an important source for processing criminal case.

Thirdly, supporting system with educational institutions is necessary. Teachers in daycare center, kindergarten, elementary, junior high, and high school have a responsibility to detect child abuse in the early stage and report child abuse to child protection

center. Also, if necessary, teachers identify existence of child abuse through consultation with the victim's family and provide education for parents.

Fourthly, supporting system with administrative organizations needs to be built up. Administrative organizations requiring an establishment of supporting system include Ministry for Health, Welfare and Family Affairs, provinces and metropolitan areas, municipal governments, sexual abuse prevention and protection of victim of the Ministry of Gender Equality. Monitoring identification information of abuser, approval to enter a facility for child victim, allocation for suitable facility for long-term stay, and evaluating victims to judge if he or she is subject to a public aid are operated.

Fifthly, establishment of supporting system with private sectors is required. The role of private sectors is to actively participate in

child abuse judgement committee and volunteer workers in various professional fields provide music therapy, art therapy, and play therapy to child abuse victims.

Finally, establishment of supporting system for child abuse prevention needs to be made in a level of province and metropolitan city. Based on child protection centers built in metropolitan cities, supporting system combined with law enforcement agencies, medical centers, educational institutions, administrative organization, social welfare centers, private sectors need to be built up and utilized.

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Publication state: Japan  
ISSN: 2423-8783

Publisher: J-INSTITUTE  
Website: <http://www.j-institute.jp>

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<http://dx.doi.org/10.22471/criminal.2016.1.1.26>

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## Social Realities and Its Impact on the CRIMINAL Case of Law Enforcement Processes

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### Abstract

*In New York v. Belton, the United States Supreme Court decided the subject about the recent criticism from scholars and Supreme Court Justices, alike, calling for the Court to re-examine its broad construction of the search incident to arrest exception to the Fourth Amendment's prohibition against warrantless searches and seizures in the vehicle-search context. The Court seized the opportunity to revisit Belton in Arizona v. Gant. While narrowing the scope of the search incident to arrest exception in some situations, the Gant holding extended its scope in others, perhaps straying from the principles of the Fourth Amendment.*

*The current study was organized in the following manner: First, summarizes the case, including the facts, issue, holding, legal rule and reasoning; second, reviews the social realities that affect the ruling of the case; Finally, addresses the impact of the decision on law enforcement processes and/or social behavior. The present study relied on the several research paper and book, and media stories.*

*The current study focused the review Arizona v. Gant, and the purpose of the present research is to provide an overview of the social realities that affect the case and the impact of the case on law enforcement processes. Prior to the Court's decision in Gant, Fourth Amendment jurisprudence was in a state of muddled, silent chaos. Supreme Court precedent had been stretched beyond its "breaking point." In an effort to resolve unanswered questions surrounding the search incident to arrest exception the Court accepted Gant for review. By leaving the existing exceptions to the Fourth Amendment requirement intact, the Court did not handcuff law enforcement into overly stringent constraints. Instead, police officers have wide discretion in their creative selection of alternative exceptions in rationalizing further searches. Gant presented the Court with an opportunity to establish a "bright-line" rule in order to secure the safeguards of the Fourth Amendment and provide guidance to police for conducting searches incident to arrests.*

*The study's review showed that the Supreme Court's decision in Gant cuts two ways: First, it returns to a narrow search incident to arrest exception for non-evidentiary crimes, although its wording might result in confused application of the rule by lower courts; Second, it reflects a continuing trend placing higher value on successful prosecution of suspected criminals than on the intent of the Fourth Amendment's framers. Implications for warrantless searches and seizures in the vehicle-search context are discussed.*

**[Keywords]** Criminal Case, New York v. Belton, The Fourth Amendment, Searches and Seizures, Law Enforcement Processes

## 1. Introduction

In New York v. Belton[1], the United States Supreme Court decided the subject about the recent criticism from scholars and Supreme Court Justices, alike, calling for the

Court to re-examine its broad construction of the search incident to arrest exception to the Fourth Amendment's prohibition against warrantless searches and seizures in the vehicle-search context. The Court seized the opportunity to revisit Belton in Arizona v.

Gant[2]. While narrowing the scope of the search incident to arrest exception in some situations, the Gant holding extended its scope in others, perhaps straying from the principles of the Fourth Amendment. In this context, the current study focused on the review Arizona v. Gant. The purpose of the present research is to provide an overview of the social realities that affect the case on law enforcement processes. The current study was organized in the following manner: First, summarizes the case, including the facts, issue, holding, legal rule and reasoning; second, reviews the social realities that affect the ruling of the case; Finally, addresses the impact of the decision on law enforcement processes and/or social behavior. The present study relied on the several research paper and book, and media stories.

## **2. Summarize the Case: Arizona v. Gant, 556 U.S. 2009**

### **2.1. Facts**

In late August 1999, two Tucson police officers went to a home to investigate a tip about narcotics activity. After Rodney Gant came to the door and informed the officers that the homeowner would return later that afternoon, the officers departed. Upon running a records check on Gant, the officers discovered that his driver's license had been suspended and that he was the subject of an arrest warrant for driving with a suspended license. After the officers returned to the home that evening, Gant drove up, parked in the driveway, and got out of his car. One of the officers summoned him. As soon as Gant covered the eight-to-twelve-foot distance between them, the officer arrested and handcuffed him, then placed him in the rear of a patrol car, under the supervision of another officer. Two officers then searched the passenger compartment of Gant's vehicle, finding a weapon and a baggie of cocaine. Gant was charged with possession of a narcotic for sale and possession of drug paraphernalia. After the trial court denied his motion to suppress the evidence found in his car, he was convicted of both offenses.

### **2.2. Issue**

The Supreme Court sought to illuminate when the vehicular search incident to a lawful arrest(SILA) exception may comport with the Fourth Amendment's warrant and warrant exception strictures. Prior to Arizona v. Gant, when a routine traffic stop resulted in an arrest for any reason, a search of the car was permissible. The Supreme Court attempted to finally resolve the ongoing controversy behind the vehicular SILA exception. The decision neither affects nor excludes other search doctrines that may apply in particular cases. The well-established exceptions of consent, probable cause, and the inventory search remain viable. Therefore, these universal exceptions to the warrant requirement will continue to provide law enforcement wide discretion in conducting warrantless, vehicular searches.

### **2.3. Holding**

The United States Supreme Court held that the search of a vehicle incident to arrest is permissible in only two situations: 1)when the arrestee is unsecured and within reaching distance of the passenger compartment; 2)when it is reasonable to believe that evidence relevant to the crime of arrest may be found in the vehicle. Accordingly, police may search the passenger compartment of a vehicle incident to a recent occupant's arrest only if it is reasonable to believe that the arrestee might access the vehicle at the time of the search or that the vehicle contains evidence of the offense of arrest.

### **2.4. Legal rule and reasoning**

#### **2.4.1. Major opinion**

Justice Stevens delivered the opinion of the Court, which held that the officers conducted an unreasonable search of Gant's vehicle[2]. The Court held that Chimel's rationale[3] "authorizes police to search a vehicle incident to a recent occupant's arrest only when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search." The Court also held that police might search a vehicle incident to a recent occupant's arrest

where it is “reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.” Because the Gant rule treats the exception differently depending on the crime of arrest, the rule is best explained by splitting the holding into its two parts. An arrest for a non-evidentiary offense provides no reason to believe that evidence specific to the offense of arrest might be found in the vehicle, while an arrest for an evidentiary offense does create a reasonable belief that such evidence might be found.

#### **2.4.2. Concurring opinion**

Justice Scalia wrote separately in Gant, despite the Court having adopted his proposed rule from Thornton. Justice Scalia lamented the ‘charade’ of retaining Chimel’s justifications in the car search context. As an alternative, he advocated adopting only an evidence-gathering justification for warrantless vehicle searches incident to arrests of recent occupants. Justice Scalia reasoned that allowing searches under Chimel’s rationale where arrestees are unsecured invites officers to leave the scene unsecured.

#### **2.4.3. Dissenting opinion**

Justice Alito’s dissent, in which Chief Justice Roberts and Justice Kennedy joined, and Justice Breyer joined in part, attacked the Court’s insufficient support for its departure from stare decisis. The dissent also questioned adopting Justice Scalia’s proposed rule from his concurring opinion in Thornton without independent explanation of its origin or rationale. The dissent noted law enforcement’s considerable reliance on Belton, as evidenced by the fact that it was taught in police academies. The dissent argued that the Belton rule offers a more workable alternative than Gant’s rule. Justice Alito contended that Gant, by narrowing the application of Chimel’s justifications, creates a “perverse incentive for an arresting officer to prolong the period during which the arrestee is kept in an area where he could pose a danger to an officer.” Finally, Justice Alito questioned the part of the new rule that requires “reason to believe” rather than probable cause. The dissent concluded

that it would simply apply Belton, and reverse the holding of the Arizona Supreme Court.

### **3. Social Realities**

#### **3.1. Exceptions to the search warrant requirement**

The Fourth Amendment protects individuals from unreasonable searches and seizures. The search incident to arrest exception to the Fourth Amendment’s prohibition against warrantless searches provides that law enforcement officers may conduct searches incident to a lawful arrest without a search warrant[4]. Hermele(2009) explained that the exception originated in the dictum of *Weeks v. U.S.*[5]. Distinguishing *Weeks* from previous cases, the Court affirmed that the issue was “not an assertion of the right on the part of the government always recognized under English and American law, to search the person of the accused when legally arrested, to discover and seize the fruits or evidences of crime.” Since *Weeks*, the Supreme Court has wrestled with a satisfactory definition of the scope of authority to search granted by the exception. In that time the proper scope has repeatedly expanded and contracted.

According to Skolnick et al.(2005), an urgent issue in the “war on drugs” concerns the “open fields” doctrine, which government lawyers say permits law enforcement officers to fly over or enter onto private land without warrants to search for illegal substances, notably marijuana plants. The doctrine was first stated by Justice Oliver Wendell Holmes more than 60 years ago: “The special protection accorded by the Fourth Amendment to the people in their ‘persons, houses, papers and effects,’ is not extended to the open fields. The distinction between the latter and the house are as old as the common law[6]”. The Supreme Court reaffirmed *Hester* in a case involving the warrantless search of Kentucky farm for marijuana plants, stating, “The is no societal interest in protecting the privacy of those activities, such as the cultivation of crops, that

occur in open fields[7]". The problem in many Northern California counties, however, does not hang on a fine point of law. Marijuana growing is so pervasive that hundreds if not thousands of rural people have been affected by low flying helicopter surveillance, leaving many non-pot-growing residents up in arms. Law enforcement may call it an "often fields" doctrine, they say, but all too often government sweeps amount to an "open season" on law-abiding citizens. Because of the urgent nature of many law enforcement situations, most arrests and searches occur without warrants, and a number of constitutionally acceptable exceptions to the warrant requirement have been recognized[8].

While the police are not permitted to search a house without a search warrant merely because they have "probable cause" to believe that there are sizeable objects in it, they may search an automobile without a warrant when there is probable cause to believe it contains articles that offend against the law. This exception developed because of the mobility of automobiles and the problems of obtaining a search warrant in time to make an effective search before the car in question has been moved. The search incident to a lawful arrest is the most significant exception to the rule that searches must be made on warrant. In fact, the great majority of searches are incident to an arrest rather than under a warrant.

The law permits an arresting officer to search the arrested person for hidden weapons, to withdraw him of the means of evasion, and to prevent the obliteration of evidence he may possess. Firstly this exception to the requirement of a warrant for a search was probably justified as an emergency measure. However, serious differences of view and judgment have arisen as to whether a search of more than the immediate person of the one being arrested is really justified. Under the law a police officer may not simply search a home or a person whenever he wishes; he may not search even if he has "probable cause" to believe that the place he wishes to search contains contraband. He can search only if he has a warrant or if one of the exceptions to the search warrant re-

quirement is present. This limitation on law enforcement activity has created a good deal of controversy[8].

### 3.2. Vehicle searches

Vehicles present a special law enforcement problem. They are highly mobile, and when a driver or an occupant is arrested, the need to search the vehicle may be immediate. The first significant Supreme Court case involving an automobile was *Carroll v. U.S.* in 1925, which a divided Court ruled that a warrantless search of an automobile or other vehicle is valid if it is based on a reasonable belief that contraband is present[4].

In 1964, however, in the case of *Preston v. U.S.*, the limits of warrantless vehicle searches were defined. Preston was arrested for vagrancy and taken to jail. His vehicle was impounded, towed to the police garage, and later searched. Two revolvers were uncovered in the glove compartment, and more incriminating evidence was found in the trunk. Preston, convicted on weapons possession and other charge, eventually appealed to the U.S. Supreme Court. The Court held that the warrantless search of Preston's vehicle had occurred while the automobile was in secure custody and had therefore been illegal. Time and circumstances would have permitted acquisition of a warrant to conduct the search, the Court reasoned[9].

Generally, where vehicles are concerned and investigatory stop is permissible under the Fourth Amendment if supported by reasonable suspicion, and a warrantless search of a stopped car is valid if it is based on probable cause. Reasonable suspicion can expand into probable cause when the facts in a given situation so warrant. Warrantless vehicle searches can extend to any area of the vehicle if officers have probable cause to conduct a purposeful search or if officers have given permission to search the vehicle. Motorists and their passengers may be ordered out of stopped vehicles in the interest of officer safety, and any evidence developed as a result of such a procedure may be used in court.

### 3.3. The automobile exception

Because of their mobility, automobiles and other vehicles may need to be searched without a warrant. This so-called “automobile exception” has arisen because for law enforcement officers to expect suspects to voluntarily remain in place while the officers returned to the station to prepare the warrant application and then find a judge to sign it would obviously be unreasonable[10]. Detaining suspects that long would also be unreasonable[4]. This exception is not difficult to understand if the underlying reason for it is kept in mind. The automobile exception simply states that if a government agent had probable cause to believe the vehicle contains contraband or evidence of a crime, no warrant is needed. Because in the time needed to get a warrant, the car, driver and contraband or evidence could be long gone.

### **3.4. The problem of exploratory searches**

Casson(2009) explained that Fourth Amendment jurisprudence has been characterized as a “tension between the privacy rights of individuals and the ability of police officers to enforce the law.” Over the past century, the decisions of the Supreme Court regarding warrantless searches have been exceedingly inconsistent[11]. Since surfacing in 1914 as dictum in *Weeks v. United States*, the search incident to a lawful arrest(SILA) exception has proved to be quite challenging to implement. Although *Weeks* only briefly touched upon the concept of warrantless searches, it did lay the groundwork for the beginnings of an established SILA exception.

One of the primary arguments that had been offered in *Gant* for overruling or modifying *Belton* was that doing so would limit police officers’ ability to conduct purely exploratory searches. The facts of *Gant* illustrate this strategy[12]. Recall that police officers first encountered Rodney Gant when he opened the door of a home they suspected was being used to sell drugs. Immediately following this conversation, police ran a check of his traffic record[13]. As their interaction with Gant would have given police no reason to suspect him of traffic violations, they conducted the record check in the hope that they could later use a traffic stop as a

justification to stop and investigate his possible connection to the drug activity[4]. When Gant returned to the home in his vehicle, the officers would have had no grounds to detain him if they had not discovered the outstanding traffic warrant. The arrest for the traffic violation, in turn, permitted police to conduct an automatic search of his person and the passenger compartment of his vehicle. The search was permissible even though police lacked probable cause to believe that there were drugs in Gant’s car and they had no reason to think Gant would have evidence of the crime of arrest – the traffic offense – on his person or in his vehicle[14].

By the time Gant came before the Supreme Court, this strategy of using traffic stops to conduct searches for non-traffic related evidence was entrenched and widespread. Two factors made so called pretext stops possible[11]: 1)the first is that police can stop, arrest, and search almost any motorist by simply waiting for him or her to commit one of a myriad of minor traffic offenses; 2)the second is police neither will nor can enforce all minor traffic laws against all violators. This means police have uncontrolled discretion to use a traffic stop, arrest, and SITA to get a free search for evidence unrelated to the traffic violation that formally justified the stop.

## **4. Implication of the Decision on Law Enforcement Processes and/or Social Behavior**

Prior to the Court’s decision in *Gant*, Fourth Amendment jurisprudence was in a state of muddled, silent chaos. Supreme Court precedent had been stretched beyond its “breaking point.” In an effort to resolve unanswered questions surrounding the search incident to arrest exception the Court accepted *Gant* for review[4]. By leaving the existing exceptions to the Fourth Amendment requirement intact, the Court did not handcuff law enforcement into overly stringent constraints. Instead, police officers have wide discretion in their creative selection of alternative exceptions in rationalizing



further searches. Gant presented the Court with an opportunity to establish a “bright-line” rule in order to secure the safeguards of the Fourth Amendment and provide guidance to police for conducting searches incident to arrests. On the other hand, the Supreme Court heard Gant to quash an outcry from courts, states, and scholars to clarify the Belton standard. While law enforcement operated under implicit liberal guidelines, the constitutional protections afforded to arrestees were diminished[4]. The evolved standard constituted a linear departure from the long-established justifications of warrantless searches incident to arrest. This problem stemmed from Belton’s failure to address the common situation where officer safety was not in jeopardy. The Gant Court succeeded in its implied objective of defending the Constitution by curbing undue expansion of the Fourth Amendment[13].

First, Gant neither affects nor excludes other search doctrines that may apply to particular cases. Because the Court maintained the validity of other Fourth Amendment exceptions such as consent, probable cause, and inventory, any immediate impact the opinion may have on further exploratory searches is conceivably minimal. Therefore, the ruling was practical, as law enforcement still lawfully possesses alternative procedures for conducting warrantless searches. Second, the opinion provides greater protection against unbridled rummaging by police officers, as the Court’s holding allows a search for evidence only if it relates to the reason for the arrest. However, the impact of the decision is dubious because the Court failed to clearly identify the essential nexus between the crime underlying the arrest and the search[14]. Although the workability may be problematic, any attempt at tying the search to the reason for arrest is a positive step towards the original intent of the exception. Third, by preserving the twin rationales of Chimel, the opinion strikes a suitable balance between police officer safety and the countervailing interest of protecting fundamental constitutional rights. Although it has been argued that this decision could create an incentive for officers to purposefully leave a scene unsecure in order to ap-

ply the Chimel exception, the solution to this sort of imprudence is not the responsibility of the judiciary, but that of the respective police departments[11]. For that reason, this decision’s impact on the legal field is not an excessively burdensome new migration, but an attempted return to the critical protections of the Fourth Amendment.

Gant requires a much more committed and earnest stance if the Court is sincerely determined to establish the truly essential limits of the Fourth Amendment. Still, further, law enforcement departments must implement effective and enforceable procedural guidelines if Gant’s intended objective is to be realized. While the Court did recognize the reckless abandonment of citizens’ rights preceding Gant, the holding stopped short of providing a required degree of certainty. Further, a more pragmatic accord with local police departments is necessary to safeguard the constitutional freedoms of society.

## 5. Conclusion

The current study reviewed *Arizona v. Gant* in order to analysis of the social realities that affect this case and the impact of the case on law enforcement processes. The Supreme Court’s decision in Gant cuts two ways. First, it returns to a narrow search incident to arrest exception for non-evidentiary crimes, although its wording might result in confused application of the rule by lower courts. Second, it reflects a continuing trend placing higher value on successful prosecution of suspected criminals than on the intent of the Fourth Amendment’s framers. The Gant rule applied to evidentiary crimes in the vehicle context, by adopting an evidence-gathering justification with no probable cause requirement, effectively removes the judicial mind from the process and grants officers in the field the discretion to determine whether an invasion of privacy is justified. This is exactly what the framers sought to prevent.

While the rule suggested above provides an alternative to warrantless vehicle search-



es incident to arrest, it does so only until tripping over the next exception to the warrant requirement[4]. The existence and breadth of the inventory search exception virtually ensure that, under the proposed improvement, warrantless search is inevitable. In the context of vehicle searches after the arrest of an occupant, the exceptions to the Fourth Amendment's warrant requirement have enveloped the rule. After an arrest, it is difficult to imagine a situation where the vehicle search would take place under authority of a search warrant. Whether the search is conducted incident to an arrest or as an inventory, the paths circumventing that set forth by the Fourth Amendment have become the most traveled.

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