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2008 Conference, (9-11 July)

Criminological Futures: Controversies, Developments and Debates

Hosted by the Applied Criminology Centre, University of Huddersfield

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Editorial

Andrew Millie

The British Society of Criminology has been in existence for 50 years and has held its conference for over 20 years. Since being first held in Sheffield in 1987 the conference has grown to become one of the most important events on the criminology calendar.

In 1995 an annual collection of papers was made available online for the first time in what became '*Papers from the British Criminology Conference, Volume 1*' (sometimes identified as '*The British Criminology Conference: Selected Proceedings*'). This online journal continued for a further six volumes appearing on-and-off between 1997 and 2004. After a brief hiatus it was decided that the online journal was too good a vehicle for presenting papers from the conference to see it slip into history, and so the journal was re-launched for the 2008 Conference hosted by the Applied Criminology Centre, University of Huddersfield. The result is the collection presented here. I am delighted to say the response from those who gave papers at the conference was positive and we have included thirteen papers that were accepted for publication. All papers were peer-reviewed by two academics. I am hugely grateful to the editorial board for their help in this process, as well as the other reviewers (details on the preceding page). The papers are labelled as either 'Panel Papers' or 'Postgraduate Papers'. This distinction is made solely because we were keen to encourage PhD students, with postgraduate BSC members submitting a paper also eligible for the BSC '*Postgraduate Paper Prize*' (of more later). But first some brief notes on the Huddersfield event.

Alex Hirschfield and his colleagues at the University of Huddersfield must be commended for organising and running a highly successful conference. The theme for 2008 was '*Criminological Futures: Controversies, Developments and Debates*'. The aim was to reflect the breadth of contemporary criminology and to build bridges between criminological theory, research and practice. In my view, the conference was successful in demonstrating the diversity that exists within criminological investigation and imagination.

During the conference dinner speech Jock Young asserted that criminology is struggling to be relevant and meaningful (citing an article that had reduced crime to a mathematical formula). Yet, others at the conference suggested that criminology is a 'broad church' and has room for the statistically-minded as well as those with stronger cultural leanings (and everyone else in-between). This breadth is demonstrated by the range of subjects and approaches covered by the thirteen papers included here. The topics include the traditionally criminological (processes of criminalisation, deviance, violence, burglary risk, rehabilitation, public protection, public attitudes and trust), the cultural (fashion and crime), through to new technologies and spaces for crime and deviancy (hypercrime and computer games). There are also two papers on design and one on the criminalisation of certain breeds of dog.

As we had such a good response from people wanting to submit to the journal this year we will be asking for submissions from those who present at the 2009 conference in Cardiff (29 June to 1 July). The theme for the Cardiff conference will be: *A 'Mirror' or a 'Motor'? What is Criminology for?* A very good question indeed.

The 2008 Postgraduate Paper Prize

Congratulations to Marian Duggan of Queen's University Belfast who is the winner of the 2008 Postgraduate Paper Prize, for her paper "*Theorising homophobic violence in Northern Ireland*". Both reviewers thought this paper to be an excellent contribution, with one reviewer stating: 'I found the paper fascinating, informative and moving. I strongly believe it merits publication in the conference proceedings, and may use it in the future when teaching on inequalities. The paper is very well grounded, speaks with an authoritative tone in a clear structure'. The prize panel agreed that Marian is a worthy winner. We hope other postgraduate members will be encouraged to 'have a go' next year.

Andrew Millie, Loughborough University, December 2008

From Hyperspace to Hypercrime

Technologies and the new geometries of deviance and control

Michael McGuire, *London Metropolitan University*

Abstract

This paper argues that the significance of technology for contemporary crime and control needs urgent retheorisation. In a context where communications and information technology are having such profound effects upon social interaction, important questions arise about the changing relations between spatial experience, crime and control. The paper suggests that one standard approach here – the claim that communications technology crimes are best explained by reference to them as ‘cybercrimes’ which occur in ‘cyberspace’ – represents one variant of the failure to properly locate technology within the social. Adopting a Simmelian perspective, the paper advocates considering technology in terms of a geometry of offending behaviours and responses to them – one defined by social interaction rather than the other way around. It is argued that an extended form of social space – a hyperspace – is now evolving, with important implications not just for our experience and perception of crime but the kinds of options available for managing it.

Key Words: cybercrime, hypercrime, technology, space, control

Introduction

Perhaps one of the most striking recent examples of the recurring tension for criminology between policy and theory has been the way that criminal justice systems around the world have responded to the increasing influences of technology upon both crime and control. Whether it is the legal status of electronic eavesdropping or the rights and wrongs of carbon emissions, criminal justice policy in these areas stands at an uncertain stage of development. In my recent book *‘Hypercrime’* (McGuire, 2007) I attempt to address some of these theoretical gaps with respect to

technologies that facilitate social interaction. One instance of these – communication technologies – has become associated in the popular mind with the supposed emergence of ‘new’ forms of deviance, usually referred to as ‘cybercrime’. In this paper I present some of the theoretical problems of this approach (as described in my 2007 book) and outline a different stance.

The book is subtitled ‘*The New Geometry of Harm*’ – a deliberate invocation of the seminal ideas about space and the social world produced by one of the major figures within the early social sciences - Georg Simmel. One of Simmel’s most profound ideas – that a ‘social geometry’ may be as valid a tool for analysing the social world as formal geometry has been for the ‘natural’ world (e.g. Simmel, 1997) – has been occasionally revisited within social science, (see, amongst many others Bourdieu, 1984; De Certeau, 1984; Harvey, 1989; Thrift, 1995). Within criminology however, deployments of space as an explanatory variable have tended to reduce to quantitative description (i.e. geographical models of offending patterns) or ‘situational’ approaches towards defending it (Clarke, 1997). The result has been a denuding of the analytic potential of space as a tool within the discipline, one that has served to licence a number of misconceptions on the part of policy makers. Notorious amongst these, and what primarily concerns me here, has been to permit the idea of a ‘cyberspace’ - an ontologically distinct realm of social interaction - to circulate uncritically. Not only has this proved to be a powerful motivation for believing that criminology should treat cybercrime as something ‘special’, it has also allowed policy makers to treat electronic interaction as something so intrinsically different from ‘normal’ interaction that it is legislatively unique. The requirement placed upon communications providers to enable government monitoring of all electronically mediated interaction, created by the US Communications Assistance for Law Enforcement Act (CALEA) of 1994 (Campbell, 1999), set the tone. Meanwhile, the recent proposal by the UK Government that any form of interaction involving a contemporary communication technology should be recorded, stored and monitored (Travis, 2008) is the latest instance of the legitimising role of ‘cyberspace’ in the production of these unprecedented controls over social life. Similar examples abound and criminologists must hold themselves at least partly culpable for helping such responses to seem not just legitimate but ‘natural’ outcomes of the spread of communications technologies. I will therefore begin by setting out some of the more fundamental problems raised by the cybercrime stance, before arguing how a concept of ‘hypercrime’ may be at least as adequate an approach.

The problems with cybercrime

Whilst there are many ways in which technologies have been associated with criminality, perhaps the outstanding contemporary instance of this has been that of cybercrime. For it is only here that there has been a

comprehensive attempt to define criminal behaviour in terms of a specific technology. I have argued in various contexts (e.g. McGuire, 2006; 2007) that this stance has not only proved to be something of an intellectual dead-end but, more seriously, that it has been implicated in a number of undesirable policy outcomes. There is no space to rehearse all of the arguments for this conclusion here, but there seem to be at least three areas in which the model can be said to have failed to 'deliver' in the way that a good social science model ought:

Factual/empirical inadequacies

Numerous examples exist where claims about cybercrime have failed to match up to the gold-standard for any scientific theory – empirical and predictive adequacy. Whether it is claims about supposed causal associations between the internet and suicide – when suicide rates amongst the 16-30 age group in the UK and US have been falling (see Kochanek et al., 2004, National Institute for Mental Health in England, 2008). Or whether it is the widely circulated assertion of huge and continuing annual percentage rises in so-called 'identity theft' (for example the notoriously flawed £1.7 billion estimated annual cost produced by the UK Government, (Home Office, 2006)) when key indicators of this such as credit card fraud have often shown declines. And studies have suggested that card and ID fraud were most likely to have been conducted by close family members or friends rather than internet thieves. Claims about cybercrime have too often failed to match up to the realities (see APACS, 2005; Gilligan, 2005; BBB, 2005).

Historical inadequacies

The suggestion - implicit or explicit - that crimes effected by communications technologies only became worthy of discussion subsequent to the advent of the internet is not just poor scholarship, but a serious distortion of their historical impact. The wealth of examples of financial fraud, hacking, identity impersonation, expansions in access to pornography and sex made possible by earlier communication networks such as the telegraph, the telephone or even postal systems, demand much greater attention than they have been given by criminologists (see e.g. McGuire, 2007).

Normative inadequacies

Symptomatic of the gaps in a credible social science of online deviance has been the single-minded focus on a small and sensationalised cluster of offences, to the exclusion of less obvious but more insidious misuses of communication technology by the State and corporate worlds. Thus electronic eavesdropping, the promotion of information based weapons technologies, illegal exchanges of personal data and workplace harassment - to name but a few - have rarely been given equal attention to the stalkers, internet rapists, identity thieves and other colourful characters within the cybercrime story of internet crime.

Whilst each one of these inadequacies is worthy of a paper in itself I want, for the purpose of the discussion here, to keep focussed on another problem with the cybercrime approach – the kind of social space which both defines it and where it is meant to be effected. For ‘cyberspace’ is not just some of kind of medium miraculously created by the advent of the internet, it is also the place where cybercrimes are meant to ‘happen’ (cf. Yar, 2006:5).

It is true that many criminologists now tend to avoid the term, but the concept of a cyberspace usually remains somewhere at the back of people’s minds when they discuss cybercrime. The problem is that this idea is not just deeply flawed, it has (and continues to have) a number of direct and undesirable effects upon policy regarding communications technology. And such commitment becomes all the more surprising when some obvious reasons for caution are considered:

- (a) First, the cyberspace concept seems to be a clear overreaction to recent communications technologies. As other commentators have noted – why did nobody think there was a ‘telephone space’, a ‘telegraph space’ or even a ‘postal space’ when these communication networks first came into being? After all these were equally ways in which social interaction was extended (see e.g. Koppell, 2000).
- (b) Secondly, the way the cyberspace idea has been constructed always suggests some kind of an ontological ‘other’ – a space distinct from ‘normal’ social space. In particular it sets up the false (and dangerous) dichotomy between a ‘real’ space and a ‘virtual’ space.
- (c) Finally, and related to the previous point, this ‘other’ that is cyberspace then fosters the presumption that, as an alien other, it is a ‘wildzone’, an unregulable space which associates experiential gaps with danger. As an unknown, cyberspace is automatically transformed into something ‘dangerous’ for, just as with the blank spaces on medieval maps, it may contain monsters. And of course where ‘there be monsters’, there must special provisions be made. Whether it is laws which are exceptions to the norm (because cyberspace is virtual, not real) or whether it is the right of governments to listen to everything we do ‘in cyberspace’ (because it is so unregulable), the presumption of a cyberspace sets up a series of dubious and threatening assumptions about control and policy which criminologists have rarely questioned enough.

Its not that we cannot or should not recognise the production of a social space by a particular technology, as Lefebvre, (1991) pointed out, ‘spaces are produced’ socially in all kinds of ways. But getting clear about how and what kind of space is crucial, for important consequences for policy follow from the decisions we make here.

An alternative

Central to my challenge to the presumptions behind the 'cybercrime' idea has been the attempt to outline an alternative stance on trends in (communications) technology crime and their implications for social life and interaction. As part of this it was essential to find an alternative to the technological fetishism which often infects cybercrime explanations, a penchant manifest in the tacit assumption that, by prefixing communications-related crime with the term 'cyber', we somehow account for it. Instead, I argue, that our understanding of criminalities related to communications technology must be relocated within the appropriate realm of analysis for social science – namely within the social world.

After all, the idea of seeing technology not as an external, or independent force but as something intrinsically social is hardly a very new one. Aristotle (1984:IV) for example defined what he called *techne* in clear social terms – as the product of our attempts to imitate and surpass nature. More recently Heidegger (1977) placed even greater emphasis upon its social determination – as something that forms a mode of existence for us. But as with many theorists of technology, Heidegger was profoundly negative, viewing it as something which so changes our existence as to (ultimately) enslave us. By contrast Marshall McLuhan (1962; 1964), a theorist little discussed in criminology in spite of the important insights into technology crime he offers, proposed we saw technology in such profoundly social terms that it was actually a part of us, not separate. Drawing upon the work of Harold Innis (1950), McLuhan argued that technology was not 'just' a tool, but could be thought of as an extension to our physical bodies, ways in which our existing capacities could be enhanced. As he famously put it – the wheel is a technology which 'extends' the foot, much in the same way as we can think of the phone extending the voice. Given this conception, it immediately becomes clearer how communications technology entails nothing which is ontologically distinct from the 'real' social world - rather, in extending our bodies, it extends the social world we inhabit. It then becomes clearer how technology crime (and control) is no kind of an 'ontological other', it is simply another example of the range of extensions to our social world.

What does seem true is that, in the case of communications technologies, this process of extension appears to have reached a kind of tipping point – a fact that explains a lot about the readiness to accept the hyperbole of the cyberspace/cybercrime model. What I suggest (McGuire, 2007) is that this (long historical) process of bodily extension, of capacity enhancement, has become so profound that it is in the process of creating a radically new kind of social space – one that not only extends our communications capacity – but the process of social interaction itself, not least criminal behaviour. For want of a better word I refer to this extension of social space in terms of a process of hyperspatialisation – though the result is not the kind of thing once described by Frederic Jameson

(1991:44), where it is our inability to grasp the global enormities of a post-modern world that constitutes hyperspatial experience. Rather this is a lived medium, a product of the wider capacities generated by the extensions of (numerous) technologies. My contention then is that, just as with previous extensions to interaction in history, this more recent set of extensions generates a new order of deviance, both real and imagined. That is, just as (say) printing brought about important shifts in crime (and crime control), so then I argue does this more comprehensive stage of the hyperspatialisation process – the emergence of a more fully developed hyperspace of interaction – deliver its own more comprehensive transitions in deviance and control. In other words hypercrime is simply an inevitable outcome of living within a hyperspace.

Hyperspace

The concept of a hyperspace does not seem to be an obvious candidate for acceptance into the policy makers lexicon, so what of practical use might it offer to criminology? In physics a hyperspace is often used as way of referring to 'higher dimensional' spaces – spaces where motions are possible which are impossible within the lower order medium (being able to move in a third dimension for example makes 3D space 'hyperspatial' with respect to 2D space) (cf. Valente, 2004). The suggestion I offer parallels this idea of an 'expansion of possibility'. That is, the variety of ways in which social interaction can take place have now become so enhanced that social space too is now 'hyperspatial', with implications that criminal justice policy must begin to take seriously.

As suggested earlier, a proper examination of the historical effects of communications technology (and indeed many other technologies) upon social interaction quickly makes it clear that such changes are part of a longer term set of processes, processes which do what technology has always done – extend the body and its capacities. Previous commentators – perhaps most obviously David Harvey and Anthony Giddens – have used concepts of 'space-time compression' (Harvey, 1989) or 'distanciation' (Giddens, 1990) to capture one aspect of such transitions. This is the idea that, with modernity, many of the spatio-temporal limitations imposed upon us are contracted. The case is fairly straightforward and - given the weight of evidence - a compelling one. For example, for most of history up until the nineteenth century the highest speed we could travel was effectively the highest average speed of horse drawn coaches and sailing ships - around 10 mph. Between 1850-1930 the advent of steam locomotion raised this average to around 65 mph. In the 1950s propeller aircraft extended this to around 300-400 mph; whilst by the 1960s, with jet propulsion it has risen to 500-700 mph (Harvey, 1989:241).

Paralleling these sudden and dramatic increases in speed have been other indications of a fundamental shift in social life. Nigel Thrift (e.g. 1995) marks this in terms of enhanced mobilities. For example, whilst in 1950 the

average Briton travelled around 5 miles per day, by 2006 this had become closer to 30 miles – a figure itself estimated to double by 2025 (Adams, 2005). Similar shifts in communication mean that the several months it took to get a message from London to New York in the early nineteenth century has now shrunk to less than one second. Complementing Harvey's ideas of spatio-temporal compression, Paul Virilio has spoken of the need for a 'dromology' - a new science marking the fact that, 'today we are entering a space which is speed-space ... this new other time is that of electronic transmission, of high-tech machines' (*cited in* Decron, 2001:71).

These are not particularly new insights. Nineteenth century commentators were well aware of the implications of the new communications technologies for distance interaction – witness for example the obituary to Samuel Morse which celebrated how he had, 'annihilated space and time' (cf Standage, 1998:87). It also seems clear that 'hyperspatialisation-like' processes can be seen in many more extensions to social interaction than spatio-temporal compression alone. As, for example, Simmel was aware, money and economic processes in general, have long functioned as ways in which social interaction goes beyond the immediacies of physical presence (Simmel, 1978). Elsewhere, Deleuze (1992) emphasizes another distinct ingredient related to his 'control society' model of contemporary social order. Here, as regulation shifts from the enclosed disciplinary spaces noted by Foucault (1980) toward forms made possible by a 'deterritorialisation' of space' – control itself, in transcending boundaries, becomes recognisably hyperspatial.

In my 2007 book I attempted to categorise these various ingredients of the hyperspatialisation process in terms of three key processes:

- (a) *Processes of causal enhancement:* Technologies such as transport and communication begin to rapidly extend social and causal interaction by 'reducing distance', 'speeding connection' and facilitating capacities to affect objects at very far and very near proximities..
- (b) *Processes of social complexification:* The 'network society' described by Castells (1996) is only part of the story of complexification. For what actually emerges is a networking of many different networks – an increased interlocking of social, economic, policing, transport, information and so on. In effect this plurality of interlocking networks produces a social complexification so extreme that, given (a), a quasi-continuum of possible connections emerges..
- (c) *Access to and interaction with a multiplicity of representations:* This continuum of possible connection is increasingly mediated by representations. Whether it is the use of computer models to engineer, shape and intervene in the natural and social worlds, or the increasing centrality of securing property by way of representations (here in the form of numeric codes), representation now goes a lot further than mere fictions or 'spectacles' (cf. Debord, 2002). Arguably it becomes a central form of production within the social world.

It seems clear (to me at least) that hyperspatialisation must be seen as a cumulative product of all such processes (and probably more, still unnoticed). For example, hyperspatialisation processes are clearly not 'just' globalisation – for they stretch beyond the formation of the immediate economic order back to early Neolithic trading networks, the development of Roman roads, the discoveries of fifteenth and sixteenth century European explorers and so on. Nor are they 'just' space-time compressions in Harvey's sense or a 'speed-space' in Virilio's. Not only does this overlook the enhanced levels of networking noted above, but also the increased capacity to interact over 'very near', as much as 'very far' space (in the increased capacity to manipulate the atomic and subatomic worlds for example). In turn, none of these approaches taken singly would accommodate the exponential rise in our capacity to socially interact using mediums/representations/information. Yet neither does our increased dependence upon representations produce a hyperreality of the kind posited by Baudrillard, 'the product of an irradiating synthesis of combinatory models in a hyperspace ... sheltered from the imaginary, and from any distinction between the real and imaginary' (1983:3-4). There may indeed be an significant inflation in the way we interact with 'fictive' or better, counterfactual representations – a transition in representational experience from examples like the novel, or even the film, into a fuller immersion such as that produced by the games worlds so beloved of the enthusiast of 'virtual' realities. But of equal, if not far greater, importance is the way that our models/representations mediate interactions with the natural and social worlds with increasing accuracy – accuracy of the kind which enables genuine causal interaction with the world (for example, the capacity to use a model to pick up a rock on Mars, to manipulate DNA sequences, or to adapt monetary policy to shifts in supply). It is with the emergence of this hyperspace that we can finally begin to think of what the new order of criminality and control that goes with this might look like. We turn, at last, to hypercrime.

Hypercrime

In closing I will set out what seem to some of the more prominent consequences of this hyperspatialisation process for criminological explanation – the complex matrix of extended deviant behaviours and control strategies I have collectively referred to in terms of 'hypercrime'.

Shrinking of distance (I) - emergence of 'telepresence' and teleaction

Hyperspatialisation's remodulation of social interaction and the consequent emergence of what has been called 'telepresence' (Minsky, 1980) - the compression of distance to the extent where anyone can now interact with anyone, anywhere and anytime (across the full audio-visual spectrum) - is having a number of important criminogenic effects. Some have been disproportionately noted over others, whilst others have

scarcely been noticed at all. Amongst the more obvious examples can be included:

- *Remodulations to violence:* It is important to be clear that the enhanced 'reach' of social interaction does not only provide new forms of opportunity for well publicised violent behaviours (in both psychological and physical terms) such for stalking, grooming or other sexual offences. This shift also entails a general enhancement to the capacity for killing individuals at a distance. Of course such capacity stretches back as far as the use of the sling, or the bow and arrow, but there is little doubt that it is one which has grown significantly since the nineteenth century, first with rifles, handguns, automatic weapons and the like, but more recently with missile capabilities of high sophistication. These more sophisticated capacities remain, of course, largely in the hands of the State at present, an imbalance in distance-violence that has been underanalysed within criminology. More widely noted has been the expansion in the range of potential psychological violence enacted remotely - from 'flaming' (insults directed at others online) through to text-bullying or hate crime.
- *Remodulations to theft:* Amongst the most widely discussed criminal outcomes of hyperspatialisation has been the inflation in the capacity to steal at a distance, whether from online bank accounts, by cloning credit cards and so on. Yet remote theft has, in principle, been in place ever since property became something partly mediated by representations (in the form of money for example). In turn, fraud committed over postal systems, or across the telegraph network, are examples of ways in which theft occurred at a distance long before the advent of the internet. What, however, cannot be disputed is the inflation of possibilities for effecting this that enhanced communications networks have created. Equally fascinating is a seeming transition in the very nature of theft produced by hyperspatialisation. Contemporary theft is increasingly a combination of access and representation (see McGuire, 2007) – access to networks of value, mediated by numeric codes. In effect, to be able to access a value network (be that an online bank or a credit card system) by replicating representations of others' forms of access (their codes or pins) amounts to the capacity to (illicitly) use the values represented there. As property is transformed into representations within networks of value, theft becomes a matter of access to that..
- *Remodulations to control:* There can be little doubt that hyperspatialisation has hugely increased the capacity to manage individuals and populations. Not just from a distance, but close up – indeed even from within the body itself. The so called 'surveillance society' is really simply one where, via CCTV, data profiling, electronic tagging, RFID¹ and a host of similar technologies, State and corporate

¹ Radio Frequency Identification tagging

agents are able to intervene, acquire knowledge of, and manage situations by utilising the visibilities of a hyperspace (see below) to their own advantage. Within this spatial continuum control itself becomes 'continuous', operating – as Deleuze aptly described it – as 'a modulation, like a ... cast that will continuously change from one moment to another' (1992:2).

Shrinking of distance (II) – enhanced microcausal power

As I have suggested, hyperspatialisation is as much about enhanced capacity for causal action with very near objects as very far. This has equal, if not more significant, effects than teleaction, involving a whole new class of potentially criminal behaviours related to misuses of subatomic, atomic, genetic and other phenomena. Such behaviours have hardly begun to be theorised within criminology. Newer developments on the micro level, such as the advent of 'very small' or nanotechnologies are already being explored for the purposes of enhanced control (Laycock, 2007), with little or no public debate and it can only be a matter of time before certain applications of them approach criminality. The fact that we hear less about the way that 'very close up' space can be associated with crime than 'very far' space is not just because the capacity for microcausal interaction is (again) largely in the hands of a few specialised agents at present. It is also because the legal system is still unclear as to what constitutes offences here. But our rapidly developing capability for interventions at the micro-level poses some obvious questions for criminology. The rights and wrongs of biometrics, of DNA profiling, of ultrasound and other 'soft' weaponry are the most familiar examples of the normative dilemmas raised by access to 'very close up' interaction. They are likely to be just the tip of a very large iceberg.

Instantaneousness of interaction

It is really only since the 1960s that criminologists have been properly aware of the importance of perceptions of crime upon our criminal justice system and the relation of this to technology, in particular media technologies. Whether it is moral panics, or just panics, important effects on how we police and how we punish can result from such perceptions. Several years before Cohen's (1972) seminal work, McLuhan (1962) had already predicted the importance of hyperspatiality in inflating these kinds of technology-driven panics. The re-emergence of 'oral cultures' as a result of the new possibilities of instant interaction would, he argued, tend to foreground rumour over fact so that, 'terror is the normal state of any oral society, for in it everything affects everything all of the time' (1962:32). As individuals become ever more connected by the networking of networks promoted by hyperspatialisation, it is not just a greater access to global events and crises which produce feelings of insecurity. There are simple, and well known, laws governing information flows which predict precisely the kind of rapid spreads of stories and myths we are experiencing. These new chaotic dynamics of social interaction mean that the 'butterfly's wing'

of an event on one side of the world may produce a disproportionate avalanche of reactions on the other. The credit crunch of 2008 is one obvious example here. The greater readiness to accept both the reality of threats and the need for securitisation is one outcome.

Enhanced representational power

As I have argued, the general inflation of representation such as computer languages and computer models cannot be exclusively equated with a world of virtuality, of fictions – however good they have become in making such fictions plausible. Such representations have real causal power, power that enables interventions with real causal outcomes. It is no wonder then that information and representation become commodities of value, or that they then become disproportionately appropriated by those who wish to exploit them for gain. In retrospect the advent of ‘propaganda’ – representations used to gain influence over behaviours – now seems a mere foretaste of what was to come. From advertising to data profiling to the computer models which direct missiles towards their targets, the plethora of representations which play their part in shaping hyperspace, also play their part in generating hypercriminalities. The limitations of the cybercrime stance has again meant that criminology’s focus upon this has been rather circumscribed. Thus, we know a great deal about the use of representations for more sensationalised criminal ends. The theft of identity, or better the theft of identification – representations (codes, numbers etc.) which authenticate an identity – is an obvious example. Beyond this, a far wider and richer range of ways in which access to identifications can be misused, albeit perfectly legally, has scarcely been considered.

Symbiosis and hybridisation

Most of the previous examples of the ways in which a hyperspace may be contributing towards something we can think of as hypercrime are, if not obvious, at least familiar. But there are other, potentially more exotic consequences of a world of extended social interaction and deterritorialised space which, while they appear to be at the very margins of theory at present, are already exerting important effects. Indeed the very subtlety of how they are unfolding make them at least as insidious as the previous. One example is the effect upon the way we draw boundaries within social interaction itself. Put simply, a more connected world creates social composites as never before. New symbioses and hybridisations confront us – some of them from our worst nightmares. Symbioses such as that which drew together the cannibal Armin Meiwes and his ‘dinner’² (cf. Naughton, 2006) may of course also have taken place in times when more proximal social interaction was the norm. There can however be little

² Meiwes was sentenced to life imprisonment by a German Court in 2006 after meeting Bernd-Juergen Brandes on the internet and then killing and eating him. Brandes had, claimed Meiwes, been enthusiastic about the idea.

doubt that their meeting was made easier by the hyperspatialising power of the internet. Likewise individuals wishing to play out certain sexual preferences, or to hire hitmen, or simply to swap rare stamps could all have met without new communications technologies. But it becomes increasingly likely that, with wider possibilities of interaction, those with certain interests can more easily find those share them. It is of course the 'monstrous' symbioses which catch our attention, but we should not overlook other varieties of social blendings which may pose greater long term risks to aspects of our society we wish to preserve. Hybridisation – a blending of previously distinct social functions rather than the sharing of interests marked by symbiosis – is particularly dangerous in this regard, for this happens almost imperceptibly. But happening it clearly is. Take for example the increased blending of policing and military functions. As Hardt and Negri (2004) amongst others have pointed out, in Iraq the military behave like police, just as police behave like the military. A still more ominous hybridisation – between the citizen and the criminal – also seems to be occurring in the move from individuals constituted by rights and the social contract towards individuals under surveillance, risks who need constant evaluation and management.

Invisibility as a currency of power

In the connected world of a hyperspace the capacity to be hidden begins to constitute a form of privilege. Indeed, to stay hidden requires the intervention of power. One result is a new order of identific enforcement. In a sense this is the real source of surveillance capacities and helps unravel David Lyon's (2001) dilemma – how exactly to define what is 'bad' about surveillance. For the advent of ID cards, or the constant demand for personal details from the commercial world, involves a requirement for visibility that is not shared equally. As the arbiters of identity become ever more remote and abstracted, the necessity to be identifiable wherever we are and whatever we are doing begins to go beyond an expectation. And to deviate from this requirement is, increasingly, to be criminalised.

Conclusion

The advent of a multiple spectrum of ways in which bodies and societies can 'go beyond' limitations experienced by earlier societies in the way that hyperspaces transcend normal spaces is a stunning development, but it is one supported by a rich evidential background. To reduce the criminological consequences of all of this into a narrow class of offences involving computers has been a serious mistake. Instead, we need urgently to expand our perceptions and to see what has been called 'cybercrime' as a mere indication of a much more interesting and extensive set of possibilities. Hyperspatialisation may only be one way of modelling these and a concept of hypercrime may be no more than a provisional metaphor. But if we are to design a criminology that has the explanatory richness to

cope with what the twenty-first century is likely to throw at us, it is my contention that provisional metaphors are a better place to start than theories which have manifestly failed to deliver.

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Playing Around with Crime and Criminology in Videogames

Exploring common themes in games studies and criminology

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Abstract

This article explores how criminal/deviant themes arise in videogames and games studies. It also explores how criminology (virtual or cyber) has examined online criminality/deviance and how it might be applied to videogames. It touches on the 'video-games-cause-crime' debate without seeking to resolve it. It raises the prospect of a ludic criminology and explores potential criminological, crime prevention and criminal justice convergences between 'real' and virtual life. For instance it is safer to play, however criminally, with cars on screen than on the road?

Key Words: videogames, virtual criminology, cybercrime, technocrime, hypercrime

Introduction

Video games have been the subject of media censure for some time now. At the time of writing, *Manhunt 2* (Rockstar, 2007) had been refused a certificate by the British Board of Film Classification (*The Guardian*, 20 June 2007). In *JPod*, a novel by Douglas Coupland, his characters - mostly games developers - play existing games such as *Tetris* and invent others. They discuss *Manhunt* in these terms: 'you spend way too much time playing Manhunt, which is the goriest game of all time. It signals your detachment from humanity' (2006:221).

This paper argues that criminology should take video games and online spaces seriously (Whitson and Doyle (2008) have reached the same

conclusion separately). Moreover, Games Studies should recognise that their discussions of how to encourage, or more often prevent, certain behaviours within games might be aided by an engagement with criminology. It concludes that there is a growing convergence between real life (RL) and virtual life (VL) in on/off-line communities and sports and games. It touches on, but attempts no resolution to, the 'video games cause crime' debate. First though some definitions of the terms used, then the video effects furore followed by investigations of criminology, games studies and a possible ludic synthesis. Most criminologists, even the administrative ones, would distinguish themselves from law, if only disciplinarily, but in a contest of the disciplines law has already begun to colonise sport (Greenfield and Osborne, 1999). So it is time that criminology got its virtual skates on.

Definitions: Interesting choices

Throughout a number of videogames will be mentioned as will a few real life versions of those or other games and sports. Within Games Studies, and more widely, there are disputes about precisely what constitutes a game, sport or pastime. For instance, Juul (2005:30) discusses seven definitions of a game in his literature review before elaborating his own, having already mentioned a further definition by Sid Meier. Meier developed simulation games like *Civilisation* and *Railroad Tycoon* and defines a game as 'a series of interesting choices' (cited in Juul, 2005:19).

No definition is attempted here so this may be regarded as free play - in an ideas sandbox, if you like - rather than anything as structured and rule-based as a game or, indeed, a proper academic paper. In part no definition is given as that would take us too far into Game Studies but also because none of the argument relies on these definitional issues. Helpfully McFee radically declines to define his terms in a discussion of sport and rules, 'A definition (of sport) is neither possible nor desirable' (2004:22).

However defined, videogames all have rules but also a playful context even when done for money by professional videogames players. It is the existence of rules, the breaking of them and punishments and penalties within the game that should attract criminologists. It is argued here that criminology has largely left these topics to the players, administrators, fans and media.

It may be some criminologists see sport and (video)games as a realm apart, a relief from their criminological concerns, or subscribe to a weak version of Brohm's arguments that, '*sport is alienating. It will disappear in a universal communist society* (1978:52, italics in original). That is games and play are trivial; a distraction from doing research for the Home Office or speaking out on behalf of the criminalised. In economics Castronova (2005), spends time in the introduction, conclusion and throughout his book insisting that synthetic worlds should be taken seriously. He cites rejections by his discipline's journals of his early work.

The videogames cause ... argument

A lot of organised - as in lobbying *and* as in researched - discussion has occurred around games and their potential to cause violence or encourage crime. There is a long history of new media or inventions being subject to 'moral panics' or censure. According to Howitt (1998) a translated Bible, education (for the working classes, for girls), books, music, comics, TV, cinema, video, internet, text messaging etc. have all given rise to public debate which itself is then carried in the media (see also Barker and Petley, 1998). Hagell and Newburn (1994) and research for the Home Office by Browne and Pennell (1995) suggests a direction of causation from violent family and other predisposing factors to an interest in violent videos rather than the other way round. A more recent summation (Millwood Hargrave and Livingstone, 2006) of the evidence is less clear but inclines to the reality of psychological effects whilst recognising the coherence of the largely cultural (and I would add specifically games) studies arguments for zero or even positive effects. For instance, Asi Burak - developer of PC game, *PeaceMaker*, which requires you to make peace between Israel and Palestine - believes that:

we need to 'dismantle the notion of the 'gamer''. 'If you think about it', he says, 'you won't call someone a 'radio listener', or 'TV viewer' - I mean, you might, but everyone is, right? Everyone is a filmgoer. This idea that people are 'gamers' is going to have to change. Everyone should be a gamer!' (Gambotto-Burke, *The Guardian*, 3 July, 2008).

Furthermore Stuart ('A machine gun now comes with a lesson in philosophy', *The Guardian*, 28 June 2007) notes about 70% of all video games are rated as suitable for all ages and predicts the future of videogames is not *Manhunt 2*, *Law and Order: Double or Nothing* (Legacy Games) or *Fall of Man* (Insomniac Games). These games fell foul of media and other censure respectively for extremes of callous violence, the appearance of the James Bulger's iconic CCTV image in the game and the use of a virtual Manchester Cathedral as the site of a gun fight. He suggests games such as *Haze* (Free Radical Design) and *Bioshock* (Irrational Games) offer, 'a 30-hour course in philosophy, social history and the ethics of military intervention'.

Juul (2006) emphasises that games are fictional and that even though his book is not about violence he still feels the need to note the banning of golf in Scotland in 1457 and pinball in New York from the 1930s to 1976 (p21) and that, 'controlling a character that hits a character controlled by another player does not mean that one wants to attack that other player in real life' (p19). So the fight (game?) continues between

supporters and detractors of videogames and is only mentioned here for completeness.

Criminology and games

Clearly the irruption of the internet and email has been noted by the criminological community and some of the flavour of that will be set out below. Generally the method has been to start from the existing crimes and criminological explanations and apply them to internet or cyber crime. They often point out that the crimes are not new but facilitated by the new technology and that, what might be called terrestrial criminology, can get a handle on it even if policing cannot. In some respects this mirrors concerns about globalisation and how transnational policing is to be achieved. Some of these criminological interventions are discussed below; Brown (2006:456) calls these 'virtual criminology'.

Yar's (2006) book is an introductory text on cybercrime that usefully rounds up some of the literature and the main issues of crime online. He refers extensively to the earlier collections of Jewkes (2003) and Wall (2001). All of these have useful accounts - though growing stale through the speed of development in the internet, if not in the criminological study of it - of various old crimes by new means. Jewkes' (2004) own text on media and crime only touches on video games in a discussion of media effects and quotes from a relative's experience of playing *The Getaway* (Sony Computer Entertainment, 2002).

Wall's (2007) latest contribution is the most up-to-date yet hardly mentions games save the thefts of virtual artefacts and mentions an ununlockable sex scene in *Grand Theft Auto: San Andreas*. Some of his discussion of the problems of policing third generation computer crime are relevant to video games and worlds and will be discussed later. McGuire (2007) is rightly critical of the excesses of some writers on 'cyber' crime and all the above might be included by implication but it is more popular and commercially interested parties that deserve the fullest criticism.

None of these specifically look at video or online games but Williams' work offers some possibilities. Williams (2006) spent six months in online ethnography and recruited sixty members of an online community called *Cyberworlds* to a rolling 60 day online focus group to discuss crime, deviance and regulation. He combines sociology, linguistics and criminology. The sociology concentrates on what is a community and whether *Cyberworlds*, and the like, are communities. The linguistics concentrates on the fact that most completely intra-cyber deviance is verbal abuse rendered in text.

Williams spends little time debating the full range of potential criminological engagements with cybercrimes. Candidates might be theories that examine gender, and particularly masculinities, given the preponderance of teenage and young men on such sites. Hirschi's control theory (2002) is declared most relevant melded with Sykes and Matza

(1957) on techniques of neutralisation. This meld is deployed sensitively to criticisms of control theory and differences between real life and virtual life.

Elsewhere Williams (2004:24) specifically rejects sub-cultural explanations thus:

Cohen's (1955) and Cloward and Ohlin's (1960) class based explanations which focus on a rebellion against hegemonic middle class culture, motivations behind allegiances to subcultures within Cyberworlds prove quite different. Any class based analysis can be ruled out given the existence of a digital divide of Internet use, meaning that those who inhabit Cyberworlds are likely to be middle class young white males.

I have argued elsewhere for the continued relevance of these sub-cultural theorists re-read through feminism and the masculinities literature (Groombridge, 1997). For instance, Cohen did look at middle class masculinities and their rebellion - taking their parents cars, getting drunk etc. - so might easily now be applied to online vandalism.

Williams discusses real life murders linked to online activity - including games! - but the offences for which players were most often ejected from the game were 'profanity' (52.5%) and harassment (27%); both easily done and easily spotted by the online 'police', the *Peace Keepers* (PK). More difficult, requiring technical skills and therefore rarer, was online vandalism (6.1%) or impersonating a PK (0.8%). Unsurprisingly, perhaps not knowing the rules, 'tourists' were twice as likely to be ejected for profanity though only half as likely for harassment. None were ejected for vandalism.

How is such deviance policed? Initially, and still in some fora, by communitarian 'shaming'. Secondly by the appointment of voluntary or official 'police' and finally by the technology itself - though this may be hacked. The 'automaticity' by which rule-breaking is detected and punished will be discussed more fully later.

Thus in the game *Runescape* players can only kill each other in the Wilderness and are, thereafter, marked with a skull to warn other players. Moreover, if they fail to kill they die and lose most of their virtual possessions. So some measure of deterrence is possible online; but online one can change identities and avatars (one's online representation which may bear no resemblance to you or reality) and re-enter spaces from which one has been ejected. In many games domains come with warnings that there is a war in progress or that player-versus-player mode is enabled allowing you to choose to kill or be killed. Castronova (2006) notes that *Ultima Online* quickly allowed players to 'kill' each other as a means of reducing swearing. It did not work on the language but proved popular. Most of these games charge fees; these commercially viable serial killers are known to gamers as 'griefers'.

However, Williams appears to be onto something when he opines, 'the understanding that online activity is not 'real life' leads some individuals to *play* out scenarios in virtual *arenas* as *games*' (2006:85, my emphasis). That is, whilst some join online communities to experience and develop those communities, others are more ludic and treat it as a game. Conversely in online games it is possible to meet people, killing and competition are not obligatory. In VL and RL there may be interlocking communities with different 'takes' on the game or whether it is a game at all, even where the games are similar.

Thus Juul compares *Quake III Arena* with *Counter-Strike*, both of which call for killing, and how subtle differences in the rules lead to an emphasis on cooperative team play in *Counter Strike*, even though these rules do not demand team play (2005:90). He also notes that as communication and strategic planning are important for victory there 'is an important incentive to build community and that *EverQuest* promotes this too' (2005:91).

Neither a criminologist nor games theoretician, Taylor, who identifies as a sociologist of technology, is cited by both Williams (2006) and Yar (2006) and contributes to Wall (2000) and Jewkes (2003). In his book on Hackers he cites Coupland's *Microserfs* in identifying a type of hacker - sold out to the corporation - and writes, perhaps because of his subject matter, quite ludically. He examines the playful aspects of hacking and notes, 'cultural theorist have emphasised the ironic and playful nature of hacking' (1999:167); *but*, cleaving to reality, he notes the irony of their attachment to a modernist piece of kit, the computer. Clearly criminology will need to engage more widely with ICT whether games or business.

These considerations of the sociology of communities and the psychology of games playing are not irrelevant to criminology but cannot detain us here. Having briefly looked at how criminology has (or might have) looked at video games we turn to how games studies have engaged with criminology, or even the sociology of deviance, or of law and criminal justice.

Games and criminology

Criminology appears not to have seen games playing or playfulness within its discipline (though see Williams, 2007). Similarly games studies appears to recognise the significance of rules without seeking to relate that to the studies of rule-breaking and making in RL; that is to criminology and to law, though Lastowska (2006) notes the arguments of Huizinga in *Homo Ludens* on the playfulness of legal contests.

We should not be too critical of criminology's failures to relate to games. For instance, in the 700 odd pages and 48 articles of the cybercultures reader (Bell and Kennedy, 2000) there is only one sustained discussion of games, and then to relate them (importantly) to hacking (Bukatman, 2000). Just as some criminological work on the internet was

summarised and critiqued above so some recent books on video games are discussed below.

Kerr's (2006) work is a good introduction to digital games (i.e. console or online). It touches on the violence debate but does not engage with the fact that much ordinary gameplay involves what would in RL be called crime or deviance. Similarly Rutter and Bryce's (2006) otherwise excellent collection contains nothing on crime or deviance.

Castronova gives attention to law and governance within online worlds and rightly notes that, 'there is more to the state than just code in these places' (2006:205). Note, just as he treats these games as economies, he refers to them in this discussion as states and implicitly as jurisdictions. Most criminologists are not opponents of good government or appropriate laws but are often sceptical of their capacity to prevent crime or deviance. Indeed some would note the extent to which unwanted behaviours are produced by the labels or discourse. Cyberspace may be the ideal laboratory for theories of governance.

What might be recognised as a criminological discourse can be found in Castronova's discussion of the value of a magic sword and the ethics of looting a foe online versus achieving the same end by hacking the server. Criminologists might recognise that as an ethical issue, but also as a Mertonian 'innovation'. Juul does not call it this but notes that in *Deus Ex* (Ion Storm, 2000) players found they could use 'proximity mines' to climb a wall they should not have been able to (2006:76). That is items for blowing things up were used to climb a wall that the game's code would prevent if just issued the command 'climb the wall'. Such innovation is ludic.

What criminologists might call policing, Castronova calls governing. He notes the extent to which such activities occur is conditioned by the cost of human (customer service) intervention. It is here that the game's code, the self-policing/shaming and voluntary policing, that Williams (2006) discusses comes in. The Community Standards for *Star Wars Galaxy* he exhibits (2006:224-226) can not compare to a penal code, but out-words the Ten Commandments. And, unlike the suppositions of classicist criminology, we are obliged to agree on screen in advance.

He notes the extent to which the capacities of games is now being used by the US military as training, how terrorists might use them as training and how racists have produced a game called *Ethnic Cleansing*, presumably as 'fun' propaganda. Again these should be of interest to criminologists. And, bringing the discussion back to the terrain that criminology traditionally falls back on, crime statistics, Castronova cites Korean National Police Agency figures for 2003 which show that of 40,000 online crimes 22,000 were games related!

Grand Theft Auto is most often criticised for its criminal content, yet Frasca (2003) sees freedom in GTA3 to:

... perform a lot of actions in an immense playground. To mention just a few: you can hit and kill people, carjack and drive an enormous variety of vehicles, use several cool weapons, play

vigilante, be a taxi driver, repair and paint your car, listen to several radio stations, have sex with prostitutes and burn people alive. And these are just some of the possibilities.

Such freedoms are more normal in an online RPG (role playing game) and Frasca notes, 'most of the time, I enjoyed using the environment as a giant laboratory for experimentation, where I could test the system's boundaries and set my own creative goals.' Within a game aimed at committing criminal mayhem Frasca is ludic or deviant in just pimping his ride. As a games designer he may be more inclined to play with games and elsewhere he argues for the possibility of using videogames in consciousness raising and education (2001).

In both the section on criminology and that on games I have started to introduce concepts from either side of the disciplinary wall, and to be a little playful. Next we seek to synthesise further but mostly in respect of crime and criminal justice issues.

Next level: Ludo-criminology

McFee (1997) spends some time trying to work out whether he is making a contribution to philosophy that takes sport as its subject or to the philosophy of sport. My intention here is to widen criminology to investigate crime, deviance, and policing and punishment systems wherever they are found including online, on screen and on pitch. I would also hope gamers and Games Studies would not forget the potential in criminology.

Lastowska (2006) makes a pitch for law and games studies to share and learn from each other. Blackshaw and Crabbe (2004), from the direction of the sociology of sport, suggest some ways forward in their engagements with criminology, though they say it, 'has a narrow 'law and order' agenda which is pursued at the expense of exploring crime and 'deviance' in more imaginative ways...' (p.64). So some thoughts on crime policy and criminology follow inspired by the engagement with games.

Juul notes the asymmetry between the simplicity of rules and complexity of outcomes quoting mathematician, Wolfram, 'simple rules can lead to very complicated behaviour' (2006:77). But 'the rules of a video game are automated, video games allow for rules that are more complex ... since the rules are hidden from the player, video games allow the player's initial focus to be on the appearance of the game' (2006:162). That is games have invisible walls (*ibid*, p.165), yet for the best gaming experience it is important to maintain the 'suspension of disbelief' (*ibid*, p.190). That is the narrative drive keeps us going forward and not sideways to take too close a look at, let alone for, the walls.

Translating these insights from VL to RL the classicist and abolitionist criminologist might applaud few and simple laws that enable the complexity of life without overly constraining it. The target hardening

and defensible space theories of situational crime prevention would render the walls very visible and have them covered in anti-climb paint. The micro-management tendencies of New Labour's policies can be criticised from many directions but now additionally as 'not fun', and therefore having no future.

The games literature speaks of 'guilds', criminologists might talk of gangs. Indeed, Williams (2004) uses the expression gangs when discussing online vandalism but in a censorious trope, rather than relating it to the rich criminological literature on the subject. Rather unludically he argues for a target hardening approach, claiming:

... an effective way of reducing and preventing some cybercrimes rests, perhaps, not in changing existing laws, regulations and moral exhortation against either particular deviant or victimisation oriented social practices, but in designing out the opportunity for crime by developing *toughened technology* (2004:2).

He sets out a very 'official' or 'administrative' view of vandalism and criminal damage that would not admit the graffiti art beloved of cultural criminology nor the sort of 'modding' that happens in games - some gamers hack into systems to *modify* aspects of games or even the appearance of characters. Other games allow some modding and an open source social networking site such as *Facebook* encourages applications from other developers.

Clearly an autocratic games world developer would call such practices vandalism or intellectual property theft and get many lawyers, and some criminologists, to agree. The opposite trend on the web is the Wiki where all material can be vandalized or, put more generously, edited. It is difficult to imagine that a game or an online community could operate to Wiki rules, though Juul points out that Peter Suber, a philosopher, created a game, *Nomic*, in which changing the rules of the game was allowed and indeed was the point of the game. Castronova muses, 'Games are becoming such an integral part of daily life that the distinction between game and life may be fading' (2006:158).

These two points raise the issue of convergence between RL and VL and the 'automaticity' of rule-enforcing in both realms. The use of electronic monitoring of offenders is sometimes credited to a judge's reading of *SpiderMan*. I know of no such founding myth for CCTV and traffic cameras though a trawl through sci-fi should find one. Indeed the cameras and their images appear to have become firmly lodged in popular culture (Groombridge, 2002). Castronova's concern is that RL will intrude too much on VL here, though our concern is in the opposite direction.

CCTV and assorted cameras do not come from games or popular fiction but deploy such technologies. There are many reasons to be against the cameras from civil liberties to their cost and effectiveness (Groombridge and Murji, 1994; Groombridge, 2007). To these might be

added that they render the walls visible; or, contrarily, that the operation of the cameras is treated by some as a lottery, a game.

Driving games are popular and many (the *Grand Theft Auto* series and *Carmageddon*) have been criticized for their general violence and specifically pedestrian killing elements.

Driving is not a game. Yet from the 'careful lady driver' beloved of the stereotype of the car sales person (man?) to the demonized joyrider, enormous emotional satisfaction and identity formation is tied up with our motoring which has similarities with video games (Groombridge, 1998). So here the heuristic of ludic criminology suggests public policy should not blame video games or just young men for bad driving but remind drivers that there is a real world with real world consequences beyond the (wind)screen. Presdee (2000) argues that joyriding and internet use are carnivalesque but carnivals have consequences.

It may be that the 'automaticity' of speed, red light and congestion cameras add to the feeling of being in a game in which getting points on your license is like dying for an RPG player; an inconvenience but no hindrance. Juul notes traffic shares similarities with games but insists the consequences are 'not optional' (2006:43). The trouble is given the construction of modern cars and other road engineering the consequences are not obvious or occur sufficiently often to many drivers.

Finally on the public policy issues we pick up Castronova's point about convergence again. He defends the right of games world authorities to have their own rules, though not compromising 'human dignity' (2006:239), but is concerned that writing the codes to induce 'toxic immersion' (where players may go without food or sleep to keep playing) may require RL to enter VL. Yet his list of rights gamers give up sounds far too like current anti-terrorist legislation. Now RL authorities seek the same automatic/autocratic powers over us as VL ones do.

Last level: Beyond the video violence debate

In part the intention has been to make good the deficiencies in the work of Jewkes (2003), Wall (2001; 2007), Yar (2006) and Williams (2006) by addressing the issue of games online and on consoles (increasingly converging) and suggest some criminological readings of the games literature. But I have strayed well beyond games and crime to the even more fugitive 'play'. No assumption is made that a game is ludic *per se* and RL isn't - indeed I have tried to provide examples of playfulness in both; nor is it assumed that playfulness is always right.

Castronova's (2006) first thoughts on writing about the economy of games were to treat *EverQuest* as a country: and write a World Bank style report on it. He thought better of it. It would be possible to do a Home Office Crime Statistics or British Crime Survey style report on these worlds too. One could even imagine sub-cultural ethnographies of virtual gangs/guilds (Taylor's, 2006 is rooted in game studies). This would not be

my inclination in RL criminology so that is left to others. Such tedious enumeration, even in a games environment, is not very ludic.

So what might be ludic? Even the most playful of theorists tend to ignore crime. Thus in over 400 densely-printed, multiply-footnoted and eclectically-sourced pages Kane (2004) takes time to apply the play ethic to education, art, media, management, politics and spirituality, yet does not touch on crime or criminal justice issues. Perhaps where games are seen as too trivial; crime is seen as too serious.

I hope the discussions of what might be called 'ludo-classicism', convergence/automaticity and the related issue of car use above give some clues - I'm not setting out rules. And if this paper were a Wiki then what follows (and indeed anything in it) might be seen as stubs for others to expand, edit, even vandalise, for instance:

- Merton's Strain Theory is usually presented in positive and negative tabular form which could be rendered into the digital or binary of on/off 0/1;
- ASBOs might be seen as attempts to erect 'invisible walls' round youth regarded as problematic;
- Games might be used in simulation exercises to test knee jerk criminal justice policies - though pessimistically to debug them and still roll them out.

Clearly I propose to go beyond the rote application of existing criminology to the online environment and absolutely wish to transcend the videogames and violence labyrinth, but also note the ludic response of some gamers to claims that the Columbine massacre was due to games playing; they produced an online RPG about it.

Policing and criminal justice systems should not import too freely from games, and I am therefore with Richard MacKinnon in his argument that:

The importation of real life rape into virtual reality poses complex questions and creates complex problems unnecessarily. It would better serve the interest of virtual society to reconceive rape so as to render it less harmful or even irrelevant (1997).

Which is not to say that these matters - and indeed the depiction of women and sex online and in games generally - are not important, but that the unthinking importation of already problematic concepts from RL are not appropriate in VL or VL scholarship. Similarly difficult issues arose recently in the online community, *Second Life* where adults with child avatars were charging other adults with adult avatars to have sex with them online.

But, and briefly to be serious, despite my reservations about the scope of virtual criminology it is clear some important questions are being asked about crime and criminology. Games people and internet purists are

anxious about RL intervention in VL. Virtual criminology has concentrated on seeking to apply conventional criminological tools to VL, but Wall (2007) is right - though coming at it from virtual criminology - in sounding some alarms.

He sees that, however novel, first generation ('crimes using computers') and second generation ('hybrid crimes' - crimes for which computers provide new opportunities) cybercrimes can be understood and subjected to law and policy (and therefore criminological discipline), 'the greater challenge lies with the third generation' (2007:208-9). He is concerned about the ubiquitous policing of surveillant technologies (*ibid.* p.211) - what I have called 'automaticity' - and finally, perhaps ludically, he quotes from *Dilbert*:

... new technology will allow the police to solve 100 percent of all crimes. The bad news is that we'll realise 100 percent of the population are criminals, including the police (Scott Adams, *cited in* Wall, 2007:214).

The worse news is that policing will still apply to the usual suspects and some random luckless others caught with their feet on train seats.

Sociologists are inclined to find the rules beneath the rules or even where there appear to be no rules. My aim has been to playfully engage with some of them but some outcomes might be imagined for a ludic criminology. Some specific examples have been given but also some playful, even aleatory, suggestions thrown in. Had I the skill this paper would be a game.

I have played fast and loose with definitions. There are clear differences between games, sports, real life and their video or cyber versions, even if those are difficult to distil into a definition that all can agree. Sassen is clear on the need, 'to develop analytic categories that allow us to capture the complex imbrications of technology and society (2002:1). I have not managed that, cannot manage that. I cannot be serious.

Situationist crime prevention anyone?

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Theorising Homophobic Violence in Northern Ireland

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Abstract

Homophobic violence in Northern Ireland is an area which has come under the spotlight in the wake of the ongoing, successful, peace process. To some degree the peace process itself has been accused of facilitating and overlooking homophobic violence. This paper invokes a culturally relative perspective in order to assess whether there are different dynamics which may be impacting on the effectiveness of challenges and responses to homophobia and violence in Northern Ireland.

Key Words: homophobia, violence, Northern Ireland, Biblical literalism

Introduction

Northern Ireland, currently shedding its unenviable reputation for violence and conflict, recently acquired the equally unenviable status of Europe's 'hate crime' capital in the British media (e.g. BBC News Online, 2004; O'Hara, 2005)¹. With the peace process well underway, space has opened up for other prejudices to emerge. Violence against minority communities in Northern Ireland suggests that this process of peace does not extend to everyone. Homophobia in particular has been described as an 'acceptable prejudice' in Northern Ireland (Jarman and Tennant, 2003). However, rather than condemn the homophobia and violence demonstrated towards lesbians and gay men, several public authority figures appear to have condoned this prejudice. Their status as Members of the Legislative Assembly (MLAs), and in several cases Members of Parliament (MPs), justifies concern.

¹ See also: <http://www.unison-scotland.org.uk/lgbt/celtic.html>

This paper addresses these issues through a culturally relative theorising of homophobia and violence in Northern Ireland. In particular, the cultural analysis investigates the role played by the political conflict, whilst a political examination assesses the impact of MLAs' public comments against homosexuality and homosexuals. The paper begins with an overview of attitudes towards lesbians and gay men in Northern Ireland and why it was labelled the 'hate crime capital' of Europe. Theorising homophobic violence along two culturally relative frameworks illustrates the subtleties which set Northern Ireland apart from the rest of the United Kingdom. One such framework is the argument that ideologies of violence may be different in Northern Ireland due to the three decades of violent political conflict which dominated the latter part of the twentieth century. An alternative, but related, framework examines the dominance of Biblical literalism and Religious Right ideologies in political discourses denigrating homosexuality. This Biblical shield has thus far protected Stormont Assembly members from being officially reprimanded or legally prosecuted, despite potentially inflaming hate. As if to emphasise this difference, similar events in Great Britain have not been met with such leniency. Finally, the paper concludes by outlining the danger of allowing minority opposition to falsely account for popular opinion in a potentially volatile society.

Attitudes towards lesbians and gay men in Northern Ireland

As a result of heightened awareness of equality and discrimination in Northern Ireland, research conducted over the past decade has illustrated both attitudes towards lesbians and gay men (NILT, 1998; 2004a; 2005), and the needs and experiences of lesbian, gay, bisexual and transgender (LGBT) communities (Feenan et al., 2001; Carolan and Redman, 2003; Jarman and Tennant, 2003; Loudes, 2003; Breitenbach, 2004; McNamee, 2006). A number of these reports were conducted by LGBT service providers, predating the collection of homophobic crime statistics since 2004 by the Police Service of Northern Ireland (PSNI). Therefore there is a wealth and a variance of official and unofficial data available which gives an indication of both heterosexual and homosexual perspectives on sexual minority integration, acceptance and fear for this period.

Since 1998, the Northern Ireland Life and Times (NILT) survey provided an insight into people's lives, attitudes and perspectives on a range of social and political issues. The survey occasionally included questions relating to attitudes towards lesbians and gay men. In 1998, 72% of the total sample thought that homosexual sex was 'wrong' (NILT, 1998). The degrees of 'wrongness' ranged from 'sometimes' to 'always' wrong; just over half of the female respondents (53%) and two-thirds of the males (63%) believed that homosexual sex is 'always wrong'. The religious breakdown showed that in 1998 over two thirds of Catholic (67%) and almost four fifths of Protestant (78%) respondents thought that

homosexual sex was 'wrong'. By 2004, when the same question was asked the number of respondents who felt that homosexual sex was 'wrong' had dropped to 61% (NILT, 2004a). The religious breakdown of this survey indicated a significant reduction in the number of Catholics opposed to homosexual sex (51%) whilst for Protestants the number had diminished only slightly (73%). Younger people were consistently shown to be more liberal thinkers in their responses about lesbians and gay men than older people, as were women over men. Fifty-eight per cent of women questioned in 2004 believed that people should not be discriminated against on the basis of their sexuality compared to 46% of men who thought the same (NILT, 2004b). Following the 2004 Civil Partnerships Act, in 2005 respondents were asked whether lesbians and gay men should have the right to marry; 35% of the total sample said 'yes' whilst 40% said 'no' (NILT, 2005). In this question, women approved more often than men, as was the case for Catholics, who approved more often than Protestants.

Public attitude surveys have also been conducted by LGBT support providers and academic researchers. In 2006 the Lesbian Advocacy Services Initiative (LASI) questioned over a thousand Northern Irish people on their general attitudes to lesbians and gay men. Eighty-eight per cent of respondents were supportive of the principle that lesbians and gay men should not be discriminated against (LASI, 2006). Seventy-five per cent claimed that they were either 'quite accepting' or 'very accepting' of lesbian and gay people in society. Two-thirds of respondents thought that in Northern Ireland sexual minorities were generally 'not very' or 'not at all' accepted. Whilst these reports were informative at a general level, the reasons behind low rates of acceptance were not probed. A year later in 2007, a study into Western bigotry cited Northern Ireland (tied with Greece) as the most homophobic country out of the 23 countries and 32,000 people surveyed (Borooah and Mangan, 2007). In one of the questions, the researchers asked respondents to pick from a list of groups of people who they would least like to have as their next-door neighbour. Over a third of the Northern Irish respondents chose gay people from the list, which also included minority religious and ethnic groups. From these research findings it would appear that there is a significant minority in Northern Ireland which is opposed to people who identify as LGBT. How these prejudices may translate into violence requires an analysis of research on homophobia experienced by the lesbians and gay men themselves. Statistics collated by the PSNI and the Institute for Conflict Research (ICR) provide this information whilst indicating the increased rates and reports of homophobic victimisation and violence in Northern Ireland.

Homophobic violence in Northern Ireland

The PSNI officially began recording homophobic incidents in 2000. For the first four years, on average 50 homophobic incidents were reported

annually. In 2005 this number rose significantly to 196 (PSNI, 2005). From 2005 to 2008, on average 183 incidents were reported to the PSNI annually (PSNI, 2008a). The number of homophobically motivated crimes reported to the police has an average of 133 per year since recording began in 2004. The considerable increase in reporting experiences from 2005 onwards has been attributed to both a change in the law and the partnerships forged between LGBT service providers and the police. Initially, these statistics suggest that the number of homophobic incidents and crimes are quite low. However, communities in Northern Ireland are small, LGBT communities particularly so. Knowledge of someone having experienced homophobia or violence travels far, impacting on LGBT fears of crime and ontological security. As 'gay space' is limited in Northern Ireland, it is not unusual for incidents to occur in one county and soon be widely known about in each of the others. Two thirds (65%) of the homophobically motivated crimes recorded by the PSNI in Northern Ireland involved a physical assault to the person, often serious enough to incur some degree of wounding. Homophobic harassment is located on a continuum from people being spat at to having missiles thrown at them, although the level of violence used by the perpetrators has in some cases resulted in disfigurement and disablement of the victim.² In comparison to crimes against other minority communities in Northern Ireland, hate-motivated violent crimes are most likely to be incurred by members of the sexual minority community. For instance, 61% of all crimes where disability was a motivator were violent, 50% where it was faith-based, 45% of sectarian-based crimes and 37% where the crime was racially motivated (PSNI, 2008a).³

In 2003, the ICR conducted the first, and so far largest, study into homophobic violence in Northern Ireland (Jarman and Tennant, 2003). The research revealed that homophobia was a serious problem with 82% of respondents having experienced harassment and 55% having been subjected to physical violence. The percentage of people who had experienced harassment and violence in Northern Ireland was higher than comparable surveys in Great Britain and Ireland. One respondent in the study observed that 'there [is] now a greater use of violence and a greater propensity to use violence in [homophobic] attacks' (*ibid*, p.65). In the ICR study, only 26% of respondents reported their experience of homophobic violence or harassment to the police. Respondents' reasons for not reporting incidents included assumptions that the police could not help,

² There are several examples of cases where violence towards gay men, in particular, in Northern Ireland has involved a significant level of violence (e.g. Chrisafis, 2005a; BBC News Online, 2006a).

³ The PSNI record transphobic 'incidents' and 'crimes' separately from those collected from members of the lesbian, gay and bisexual community. There were 7 transphobic incidents for the period 2007-08, down from 39 the previous year, and 4 transphobic crimes for the period 2007-08, down from 18 the previous year. The overall clearance rate for homophobic incidents and crimes stood at 16% for the period 2007-08, which was down 23% from the previous year. This fared better than the transphobic clearance rate which in 2007-08 remained at 0% from the previous year.

would not be interested, or would respond in a homophobic manner themselves. Instead, the majority of the respondents reported taking precautionary measures such as avoiding holding hands in public places and making efforts to alter their appearance so as to not appear lesbian or gay. Almost a fifth of the respondents stated that homophobic harassment in Northern Ireland had become 'a fact of life and something that has to be put up with' (*ibid*, p.58). This led the authors to conclude that in Northern Ireland sexual minority victimisation is not only anticipated by lesbians and gay men, but is regarded by wider society as a 'respectable and acceptable prejudice' (*ibid*, p.10). The subsequent media attention devoted to both the increase in 'hate crimes' and the rising levels of violence led to Northern Ireland being defined as the 'hate crime capital' of Europe.

Keeping this in mind, some analyses of homophobia in Northern Ireland have situated such prejudice within the wider socio-political environment. In particular these analyses have focused on the political conflict and the resultant effect on violent attitudes to visible minorities in general. At a time when many communities were divided along prominent and enforced sectarian lines, lesbian and gay communities were an area where sectarian divisions did not visibly emerge. However, that is not to say that lesbian and gay communities were not affected by sectarianism. Whilst the previous decade of peace has opened up physical and discursive spaces for sexual minorities, this visibility appears to have come at a price. As well as increasing the number of reports of homophobically motivated crimes, there also appears to be a legitimacy afforded to the targeting of certain minority groups by powerful sections of society.

Assessing 'cultures of violence'

The political conflict that waged in Northern Ireland divided societies along sectarian lines between Catholics/Nationalists/Republicans and Protestants/Unionists/Loyalists. Despite being a decade into the peace process, the remnants of growing up in an environment where petrol bombing, 'kneecapping'⁴ and exile were forms of 'justice' meted out by the immediate community, may affect both perceptions of violence and legitimate victims. Therefore, a cultural analysis may illustrate why lesbians and gay men are seen to be 'fair game' when it comes to violence and victims in Northern Ireland. The worst of the political and sectarian conflict that dominated Northern Ireland for most of the latter half of the twentieth century appears now to be in the past. Almost 4,000 lives were lost during the conflict prior to the signing of the Belfast (Good Friday) Agreement in 1998 which aimed to promote and sustain peace (McKittrick and McVea, 2000). One of the driving forces behind the sustainability of the peace process is significant economic investment from businesses within

⁴ 'Kneecapping' involved shooting or hitting a person at the knee, often rendering them disabled. The popularity of this form of violence in Northern Ireland has rendered the surgeons at Belfast's Victoria Hospital world leaders in reconstructive knee surgery.

the UK and abroad.⁵ North American investment in particular is a significant source of income for Northern Ireland and one which relies upon political and social stability to ensure its success.⁶ As part of this process, Belfast is currently undergoing heavy rebranding to compete with Europe's cosmopolitan 'café culture' tourism industry.

Nonetheless, the emergence of relative peace has not ended the violence associated with the most aggressive era of the political conflict, often referred to as the 'Troubles'. Since the signing of the Agreement in 1998 over 6,500 sectarian-related incidents have been recorded by the PSNI with just under 1,000 of these being direct attacks on symbolic property such as Orange Order Halls, churches, faith schools and Gaelic Association premises (PSNI, 2008b). Sectarian incidents can be hard to monitor and collate due to problems in defining what is understood to be a sectarian incident, and the fact that some incidents appear to be general crimes. The PSNI began their official recording of sectarian motivated incidents in September 2004 after a lengthy process in determining what constituted a sectarian incident. The PSNI eventually settled on:

[T]he term sectarian, whilst not clearly defined, is broadly understood to describe incidents by one individual or group against another on the basis of that individual or groups perceived religion or political opinion. These groups or individuals are generally regarded to be from within the two main groupings within Northern Ireland i.e.: Catholic/Roman Catholic or Protestant, Nationalist or Unionist, Loyalist or Republican.

Despite assurances by some paramilitary organisations of disarmament and legal compliance, informal mechanisms of policing and punishment carried out by organisations derived from the immediate community, still thrive in some areas in Northern Ireland (Jarman, 2005). Paramilitary use of force is divided between criminal and social control, both of which underpin the vigilante-style law enforcement that occurs under the rubric of suppressing and punishing 'anti-social behaviour'. These punishments may include shootings or beatings for 'offences' traditionally ranging from political to criminal activity (Hillyard, 1985). Problematically, the 'criminality' of such activity is often subjectively broad in nature. Police records suggest that 'punishment shootings' have reduced significantly from peaks of almost 200 per year to 42 for the year 2007-08 (PSNI, 2008b). 'Punishment beatings' reached a high of over 300 in 1996, a key year for paramilitary ceasefire claims. Significant reductions in these

⁵ A glance at the Department of Enterprise, Trade and Investment indicates the level of investment which Northern Ireland has drawn over the previous decade. Available at <http://www.detini.gov.uk/cgi-bin/gethome>

⁶ Particular reference to North America has been made by Sir Reg Empey MLA (DETI, 2000). The recent US/Northern Ireland Investment Conference held in May 2008 was heralded afterwards by MLAs as success for Northern Irish economics (see: <http://www.investni.com/>).

have also been noted by the police, with 45 punishment beatings recorded for the year 2007-08. Though diminishing, it would be pre-emptive to suggest that sectarianism is now a problem in the past.

Studies suggest that paramilitary condemnation of LGBT communities, both during and after the 'Troubles', was a covert but real problem in Northern Ireland (Jarman and Tennant, 2003; Kitchin and Lysaght, 2003). The unofficial methods of policing LGBT communities forms part of the overall regulation of deviance which functions to 'legitimise' the actions of those who are self-imposed community regulators. Kitchin (2002:215) describes the subtlety in which this policing can be effective:

Sexual dissidence had been seen by certain organizations, operating within some localities, to represent anti-social activity. Those who have been rumoured, or proven to be gay ... have come under pressure to leave tightly knit, local communities, and in many cases forcibly evicted.

Kitchin asserts that paramilitaries have been overt in their condemnation, specifically targeting gay venues, both before and after the ceasefires (*ibid*). The involvement of paramilitary organisations in the encouragement of, or engagement in, homophobic violence has also been noted by respondents in other studies. One respondent in the ICR research stated that the direct connection between the police and paramilitary organisations was the sole reason why she would not report physical assaults as she was more afraid of possible extra-legal repercussions to her family than to herself (Jarman and Tennant, 2003:57). In research undertaken by Radford (2006:59), another respondent was quoted as saying: 'I report homophobic attacks reluctantly not because of my politics, but because I'm not sure what the paramilitary response might be in my area and how that information would ripple out'.

However, readings of violence in Northern Ireland within its specific socio-political context have unearthed alternative and culturally relevant factors for some theorists. Knox (2002) and Steenkamp (2005) suggest a reading of Northern Ireland as a place where pre-existing 'cultures of violence' inhabit space and identity amongst people who are *not* affiliated to paramilitary-style organisations. In other words, ordinary individuals have become normalised to a base level of violence in which perceptions of crime, criminality and victims are influenced by the particular culture in which they live (Jarman and Monaghan, 2003). Even in times of 'peace' these aspects prevail in such a way that the violence is merely redirected as opposed to reduced. Therefore, those visible in society as 'targets', such as minority ethnic, religious or sexual communities, may incur violence at a disproportionate level and find that this behaviour is not condemned as it would be in comparable societies.

Steenkamp suggests that the impact of violent norms and values in society have created communities where there exists 'a greater social

tolerance of individuals' violent behaviour' (2005:253-4). The perceived 'blurring' between political and criminal violence is claimed to have created a situation whereby the precedence of tempering political conflict means that 'a communal blind eye is often turned to other forms of violence' (2005:262). Knox and Steenkamp's theories are reminiscent of the claims made by Kitchin and Lysaght (2003; 2004) that LGBT persecution and oppression has been overshadowed by political violence and that an apparent 'acceptable level of violence' against minority groups may be tolerated for the greater good of the peace process.

From a criminological perspective, the interpersonal 'cultures of violence' theory must be balanced out and located within the wider socio-political environment. Concentrating solely on the actors overlooks wider issues such as cultural ideologies which are equally, if not more, problematic. Although homophobic prejudices may always have existed, increasing levels of violence against LGBT communities suggests that the culture in which these prejudices are allowed to foster also harbours notions which construct sexual minorities as implicit in their own demise. Despite the enactment of legislation addressing homophobically motivated crime, prosecutions recognising a 'homophobic element' are scarce.⁷ It appears that Northern Ireland's reputation as a 'morally conservative' society has created an environment where homophobic prejudices are condoned whilst legal exemptions allow discrimination to remain unchallenged. The homophobic ideologies propagated by one group in society may result in violent actions committed by another, putting the 'cultures of violence' theory into its wider cultural context.

Moral conservatism in Northern Ireland

Northern Ireland is most definitely not a secular society. Attesting to this, Assembly Member Iris Robinson went as far as to claim that the government's duty, in her opinion, is to 'uphold God's law' (*Belfast Telegraph*, 2008a). Religion plays a huge part of Northern Irish history, politics and culture. The impact of religion, in particular the Biblical literalism of the Christian Religious Right, has been illustrated in political condemnation of homosexuality in Northern Ireland. The interpretation of Biblical discourses by politicians renders their conservatism more fundamental in nature than in other areas of the UK. Northern Ireland's reputation of moral conservatism is underpinned by a religious imperative illustrated, not only in politics, but through law and society. A clear example of this is the continued official opposition to the extension of the

⁷ The Criminal Justice (No. 2) (NI) Order 2004 covers crimes motivated by hostility towards the actual or perceived sexual orientation of the victim. The problem of low levels of prosecution for hate crimes in Northern Ireland was raised in a parliamentary meeting with the Northern Irish Policing Board in which a number of reasons were cited for the inaccessibility of prosecution figures and their apparent dearth. Available at: <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmniaf/548/4110307.htm>

1967 Abortion Act to Northern Ireland (Fegan and Rebouche, 2004). The conservative Christian views of some MLAs are influenced by the Biblical literalism of the Religious Right, often dominating political discourses on morality.

The degree of homophobia in the Assembly was brought to light following the infamous comments made by Democratic Unionist Party (DUP) member and former Junior Minister, Ian Paisley Jr. to the Dublin based *'Hot Press'* publication (Hot Press, 2007):

I am, unsurprisingly, a straight person. I am pretty repulsed by gay and lesbianism. I think it is wrong. I think that those people harm themselves and - without caring about it - harm society. That doesn't mean to say that I hate them. I mean, I hate what they do.

Mr Paisley Jr. was investigated by the Stormont Assembly Ombudsman, who examined whether or not Mr Paisley Jr. had breached Assembly protocol. It was determined that he did not. Whilst commenting that lesbians and gay men are 'repulsive' and 'harm society' is interestingly not breaching the Assembly code of practice, it is perhaps more surprising to learn that it is also not breaching the law. The amendment provided by the Criminal Justice (No 2) (Northern Ireland) Order 2004 to the Public Order (Northern Ireland) Order 1987 included incitement to hatred on the grounds of sexual orientation.⁸ Unlike comparable legislation in England and Wales, there is no requirement for intent to be shown for there to be a successful prosecution. Interestingly, no one has yet been prosecuted under this Order in Northern Ireland.

Mr Paisley Jr's comments may not have been entirely surprising to some given that the DUP has a long history of opposing human rights for sexual minorities. For instance, when homosexuality was decriminalised in England and Wales in 1967 attempts to extend the legislation were met with furious opposition in Northern Ireland. In 1977, former DUP leader and First Minister the Reverend Ian Paisley Sr. launched the 'Save Ulster from Sodomy' campaign to prevent the extension of the 1967 Sexual Offences Act to Northern Ireland. The campaign involved presenting a petition signed by over 70,000 Northern Irish residents to the Stormont Assembly. Decriminalisation was eventually enacted in 1982, following a European Court of Human Rights judgement.⁹ More recently, whilst the Assembly was in a period of temporary suspension in 2006, the former Secretary of State, Peter Hain, mindful that many members of the various Unionist parties would probably never vote for sexual orientation regulations, used his powers to impose a number of sexual orientation

⁸ Article 3 of the Criminal Justice (NI) Order 2004 amended the Public Order (NI) Order 1987 to include sexual orientation in the provisions relating to 'incitement to hatred or arousal of fear'. This has surpassed the equivalent law in Great Britain as it includes the concept of 'arousing fear' along with that of 'inciting hatred'.

⁹ *Dudgeon v. U.K.* 45 Eur. Ct. H.R. (ser. A) at 14 (1981)

equality regulations on Northern Ireland.¹⁰ Despite these laws, if a comment such as that made by Mr Paisley Jr. is considered not a breach of public order, it appears either to set the benchmark for investigation very high, or offer impunity to those in Office to say what they like about sexual minorities without fear of legal repercussion.

The attitudes held by both Mr Paisley Jr. and Mr Paisley Sr. toward LGBT communities appears to be the rule, rather than the exception, within their political fraternity. For example, another DUP minister, Bert Johnston, made his feelings clear in a letter obtained by *The Impartial Reporter* (2004) to the former Prime Minister Tony Blair regarding the proposals prior to the implementation of sexual orientation and gender recognition laws:

I don't think God made a mistake when he made us male and female and these people who call themselves gays and the like are essentially perverts. I believe their problems exist only in their minds. ... the people who are most often this way inclined are mostly Godless people with reprobate minds.

Despite the strength of the statement and the homophobic sentiments demonstrated, faith based exemptions to legislation mean that, legally, nothing was done about this comment. Not only is the existence of sexual minorities and groups abhorred by opponents, but the limited public funding of such groups has come under attack too. Many of the LGBT groups in Northern Ireland rely upon piecemeal funding from various bodies and charitable organisations to continue working in and with the wider community, conducting research and providing valuable information on what is largely a hidden and isolated population in Northern Ireland. However, these issues rarely serve to silence political representatives, whose reliance on religious doctrine not only supports their polemic arguments, but often provides their basis. This was illustrated in the claims made by Maurice Mills MLA that it was God's wrath towards LGBT communities which led Hurricane Katrina to devastate New Orleans and kill over 1,300 people in 2005 (Chrisafis, 2005b):

The media failed to report that the hurricane occurred just two days prior to the annual homosexual event called the Southern Decadence Festival, which the previous year had attracted an estimated 125,000 people. Surely, this is a warning to nations where such wickedness is increasingly promoted and practiced.

¹⁰ The Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 was implemented on 1 January 2007. These same regulations were applied to Great Britain on 30 April 2007. See also: Employment Equality (Sexual Orientation) Regulations (NI) 2003 to tackle discrimination in the workplace; the Civil Partnership Act 2004; and the Equality Act (Sexual Orientation) Regulations (NI) 2006 which cover goods, facilities, services, premises, education and public functions.

Despite a huge outcry from LGBT communities, Councillor Mills received no reprimand over his comments, nor was he made to apologise. He claimed he had the support of his constituency regarding such a perspective, basing this claim on the Protestant majority as opposed to any statistical data or research. Other incidents include former Sports Minister Edwin Poots, an Evangelical Protestant and also a member of the DUP, speaking out against Northern Ireland's first gay rugby team, the Ulster Titans. In a different row over the use of a public venue in Lisburn for civil partnership ceremonies, he denounced the notion of civil partnerships, stating that they are not weddings, whilst describing the civil partnership law as 'wrong and immoral and sticks in the throat'.¹¹ At the same meeting, Councillor Ronnie Crawford of the Ulster Unionist Party (UUP) attacked homosexuality in general, consciously or otherwise paraphrasing both the current Pope and his predecessor in stating that gay marriage was an 'ideology of evil' and that homosexuality was 'intrinsically disordered'.

However, it was the recent remarks made by Chair of the Stormont Health Committee, Iris Robinson MLA MP which have generated the most international interest in Northern Irish LGBT communities' struggles against political and social homophobia. In June 2008, whilst engaged in a live radio debate on morality, Mrs Robinson stated that homosexuality was an 'abomination' which 'nauseated' her. This was followed by her suggestion that homosexuals could be 'cured' with psychiatric treatment, before promoting the services of a 'very nice' psychiatrist she knew, should homosexuals wish to 'reorientate' themselves with his help. Mrs Robinson's comments sparked a lengthy (and global) public debate about attitudes towards homosexuality in Northern Ireland. Over 16,000 people signed an online Downing Street petition urging that she be reprimanded for the damage she had done in condoning homophobia. Incidentally, two days prior to her comments a young man was savagely attacked just outside of Belfast in a severe homophobic attack. Whilst the debate on how this impacted on homophobia in Northern Ireland waged on, she was discovered to have also declared at Westminster that 'There can be no viler act, apart from homosexuality and sodomy, than sexually abusing innocent children' (*Belfast Telegraph*, 2008b).

The imagery conjured up by this terminology is powerful and firmly located within a Christian Right discourse. It is notable in Northern Ireland that the politicians from a Catholic and/or Nationalist background do not object to homosexuality with such ferocity, but rather in many cases promote equality, rights and freedom from discrimination. The civil rights ethos which underpins Nationalist parties extends to minorities in society regardless of sexuality, race or beliefs. Condemning homosexuality from such a powerful position as an elected representative is potentially dangerous in that it suggests such views are shared in society. In addition,

¹¹ These transcripts were taken from observations at a meeting held on Tuesday 26 July 2005 at Lisburn City Council, available at:
http://www.sluggeroole.com/archives/2005/07/jeff_dudgeon_wi.php

grounding these condemnatory views in religious interpretations of Biblical passages ought not to be a reason to speak with impunity in a society where religious diversity and interpretations are common. Northern Ireland proves subtly different again from the rest of the UK in that the Religious Right has used faith-based arguments to avoid complying wholly to laws designed to protect sexual minorities from discrimination.¹²

Using a shield of faith to defend prejudiced judgements is not mirrored in other comparable societies. In England, the suspension of Conservative Councillor Peter Willows following homophobic remarks was symbolic of a party which refused to endorse his opinion. Furthermore, his prosecution for a breach of public order was a further indication that such behaviour would not be tolerated by the police either (e.g. BBC New Online, 2006b). However, Mr Willows' constituency happened to be Brighton and Hove, home to one of the largest LGBT communities in the UK. Clearly, he did not have the backing of his constituents in his comments. Whilst Mrs Robinson remains under investigation to determine whether she has breached public order, underlying political issues in Northern Ireland seem likely to ensure that she will not be prosecuted for her comments. We shall wait and see. Although the foundations of a democratic society depend upon electoral representation, the foundations upon which Northern Ireland is currently constructed are still tenuous. Yet neither political history nor Christian fundamentalism ought to be a reason to let such injustices prevail.

Since the reinstatement of the Northern Irish Assembly in 2007 some LGBT organisations have obtained Assembly funding, though not without criticism. DUP MLA Jim Wells in particular claimed that the taxpayer would not approve of this funding, as was reported in the *'News Letter'* (2007):

I am appalled that this level of money was committed to homosexual support groups behind our backs before devolution. ... I would much prefer that any young person were not encouraged to seek advice from Government funded homosexuality groups. People in their early teens often go through a period of confusion but the vast majority come through these difficult periods, marry and have children.

It would appear that Mr Wells is unfamiliar with the significant and important 'Out on your Own' report published by the Rainbow Project, a Northern Irish gay men's health and support group. The report, the first of its kind in Northern Ireland, exposed the considerably high levels of self-harm and suicide prevalent amongst same-sex attracted young men, many of whom encounter discourses of sin and immorality in relation to their

¹² For example, Christian adoption organisations have refused to comply with the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006, despite being given 21 months to 'adjust' to the law.

sexuality on a regular basis (McNamee, 2006). A subsequent report into the mental health of same-sex attracted women in Northern Ireland reinforced the need for the implications of cultural homophobia to be taken seriously (Quiery, 2006; 2007). Lesbian women, already an invisible and marginalised group in Northern Irish society, are often left with little recourse to express their feelings, a situation which is not helped by the virtual absence of non-commercial 'gay space' (Quiery, 2007). The long-term emotional effects of homophobia and negativity have been proved to impact on the mental, and often physical, well-being of some lesbians and gay men. In several of the cases cited in the reports this often develops into drug and/or alcohol problems, feelings of low self-esteem, engagement in self-harm and, most worryingly, may lead to suicide contemplation. In the McNamee report, the larger of the two studies, over one quarter of the young male respondents had attempted suicide whilst over two thirds had thought about taking their own life. These were the men that the Rainbow Project had encountered; the statistics for those not yet comfortable to access support groups remain unknown. In Northern Ireland, lesbians' and gay men's problems do not stem from their sexualities but rather from the negativity they witness, encounter and are subjected to. The overt condemnation of their identities, often described inaccurately as a 'lifestyle' as opposed to innate, can cause lesbian or gay people of any age to internalise homophobic negativity with potentially damaging consequences. Failure to challenge or condemn this negativity can, and does, have serious consequences.

Conclusion

Homophobia, as with all prejudices, is a social and cultural phenomenon based on perceptions of 'difference'. The implications of political discourses highlighting lesbians and gay men as being set apart in some way, and as having a hand in creating their identities as 'different', constructs them in a negative and potentially vulnerable manner. For most people, prejudices can be challenged from a social and cultural perspective, through integration, exposure and education. An examination of power and its relations in society are crucial to assess from where homophobic discrimination is emerging, how this is influencing prejudice and violence, and how best to deal with the problem at its root in order to effect the most important and most visible change throughout all of society. This examination needs to consider, not just the religious impetus to such negative discourses, but possibly the economic motivations of tolerating homophobic violence and the personal agenda of those most outspoken against homosexuality. Investment in Northern Ireland is reliant upon the diminishment of violent sectarianism; rousing homophobic hatred is less likely to discourage potential investors than a resurgence of political violence. Alternatively, it could be that the peace process has created the

discursive space in which sexual minority visibility has increased, and with it, prejudices capitalised upon by Christian political objectors.

In Northern Ireland the fear and threat of homophobic violence continues to be a factor, however small, for many of the lesbians and gay men who live there. Addressing the violence they encounter is one part of the solution, but a much larger part is eradicating the negative and harmful ideologies propagating difference as a legitimate basis upon which to act out prejudice. Studies indicate that opponents to homosexuality in Northern Ireland are in the minority. In a society where the minority conservative Christian discourses of the Religious Right go unchallenged, the danger lies in allowing a tacit understanding that these minority opinions speak to and for the masses. Condemning the prejudiced discourses of the powerful may impact positively on those perpetrating such violence in symbolising that members of LGBT communities are not acceptable or legitimate targets of violence in Northern Ireland. In the absence of any official condemnation, it is likely that Northern Ireland will continue to retain its unenviable 'hate crime' capital status and the laws designed to punish violent prejudice will remain tokenistic.

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Race Riots on the Beach

A case for criminalising hate speech?

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Abstract

This paper analyses the verbal and textual hostility employed by rioters, politicians and the media in Sydney (Australia) in December 2005 in the battle over Sutherland Shire's Cronulla Beach. By better understanding the linguistic conventions underlying all forms of maledictive hate, we are better able to address the false antimonies between free speech and the regulation of speech. It is also argued that understanding the harms of hate speech provides us with the tools necessary to create a more responsive framework for criminalising some forms of hate speech as a preliminary process in reducing or eliminating hate violence.

Key Words: hate violence, hate speech, free speech, media regulation

Introduction

Riots are occasionally adopted to highlight unequal race relations in Western nations. However, in December 2005, this form of radical action - used predominantly by dispossessed ethnic minorities - was appropriated by white Australians to reinscribe their ownership over an iconic beach. Beaches are a significant symbol in Australian mythology, and central to the construction of nationhood; not least of which are the planting of the English flag in 1788 as an act of dispossession, and the storming of the Gallipoli beach front in 1915. Moreton-Robinson and Nicoll (2006:149) argue that the fascination with the beach as a symbol of nationhood has led white Australians to perceive their beaches as sacred sites that must be protected against invasion. In this paper, the desire to control Cronulla beach (New South Wales) will be investigated in light of the linguistic tropes employed by the media and rioters before, during and after this latest display of the fantasy of white supremacy (Hage, 2000). In particular,

the paper will focus on the role of the media in inciting racist violence and the consequential need to re-assess the criminal sanctions available to manage these types of speech acts.

In Ghassan Hage's foreword to *'Bin Laden in the Suburbs'* (Poynting et al., 2004:vii) he argues that the 'other' in Australian mythology is constructed by the polarity between what he calls 'the other of the will' and 'the other of the body'. Hage states that:

... it was his or her supposed inferiority and lack of intelligence that made the lazy other of colonisation, the other that is all body, exploitable. The other of the mind, the cunning other, was by definition un-exploitable, for if anything, such an other had the potential to himself or herself exploit the European colonisers, manipulate them and use them against their will. By definition such an other could only be exterminated (in Poynting et al., 2004:viii)

The shift between exploitation and elimination occurs, according to Hage, when the 'other of the will' has been eliminated as a threat - that is, when they have been "killed" politically and socially' (in Poynting et al., 2004:viii). Hage's framework acknowledges that the other is not universally constructed as cunning and conspiratorial, nor inferior and exploitable. Equally, Hage's framework allows us to map the shift in these forms of Anglo-Australian hatred, and assess the social and political contexts that facilitate the reconstruction of hatred from exploitation to elimination, or elimination to exploitation. This approach to social exclusion also obliges us to be cognisant of the way in which the 'other of the body' presupposes the social (and physical) death of the 'other of the will'. In December 2005, this ambivalent vacillation between 'the other of the will' and 'the other of the body' informed the battle over an iconic Australian beach. Despite appearing to be a 'bolt out of the blue' - as an exceptional display of Anglo-Australian hatred - the violent riot that occurred in early December 2005 shares many characteristics with other acts of hatred perpetrated against those on the margins of Australian citizenship.

Expanding on earlier analyses of hate experienced by gay men, lesbians and Jews (Asquith, 2004; 2008), it will be argued that while there were many unique factors that led to the Cronulla riot (especially, the use of flash mobbing), the conventions of maledictive hate are consistent despite differences in victims. Sharing experiences of hatred can be a basis from which to develop collaborative responses between out-of-place communities. Collaboration between these out-of-place subjectivities, at times, may appear counterintuitive (particularly, the distance between homosexuality and some readings of the monotheistic religions of Islam and Judaism). However, if there is to be a strategic response to public displays of bigotry, common ground must be found between those who experience hatred. In previous research, a pattern of malediction was revealed in the hate speech used against gay men, lesbians and Jews (Asquith, 2004; 2008). This pattern revealed that malediction draws upon

six themes of abjection: *profane naming, pathologising, criminalising, demonising, sexualising and terrorising*.¹ In this paper, the malediction - or hate speech - used during the Cronulla riot, but more importantly, the discourses employed by the media (particularly, radio broadcaster, Alan Jones) in the days leading up to the 11 December 2005 riot will be analysed in light of this earlier typology of hate speech. Using critical discourse analysis, this investigation of the Cronulla riot examines 92 press reports in major Australian daily newspapers between 7 December and 22 December 2005 and the broadcasts of Alan Jones from the radio station 2GB between 5 December and 9 December.

In this research, the approach used by van Dijk (1987; 1993) in his studies of racism - developed for his initial study into ethnic prejudice in thought and talk, and later refined for his analysis of elite discourse and racism - is used as a template for understanding contemporary Australian maledictive hate. This approach foregrounds the contextual factors that are, if not determinative, at least predispose particular intersubjective relationships between the dominated and dominant. In '*Communicating Racism*', van Dijk (1993) details the steps necessary to adequately account for the varying layers of social, individual and cognitive factors in prejudice. He states that these can be answered by addressing six questions:

1. *What* do people actually say?
2. *How* do people talk about others?
3. What are the communicative *sources* of maledictive hate?
4. What and how does such talk *express* or *signal* underlying structures and strategies of prejudice in social cognition?
5. What are the real or possible *effects* of prejudiced talk?
6. What are the *social contexts* of such talk? (van Dijk, 1993:384).

Using these six questions as a guide, this examination of maledictive hate analyses the socio-historical contexts of how words are used to constrain actions. Simultaneously, these six questions offer a framework for understanding the institutional factors that predispose the use of maledictive hate against particular marginalised groups, the role that maledictive hate plays in the larger field of hate violence as a constraining practice, and the legislative and regulatory frameworks used to remedy a *perceived* problem. In order to capture the multi-dimensional character of inter-ethnic conflict, this analysis of maledictive hate and its regulatory frameworks speaks directly to van Dijk's six questions by addressing the linguistic, sociological and criminological contexts of the Cronulla riot.

¹ In this paper, only four of these six categories will be discussed. Sexualizing the other is predominantly used against gay men and lesbians, and was only used in one incident of malediction relating to the Cronulla riots. Similarly, the process of demonizing the other most commonly requires more complex acts of verbal and textual hostility such as hate mail.

Reclaiming the sand

On the weekend prior to the Cronulla riot, three white lifesavers, after finishing their shift on North Cronulla beach, entered into a verbal altercation with young men perceived to be from a Middle-Eastern background. The verbal battles between these two groups were not unusual - it was the usual banter of North Cronulla beach; a beach where the privileged, cloistered white middle class of the Shire of Sutherland came face-to-face with the ethnic minorities of Sydney's western suburbs. Cronulla Beach is the only beach in inner-city Sydney with a direct train line from the outer-western suburbs. As such, this beach has become as much the home of the young Middle-Eastern men who travel from the western suburbs, as it is of the privileged white lifesavers who claim sovereignty over the Shire.

On that fateful day, a week before the riot, the white off-duty lifesavers were again marking their territory, and making claims about who can use the beach and under what conditions. During the altercation, one lifesaver stated that 'Lebs² can't swim', and he was sure as hell not going to save them if they were drowning (Lawrence and Gee, 2005:5). Contrary to the mythology of lifesavers as heroes guarding everyone against their own stupidity, these young men had drawn a line in the sand of Cronulla Beach.³ They had decided who was to be saved and under what conditions. Obviously, the young men visiting from the western suburbs could not have their right to the beach, nor their masculinity so easily trashed. So they pulled the first punch. They also called for assistance from their friends on the beach. The result was the grievous bodily harm of the lifesavers (Lawrence and Gee, 2005:5).

By Monday morning, when Alan Jones began his morning, talk-back radio show, the story of the assaults had become headline news. Over the next five days the media, particularly Alan Jones, made the assaults and the use of Cronulla Beach the hot topic of the week. By Tuesday, an unknown individual had created and forwarded an SMS call to arms:

this Sunday, every Aussie in the Shire get down to North Cronulla to support Leb and wog bashing day, bring your mates and let's show them that this is our beach and they are never welcome. Let's kill these boys (Anonymous SMS read out by Alan Jones, 8 December 2005, *cited in* ACMA, 2006:59-61, 73)

² 'Lebs' is term of derision used against Lebanese Australians, or anyone perceived to be Lebanese.

³ Lifesavers are constructed in Australian culture as 'unsung' heroes who are dedicated to saving lives on Australia's dangerous coastlines - most often with little or no financial compensation for their time. Lifesavers are perceived in the collective Australian consciousness to be the bronzed, fit equivalent to other heroic public servants such as Ambulance Officers (though without the animosity often attached to public servants such as Police Officers). The Royal Lifesaving Society Australia has existed since the first days of this nation.

It was the combination of the mass distribution of this SMS, and the media's constant repetition of the SMS text that led to the unique conditions of a white race riot. On the Sunday of the riot, by 8am crowds had begun to arrive at Cronulla, complete with Australian flags, their picnics, BBQs and most importantly, for any Australian occasion, a surplus of alcohol (Jackson, 2006).

When the day was done, 31 people had been injured including six police officers and two ambulance officers tasked with retrieving and aiding the small number of non-Anglo visitors who had been unaware of what had been planned on that day (McIlveen and Jones, 2005:1). Once the sand had settled, 80 people had been detained with over 200 charges; none of which related to the pre-emptive call to arms and incitement to violence, nor the threats of violence used throughout that day (Jackson, 2006). In effect, on that day, the anti-vilification laws much heralded as a sign of Australia's tolerance of difference, were shown for the ineffectual laws that they have often been described as by those on the margins of Australia's tolerance.

What did you say?

'Hate speech' or malediction has traditionally been constructed primarily as an act of name-calling. The primary objective of name-calling is the ranking of people and conferring rights and privileges on those named. While *naming* is the most prevalent form of malediction recorded in previous research⁴ and in the hate speech used during the Cronulla riots, naming gains its efficacy not by interpellation alone. Rather, the name becomes an acronym for all the other categories of perception and reception, such that pooker equates with paedophile, Jew equates with manipulator, and Muslim equates with terrorist. The objective in this theme of malediction is primarily one of isolating marginal bodies from the body politic. *Naming* someone - recognising them within a hierarchy of subject positions - aims to isolate, separate and rank individuals according to their visibility as other. Beyond the name calling of rioters, other actors in the 'fantasy of White Supremacy' (Hage, 2000) also appended labels of exclusion before and after the riot. For example, Alan Jones (the prominent radio host) claimed that 'this lot were Middle-Eastern grubs' (Alan Jones, 5 December 2005, *cited in* ACMA, 2006:9), and Peter Debnam (leader of the parliamentary opposition) argued that New South Wales was dealing with 'Middle Eastern thugs' (Clennell, 2007:23). The act of turning a name into an abusive term derives its potency not only from the words themselves. Rather, the social context of the utterance predisposes the act of exclusion and the creation of secondary consequences. When power speaks, the label becomes a reality; a social definition for all to use, misuse and abuse.

⁴ In previous research, 33% of all incidents named the addressee (Asquith 2004; 2008).

A consistent linguistic partner to *naming* is *pathologising*. In societies that are vigilant in containing the pathological - whether medical, social or theistic - the process of making the other dirty, unclean or untouchable is not just a matter of individualised neurotic impulses aimed at control, it is institutionally bound. Forty years ago, Mary Douglas (1966) outlined the processes at work in defining bodies and things as dirt. She suggested that eliminating dirt is an active process of organising the untidy nature of everyday life, and the process of 'separating, demarcating and punishing transgressions' assists individuals and societies in controlling the unsettling presence of things and people that disturb the sense of order (Douglas, 1966:4). In contemporary social relations, the need to label the other as dirty or impure has become an integral process in managing the ever-changing membership of the community, particularly in communities where there is an official policy of recognising difference (such as multiculturalism) yet an historical experience of explicit exclusion (such as the *White Australia Policy*⁵).

Notions of 'matter out-of-place' and 'this place is a mess' were central to the debates over the use of Cronulla Beach. In particular, Muslim and Arabic Australians were perceived to be in the wrong place because they wore too many clothes, and were responsible for the garbage strewn across the beach (Jackson, 2006). While Douglas' framework offers an understanding of the individual and structural operation of dirt, this approach fails to adequately account for the consequences of labelling the other diseased. Unlike the social containment of pathological dirt, disease must be exiled or eliminated. In dividing these speech acts between dirt and disease, it is easier to recognise the shifting perception of the other. When the other is dirty, they are an 'other of the body' - containable. When the other is diseased, they are an 'other of the will', and, as such, are incapable of being incorporated or assimilated into the community.

During the Cronulla riot, the cultures and religious practices of Muslim and Lebanese Australians were constantly conflated with disease and infection. Not least of which was the T-shirt printed especially for the Cronulla riot which claimed the wearer to be part of the Ethnic Cleansing Unit. Further, throughout Alan Jones' week of hatred he also drew on allusions to dirt and disease. For two days he likened immigration to being invited into a family home, and claimed that Lebanese Australians were trashing the invite. In particular, he stated:

but you're not going to sit down at the table and start spitting on my mother or putting your feet under the table, or bringing dog manure in with you (Alan Jones, 8 December 2005, *cited in ACMA*, 2006:61).

⁵ The Immigration Restriction Act 1901 (Cth) - also known as the *White Australia Policy* - empowered Australian governments, through their Immigration Officers, to reject applications for residency on the basis of the colour of applicants' skin, place of birth, language proficiency, nationality or religion.

Jones also conflated Lebanese Australians with an infestation (Alan Jones, 7 December 2005, *cited in* ACMA, 2006:54), and the far right was claiming that 'the gov needs to round up the leb vermin' (Stormfront Website, 7 December 2005, *cited in* Taylor, 2005:5). In contrast to *pathologising* - which focuses upon the bio-medical ordering of dirt or disease - *criminalising* the other is informed by the socio-legal ordering of deviance. Maledictive acts within this theme are divided between those which construct others as liars, and those that construct others as criminals. The latter of these relies, in part, on the former. The other lies in order to unfairly gain status or property. As such, any claims of being a law abiding citizen must be viewed with cynicism. Despite a clear distinction - or more appropriately, a continuum - between these forms of *criminalising*, both are ultimately practices of an othering of the will.

Central to the hate speech used by rioters, the media (in particular, Alan Jones) and politicians in the days leading up to, during, and after the Cronulla riot, was the labelling of Muslim and Lebanese Australians as criminals. According to Alan Jones:

... this is gang stuff mate... it's a gang problem (6 December 2005, *cited in* ACMA, 2006:50).

... we don't have Anglo-Saxon kids out there raping women in western Sydney. So let's not get carried away with all this mealy mouth talk about there being two sides (8 December 2005, *cited in* ACMA, 2006:65).

... all across Sydney there is a universal concern that there are gangs, the gangs are of one ethnic composition (8 December 2005, *cited in* ACMA, 2006:65).

Or from others:

... the locals do not use the picnic areas... because of the Middle-Eastern visitors to the Shire, they are dangerous (Anonymous letter read out by Alan Jones, 7 December 2005, *cited in* ACMA, 2006:56).

... every night we witness gang violence, including stabbing, ram raids, drive-by shootings... let's identify who these people are... they're Lebanese gangs (Peter Debnam (Parliamentary Opposition Leader) *cited by* Alan Jones, 7 December 2005, *cited in* ACMA, 2006:54).

Sydney's mini Kristallnacht (Devine, 2005:11, in relation to the revenge attacks committed by Lebanese Australians on 12 December 2005).

Constructing young Muslim and/or Lebanese Australian men as criminals gains its efficacy from the preliminary pathologisation and demonisation of not only 'ethnic' bodies, but just as importantly, 'ethnic' cultures. Incrementally, the named other shifts from being just different to being diseased, immoral, criminal, and as such, requiring physical containment. With each layer of malediction, the perpetrator is given more reason, more justification for 'getting tough'. While these may be 'mere words', they are also tied to institutional actions. Naming, pathologising and demonising the other leads to institutional surveillance and control of the other. While health professionals and moral leaders play central roles in the containment of pathology and 'folk devils', *criminalising* the other can lead to authorised and unauthorised policing of the other. Both responses were strongly advocated by Jones and his callers in the week prior to the riot:

... now the Police can't do the job, even though we've put faith in them and we want them to do the job, that means to me the next step is vigilantes and personal protection by ourselves (Alan Jones, 6 December 2005, *cited in* ACMA, 2006:45).

J: if the police can't do the job the next tier is us. AJ: Yeah, good on you (Exchange between Caller J and Alan Jones, 6 December 2005, *cited in* ACMA, 2006:46).

... now, these people have got to know that we're not going to cop this stuff any more (Alan Jones, 8 December 2005, *cited in* ACMA, 2006:62).

Terrorising - threats of bodily harm or allusions to previous acts of bodily harm - is the final theme of malediction. When a reference to bodily harm is made, speakers do more than voice a desire, they act; he or she creates an instantaneous threat and a set of consequences that are tied up in the threat, such as physical or emotional dysfunction. The threat or reminder of death is the perpetrator's most effective tool in silencing the other. Further, when a threat has an historical precedent of real violence, it becomes more than just a threat: it becomes an embodied experience. It is, as Iganski suggests, *in terrorem* (2002:30).

Before and during the Cronulla riots, both the media and rioters drew upon threats of elimination as a central technique for determining who can use public spaces such as the beach. In particular, in the days leading up to the riots, Alan Jones repeated the SMS call to arms on many occasions. On a single day, he repeated the SMS text five times. Interspersed with these repetitions were calls for protestors to leave it up to the police. However, he also clearly stated, or supported the statements of callers, that if the police were unable to act, then it was 'our' duty to defend 'our' land (9 December 2005, *cited in* ACMA, 2006:80). On one day, he recommended that Australia's biker gangs should be invited to defend the beach against the 'Lebanese thugs', and that 'it would be worth the price of admission to

watch these cowards scurry back onto the train for the return trip to their lairs' (Alan Jones, 7 December 2005, *cited in* ACMA, 2006:57). In other circumstances, Alan Jones and others stated:

... you gotta scare, there's got to be an element of fear in this (Alan Jones, 6 December 2005, *cited in* ACMA, 2006:48).

... shoot one, the rest will run (Anonymous caller to Alan Jones, 6 December 2005, *cited in* ACMA, 2006:47).

... we will destroy the mosques and any Leb that gets in our way (Anonymous email, *cited in* Bildstien, 2005:22).

... in this point in time [sic], 1 enemy at a time: Lebs first, Jews second (Posting to Fight Back website by Freak, *cited in* Hildebrand, 2005:4).

Speech acts that threaten elimination seek to terrorise an individual into not being, or to be somewhere else. *Terrorising* is the ultimate weapon in maledictive hate. There are few efficacious rejoinders available that do not exacerbate the chance of the threat becoming a reality. *Terrorising* is a dual process: a warning of what may come, but equally, a justification for acting on the threat when the threat is ignored or challenged.

Criminalising hate speech

Hate speech is often constructed as harmless, and, as our parents counsel us in childhood, does not break our bones. Yet even the most prevalent and seemingly innocuous form of hate speech – naming – can, as a matter of consequence, be harmful, such as the physical assaults perpetrated against anyone on 11 December at Cronulla who were rightly or wrongly named as a 'Leb'. However, if analyses of hate speech also acknowledge that there is more to maledictive hate than name-calling, it may be easier to recognise that defining individuals and groups as abject may lead to further harm. This additional harm stems not only from the social exclusion of individuals because of their perceived pathology, impurity or danger, but equally, because hate speech that is not censured acts as a dog-whistle to those who, in normal circumstances, may not enter into the fray (such as all those 'protestors' – not rioters – that participated in the 11 December 2005 assaults because others were participating and were not being held to account) (Jackson, 2006). Acknowledging the harms created by the stronger forms of malediction allows us to better judge the possible consequences of words that wound. It is through an acute awareness of the vacillation between constructions of the 'other of the body' and the 'other of the will' that we are offered a potent tool in measuring the force of hate speech, and the effects that could arise from these speech and textual acts.

While free speech absolutists may advocate against regulating any speech - even the incitement to violence - and argue that we should respond with more speech rather than regulation (Butler, 1997:15), a perfunctory glance at the experiences of victims on 11 December 2005 quickly illustrates that often even the ability to speak is stolen in vilification. More speech is often the last thing possible: not only because it may cause further isolation, but also because more speech, or responding to a perpetrator, can be perceived as enough of an engagement that physical violence becomes justifiable in the mind of the perpetrator. This was clearly demonstrated on 11 December 2005 when one visitor on the beach dared to claim that as he was born in Australia and, as such, he had an equal right to the beach (Jackson, 2006). Without the intervention of the police - with capsicum spray - his speaking back to the words meant to confine his actions could have been more dangerous to his health than the minor concussion he sustained.

Explicit speech regulation in Australia that seeks to restore justice for marginalised groups is in its infancy. To date, criminal justice agencies have preferred to rely upon individualised, civil anti-vilification measures to regulate hate speech rather than draw upon the provisions contained in the various criminal codes of each of the states. Despite its infancy, it is already becoming clear that the structure of speech regulation serves the interests of some, while leaving other, sometimes more significant speech acts untouched by Australian discourses of tolerance.

In adjudicating the harms created by hate speech, Australian jurisdictions have tended to rely primarily on where incidents occur. All Australian jurisdictions have limited anti-vilification legislation to *public acts* capable of being heard by, or capable of infecting, an average spectator; this is the reasonable third-person test of vilification (see for example, sections 20B, 38R, 49ZS, and 49ZXA of the New South Wales Anti-Discrimination Act 1977). Takach (1994) argues that anti-vilification legislation was introduced to remedy the perceived social problem of unequal race relations in Australia. However, in the conversion of social policy to a legal framework, the objective, reasonable third-person approach 'may not take into account the viewpoint of the very group[s] that the... legislation is designed to support' (Takach, 1994:41). The legislative containment to *public acts* of malediction is problematic when considered in light of the conciliation process for complaints of vilification. While vilification must be a public act, arbitration processes are confined to private conciliation, where neither parties (nor the legislative body hearing the case) are allowed to speak publicly about the proceedings. Gelber (2002) argues that confining acts of vilification to the public arena and the conciliation of these acts to the private arena fundamentally undermines the stated goals and objectives of the legislation as decisions reached are not made public and do not serve as examples of unacceptable behaviour (Gelber, 2002:24). The requirement for confidentiality means that unless a complaint is referred to the public arena of the Equal Opportunity Tribunal (which occurs in a very small percentage of vilification complaints), it is

impossible to know whether a complaint was lodged (for example, against Alan Jones), or whether a complaint was upheld and conciliated, and what type of award was made against the respondent. In effect, the process serves no purpose at all in making a wider, social and symbolic statement about tolerance.

While the hate speech of Alan Jones in the week leading up to the Cronulla riot may not been conciliated under the NSW anti-vilification measures, four residents of New South Wales did lodge complaints with the Australian Communications and Media Authority (ACMA). ACMA is responsible for regulating Australia's print and broadcasting services, particularly in relation to 'fostering an environment in which electronic media respect community standards and respond to audience and user needs' (ACMA, 2008). ACMA is also responsible for regulating breaches of the industry codes of practice. Between 17 January 2006 and 16 March 2006, ACMA received four separate complaints relating to Alan Jones' morning radio show. The complainants alleged that throughout the week leading up to the Cronulla riot, Alan Jones had breached the Broadcasting Service Act 1992 (Cth) by using the broadcasting service in the commission of an offence against another Act or law (in this case, the NSW Anti-Discrimination Act 1977), and that he had breached the Commercial Radio Codes of Practice 2004. In particular, he had included material during his radio show that had 'encouraged violence and incited hatred against or vilified people of Lebanese background or people of Middle-eastern background on the basis of their ethnicity, nationality or race' (ACMA, 2006:3).

Alan Jones was only found to have breached the Commercial Radio Codes of Practice 2004 three times during the week-long tirade against Lebanese and Muslim Australians. He was found to have breached clause 1.3(a) of the code on 7 December 2005 when he recommended that Australians invite biker gangs to stop Lebanese Australians from accessing Cronulla Beach (ACMA, 2006:2). Further, he was found to have breached clause 1.3(e) of the code for his constant conflation of criminality (particularly, gang activity and sexual assault) with the Lebanese ethnicity, nationality and/or race (ACMA, 2006:2). Despite repeating the text of the SMS call to arms on at least five occasions (including the day and time of the proposed riot) these speech acts were not deemed to have breached either the Broadcasting Service Act 1992 (Cth) or the Commercial Radio Codes of Practice 2004. In its adjudication of Jones' constant repetition of the SMS call to arms, ACMA found that directly quoting the text message was:

... ill-judged when considered against the pre-existing background of community unrest. However, on balance, ACMA does not consider that an *ordinary reasonable listener* would have considered the quotes in their contexts as likely to prompt to violence, encourage violence or stimulate violence by way of assistance or approval (ACMA, 2006:29, emphasis added).

In *Harou-Sourdon v TCN Channel Nine* [1994] EOC 92-604, the ‘reasonable person’ was defined as one who is neither ‘immune from susceptibility to incitement’ nor compelled to act with ‘racially prejudiced views’ (*cited in* McNamara, 2002:186). It is unfortunate that both ACMA and the New South Wales Anti-Discrimination Board judge the effect of maledictive hate and threats of violence within the context of the reasonable, ordinary person. As this approach requires an analysis of the contextual factors that play a part in each incident of vilification, it appears counter-intuitive to start from a position of the ordinary, reasonable person not being inclined to racially prejudiced views. Australia was founded on the racist proclamation of *terra nullius*⁶; it did not give Indigenous Australians full citizenship until 1967; it retained the White Australia immigration policy from 1901 until 1967; and it retains a Christian calendar for public holidays. How then can we expect that the ordinary reasonable person is somehow immune from this racial, ethnic and religious socialisation?

Maledictive hate for the reasonable third person is only perceived as meeting the test of vilification (as being severe enough to constraining the actions of victims) when it is their norms and values that are shaken to the core. This is unlike the everyday hate of perpetrator and victim, which only shakes the other to the core, in silence, often without advocate or without respite. The ordinary reasonable person may not be necessarily incited by maledictive hate issued from an ordinary person on the street; however, they would be more likely to be incited by maledictive hate issued from a person with authority, or a person who has been authorised to speak.

Conclusion

A critical discourse analysis offers victims, community organisations and the state a framework for understanding the force and effects of maledictive hate. This paper has highlighted that common assumptions about what constitutes hate speech can act as barriers to stronger state intervention on the behalf of victims, and the provision of clear symbols of the intent of governments to create more inclusive communities. Despite the fact that threats of violence (or incitement to violence) are treated

⁶ According to international law in the eighteenth century, nations could only take possession of other countries if they were uninhabited, or alternatively if inhabited, that compensation is paid to the original owners or, through war, that possession is won through invasion and conquest. When Captain James Cook landed at Botany Bay in 1770 he claimed possession of the east coast of Australia under the doctrine of *terra nullius*. This doctrine stems from Roman law and literally means ‘empty land’. Obviously, Australia was not an ‘empty land’; rather, it was perceived to be an uncultivated land and, as such, the inhabitants were not human in the modern sense of the term, and thus, did not require compensation for dispossession. The doctrine of *terra nullius* dominated the relationship between Indigenous and colonial inhabitants until 1992 when Eddie Koiki Mabo - on behalf of many other Mer residents - successfully overturned this basis of Australian property law and sovereignty (*Mabo and Others v Queensland No. 2*, [1992]).

under law as a class of hate speech above and beyond all other themes of malediction (Crimes Act (NSW) 1990: s.26, 31), the New South Wales Government and their Police Service took no action against Alan Jones for his threatening comments or his incitation to violence. Nor were any of the rioters charged for their threats of violence and incitation to violence, despite the SMS containing an incitement to others to commit violence, and many of the protestors' chants including the statement 'kill the Lebs' (Anonymous Protestors, 11 December 2005, *cited in* King and Box, 2005:1). Anti-vilification complaints and broadcasting appeals take months, even years, to adjudicate. In contrast, the police can act immediately. While there is popular commitment to free speech in Australia, the civil laws relating to vilification are fundamentally counter-productive to the immediate censuring of maledictive hate, and so solutions must be found elsewhere. All policing jurisdictions in Australia have criminal provisions available to regulate threats of death and the incitation to violence. As a first step to regulate the most extreme forms of maledictive hate, we may need to accept that using the State and its instruments to greater effect - without significantly undermining the human right to free expression - may require finding solutions in pre-existing laws. These pre-existing laws were created to regulate speech acts that undermine the democratic process itself, rather than the specific damage against the 'other'. This universalisation of extreme harm may assist in making the reasonable, third person in Australian law much more likely to understand the social costs for the whole society when maledictive hate is allowed to circulate and inculcate. Speech regulation, in this sense, is about creating a speedier and more democratic system of language use, where we are all compelled to act in ways that open up the spaces available from which to speak.

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Public Reactions to the Case of Mary Wilson, The Last Woman to be Sentenced to Death in England and Wales

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Abstract

In 1958, 68 year old Mary Wilson became the last woman to be reprieved from the death penalty in England and Wales. She was convicted of the capital murders of two of her husbands, whom she poisoned. This article examines the discourses of capital punishment that were articulated in letters members of the public sent to Rab Butler, Home Secretary at the time, about Mary's case. It identifies discourses both in support of the death penalty and against it, and places them within their mid twentieth-century context. The article also explores how Mary's identity as an older working class woman shaped people's views regarding the acceptability of her punishment.

Key Words: death penalty, 1950s, punishment, discourse

Introduction

This article explores public reactions to the case of Mary Wilson, who in 1958 became the last woman in England and Wales to be sentenced to death. She was reprieved by the Home Secretary of the time, Rab Butler, as he felt the execution of a 68 year old woman would be 'a shock to public opinion' (*National Archives, Conditional Pardon, H0291/241*). Her case is worthy of analysis because it provides a window on public views of capital punishment in the 1950s and how these views were shaped by Mary's identity as an older working class woman.

There has been scant attention to public views on the death penalty in twentieth-century England and Wales. Criminological and historical accounts of abolition tend to stress the importance of shifts in elite opinion regarding execution towards finding its use unpalatable in the modern era

(Rutherford, 1996; Pratt, 2002). However, the examination of public attitudes to capital punishment in the 1950s offers fertile ground for criminologists. Analysis of reactions to a case such as Mary Wilson's reveals the discourses of punishment that had currency amongst the wider population during this time. This highlights the expressive role of views of crime and punishment as reflections of everyday cultural sensibilities and demonstrates the symbolic importance of these issues (Garland, 1990; Girling et al., 2000; Lynch, 2002). People's reactions to death penalty cases do not merely represent views on punishment, but also wider contemporary fears, anxieties, beliefs and insecurities, which are indicative of their experiences of social change (Girling et al., 2000; Stalans, 2002; Maruna and King, 2004; Hutton, 2005).

The death penalty in mid-twentieth century England and Wales

Until 1957, death was the mandatory penalty for murder in nearly all cases (the exceptions were children and pregnant women). However, the Home Secretary could grant a reprieve by exercising the Royal Prerogative of Mercy (Bailey, 2000), which happened in around 40% of cases involving men and 90% of cases involving women between 1900 and 1949 (Christoph, 1962). The campaign against the death penalty gathered speed in the 1920s, when interest groups such as the Howard League for Penal Reform and the National Council for the Abolition of the Death Penalty were formed. These organisations protested against capital punishment and monitored its application (*ibid*).

In 1930, a select committee on capital punishment recommended that it should be suspended for an experimental period of five years, although five members of the thirteen person committee refused to endorse this recommendation (Radzinowicz, 1999). A motion passed in the House of Commons in 1938 to suspend the death penalty in peace time for five years, but this was opposed by the Conservative government. The campaign to abolish capital punishment lost momentum during the Second World War and in its immediate aftermath¹.

In 1948, the House of Lords overturned a vote won in the House of Commons to suspend capital punishment for five years (Bailey, 2000). Opinion polls demonstrated that approximately two thirds of British people disapproved of the proposed suspension, suggesting that abolition of the death penalty did not enjoy widespread public support (England, 1948). These results found that factors such as age and income made little difference to people's views on capital punishment, although which political party they voted for was significant. Labour voters were more likely to support the experiment to suspend the death penalty (*ibid*).

¹ Bailey (2000) argues that the executions of leading Nazis in the mid 1940s, and the post-war moral panic over rising crimes rates, combined to dampen abolitionist fervour.

The government established a Royal Commission on Capital Punishment in 1949. The Commission's terms of reference were limited. It was to consider the laws surrounding homicide and whether use of capital punishment could be restricted, but discussion of abolition was outside its remit (Bailey, 2000). The Commission published its report in 1953. It recommended that murder should not be a capital offence in every instance, but that a life sentence should be available as an alternative punishment (Cmnd. 8932).

Three particularly notorious executions in the 1950s damaged the credibility of the State to administer the death penalty fairly and provoked public outrage. Timothy Evans was executed in 1950 for the murder of his wife and baby. However, in 1953 the remains of six women were found in and outside the flat of his neighbour, John Christie, casting severe doubt on Evans' guilt. Also in 1953, Derek Bentley was hanged for the murder of a policeman. His friend, Christopher Craig, a minor, shot the policeman and controversy surrounded whether or not Bentley had told Craig to pull the trigger (Block and Hostettler, 1997; Pratt, 2002).

Perhaps the most emotive execution of the 1950s was that of Ruth Ellis. In 1955, Ellis shot her ex-boyfriend, David Blakely outside a pub in London. Blakely's mistreatment of Ellis, and the fact that she was a mother, led many to believe she would be reprieved. Thousands of signatures were gathered through petitions but no reprieve was granted and she was hanged. A large crowd gathered outside the prison on the night before her execution chanting 'Evans - Bentley - Ellis' (Christoph, 1962; Block and Hostettler, 1997). Following these executions, the campaign for abolition in England and Wales was reinvigorated, with the founding of a new organisation that worked with abolitionist politicians (Rutherford, 1996).

The Homicide Act 1957 enacted the Royal Commission's recommendation that an alternative penalty to mandatory capital punishment should be introduced for murder. However, against the report's findings, the Act legislated for certain types of murder to be capital offences, such as those committed with a gun, or caused by an explosion. Murder in the course of a theft or robbery would also be punishable by death. The Act also established that anyone who committed murder on two or more separate occasions would be subject to execution (Edwards, 1957; Prevezer, 1957). This last type of capital murder was the one of which Mary Wilson was found guilty. The next section outlines the details of her case.

The case of Mary Wilson²

Mary Wilson was a 68 year old woman (although the newspapers reported her age as 66) who lived in north east England. She was found guilty in 1958 of murdering two of her husbands by poisoning them with

² Mary's case has been researched from files held in the National Archives, which relate to the prosecution case, an attempted appeal and her reprieve: *DPP2/2756, J92/195* and *HO291/241*.

phosphorus, which at the time could be found in rat and beetle poison. As she had committed murder on two separate occasions, she was sentenced to death. Mary applied for leave to appeal on two grounds: that the prosecution had not proved that the men did not die of natural causes, and that the judge should not have commented in his summing up on the fact she did not give testimony. Her appeal was rejected, as the Court of Appeal judgment did not accept either argument. Rab Butler, the Home Secretary, reprieved her, stating that although her crime was 'heinous', reprieve was the 'merciful course' as her age and gender made her execution undesirable (*Conditional Pardon, H0291/241*). Her sentence was commuted to one of life imprisonment.

Mary was born in 1890, and worked in domestic service before she married John Knowles, a chimney sweep, in 1914. She had six children, two of whom died during childhood. The remaining four were all adults by the time of her conviction. Mary's husband died in August 1955. They had been legally separated since 1945 but lived in the same house, which was not an unusual practice for working class people at the time. Mary had worked as a daily housekeeper for a painter and decorator, John Russell, since the Second World War and continued to do so after her husband's death. This man died in January 1956, aged 65. On 20 September of the same year, she married 75 year old Oliver Leonard and he died on 3 October. On the 28 October 1957 she married 76 year old Ernest Wilson, who died on 12 November.

Oliver and Ernest's bodies were exhumed on the 29 November 1957 due to suspicion they had not died of natural causes. Traces of phosphorus and bran were found in their intestines, indicating they had been poisoned with Rodine beetle poison. John Knowles and John Russell were also exhumed. No phosphorus was recovered from their bodies but the pathologist believed their deaths were caused by 'some noxious substance' (Summary, J92/195). Mary inherited some money from Oliver and was paid from Ernest's life insurance policies. She unsuccessfully attempted to withdraw £100 from Ernest's Co-operative Society account³.

Public views of Mary Wilson's reprieve

Members of the public wrote to Rab Butler expressing views on Mary's case, or they wrote to their own MPs who forwarded the letters to the Home Office. These have been preserved in a National Archives file, reference *H0291/241*. This file contains letters that were sent both from people requesting that Mary be reprieved, and letters protesting against

³ The exact amount of money that Mary inherited from Oliver appears to be unknown; it is stated as being between £45 - £70. If this is added to Ernest's life insurance money, Mary appears to have received roughly the equivalent of £1,500 - £2000 in today's money. This was calculated using the National Archives historical currency converter (Available at: <http://www.nationalarchives.gov.uk/currency/results.asp#mid>). The £100 she failed to obtain would be equivalent to a little over £1,500.

the reprieve once it had been granted. Sixty eight letters request mercy, although some correspondents wrote a second time in order to endorse the reprieve. Twenty one letters complain about the decision to commute the death sentence. There is also a petition against the reprieve containing 31 signatures.

Research into public opinion on issues of crime and punishment has established its 'contradictory, nuanced and fragile' nature (Hutton, 2005:244). Public opinion is not monolithic and has different aspects, in that it comprises knowledge, attitudes and sensibilities (Johnstone, 2000; Maruna and King, 2004). Surveys and opinion polls have been the most frequently used method for gaining an understanding of public views on the death penalty. The questions asked in surveys and polls often do not provide people with the opportunity to express their emotional reactions, which are important in order to understand the symbolic and expressive role of punishment (Indermauer and Hough, 2002; Maruna and King, 2004). Although recent public opinion research has sought to remedy the shortcomings of traditional surveys through use of more sophisticated methods (Hough and Roberts, 1999; Johnstone, 2000; Stalans, 2002), these are clearly not a solution to uncovering a more nuanced picture of people's attitudes towards capital punishment in the 1950s. Oral history interviews with respondents who can remember capital cases would have the limitation that their views on the death penalty have inevitably been modified by the four decades since abolition⁴. They would not necessarily reflect specifically mid-twentieth century understandings.

The letters sent or forwarded to Butler about Mary Wilson have considerable advantages as a means of gleaning public opinions of capital punishment in the mid-twentieth century. They reflect people's emotions about the case, their attitudes towards the death penalty and wider discourses of anxiety, fear and injustice. Lynch (2002) analyses the views expressed on American pro-death penalty websites, and argues that this type of research can reach complexities not addressed by macro-level examinations of punishment. Similarly, the letters regarding Mary Wilson's case enable in-depth, 'thick' analysis of individuals' communication regarding capital punishment.

People's feelings about punishment are related to their views of particular offenders and are shaped by the specific details they know about a case. Research into public opinion on punishment, including the death penalty, indicates that people's attitudes vary depending on how much contextual information they have about the crime and the offender (Roberts and Stalans, 1997; Hough and Roberts, 1999; Roberts and Hough, 2002). Individuals who sent letters to Rab Butler were not necessarily 'for' or 'against' the death penalty and may not have had a fixed stance on whether it should be retained or abolished. Some letters are clearly from

⁴ The last executions in England and Wales took place in August 1964. The death penalty for murder was temporarily abolished in 1965, and finally abolished in 1969 (Rutherford, 1996; Radzinowicz, 1999).

people who held a strong position on the death penalty, either supporting its use or favouring its abolition. However, others were from people who did not have such an identifiable perspective. The opinions individuals expressed about Mary were often in relation to particular aspects of her identity as an older working class woman. Therefore, in addition to articulating views on capital punishment, the letters can also be analysed for their contemporary perceptions of social identities.

There are, however, limitations to using letters as sources for researching attitudes towards capital punishment in the 1950s. Some of these are practical constraints. The majority of the letters are handwritten, meaning that they are not always legible. This applies particularly to signatures. Some correspondents declined to give their name, and others signed themselves with initial and surname only. Lack of a name is a considerable drawback as the gender of the author cannot always be discerned. Other details, such as the writer's age and social class background, are not usually provided.

There are other limitations that are perhaps more significant from a methodological perspective. The people who chose to write to Butler constitute 'an eccentric sample of the nation at large', as Gatrell (1994:429) observes in relation to nineteenth century mercy campaigns. They cannot be regarded as representative, and not only because they were motivated to write to Rab Butler or their MP in the first place. People who wrote letters were likely to form a more literate and educated group than the general population, which means that views of people from working class backgrounds similar to Mary's own may not be represented.

Although not representative, and from people likely to feel more strongly about the case than most, the letters are valuable sources worthy of criminological attention. They are products of their time and inevitably reflect views that were 'thinkable' in 1950s England and Wales. This article refers to 'public' opinion, but the public is inevitably an invention, and one that does not include everyone (Gatrell, 1994). Nevertheless, letters sent to Rab Butler provide us with a window on the views of 'ordinary' people regarding capital punishment, rather than the opinions of politicians, well-known writers or patrician campaigners.

Discourse analysis of the letters

The letters sent to Rab Butler concerning Mary's case have been analysed for the discourses they contain in relation to capital punishment. Discourses both supporting and objecting to the death penalty have been identified. These have been generated from close examination of the letters, although they inevitably reflect broader understandings of punishment which have been iterated in different places and times. The correspondents wrote against a cultural background of existing views and opinions on the death penalty, which informs their perceptions.

Seven discourses of capital punishment will be discussed through quotations taken from the letters. Quotations have been selected for their representativeness of a particular discourse. Three discourses are in favour of the death penalty for Mary, and four are against. The seven discourses are not discrete but rather overlap and bleed into each other in places. More than one of them can appear within the same letter. Although this model of seven discourses offers a useful means of analysing views on the death penalty in relation to a specific case, it does not necessarily capture all the views on capital punishment, or on Mary's reprieve, that existed in 1958. Discourses in support of her execution and protesting against her reprieve will be explored first.

Discourses against a reprieve

Rab Butler's reasons for reprieving Mary can be found in the Conditional Pardon held in *H0291/214*. However, at the time they would not have been released to the public. Home Secretaries did not publicly state why they had decided to reprieve someone, or why they had decided not to (Blom-Cooper and Morris, 2004). People who wrote to Butler expressing their disapproval for the reprieve he had granted were therefore surmising what the reasons for this might have been. The three pro-capital punishment discourses are: *retribution*; *deterrence and decline*; and *political conservatism*. These are familiar themes from death penalty research but the analysis locates them within their mid-twentieth century context, and explores how they were articulated in relation to Mary's case. All letters have the case file reference *National Archives H0291/214*.

Retribution discourse

Retribution is a recurrent theme in discussions of capital punishment (Garland, 2000). Correspondents who articulated this discourse argued that death was a fitting punishment for someone who had committed murder. They also contended that Mary's interlocking identities as an older, economically disadvantaged woman should not be taken into consideration as reasons for a reprieve. One author argued:

My puzzled friends point out that there was no recommendation to mercy by the jury, that the National Press reports of the case were so revolting as to destroy any pity any decent person might have had for an elderly woman in trouble.

The author makes reference to Mary's straitened circumstances by referring to her as 'an elderly woman in trouble' but rejects the idea that this should be taken into account when deciding whether to reprieve her. The writer also makes a moral point, suggesting that a 'decent' person would not have sympathy for Mary. Other letters articulated the *retribution* discourse in order to express their disapproval that Mary's gender might be

a factor in her reprieve. The following quotations have been taken from two separate letters:

There is strong feeling against the reprieve for this woman, Mrs Wilson. She is a calculating, cold and cruel murderess.

You want your head seeing to, giving Mrs Wilson a reprieve. It's a pity she should have her pretty little neck stretched, what about the poor men she 'did in' ... She deserves her neck stretched and you deserve yours stretched, you old fool for granting a reprieve.

These two quotations, particularly the second, reflect the discourse of *retribution*, but also display features of the gothic (Valier, 2002). The description of Mary as a 'calculating, cold and cruel murderess' exhibits a gothic sense of feminine evil. The second writer refers explicitly to the infliction of pain upon Mary's body that hanging would entail, sarcastically describing how 'her pretty little neck' would be 'stretched', as well as suggesting that Rab Butler deserved the same fate. Both correspondents are unequivocal that Mary's womanhood should not be a reason to reprieve her and suggest that, on the contrary, as an evil woman she deserves the bodily pain of hanging.

Deterrence and decline discourse

The concept of deterrence is a familiar justification for punishment and for use of the death penalty. The threat of the worst penalty, loss of life, is thought to dissuade people from violent crimes such as murder (Hudson, 2003). Letters sent to Rab Butler argued that reprieving Mary would lead people to think they could get away with murder. Authors who believed in the value of capital punishment as a deterrent linked this to the importance of maintaining standards of decency in British society. Allied to this was a sense of anxiety about the state of modern Britain and apprehension that it was a society in decline.

This feeling needs to be understood within the context of perceptions of post-war Britain. For some, it was a nation weakened by two world wars and losing status as its empire retracted (Marwick, 2003). This was not the only depiction of Britain in the 1950s. Other discourses constructed it as a country that was fairer due to the post-war welfare settlement, and as a modern, forward looking society (Vernon, 1997). However, letters exhibiting a *deterrence and decline* discourse displayed the former perception of a nation in decline. These correspondents articulated deep seated anxieties about the state of Britain:

If these reprieves go on no-one will be safe and in time, incipient fears, conscious or subconscious will slowly but surely change the face of our civilisation and way of life. Even now, parents fear for their children's safety everywhere.

This writer is explicit in mentioning the importance of the death penalty to maintaining 'our civilisation and way of life'. Unease about the future is expressed by referring to parents fears for their children, the representatives and symbols of future Britain.

The *deterrence and decline* discourse constructed capital punishment as a necessary defence against the perils of the modern age. As such, it allowed the articulation of other concerns related to British society as the following quotations, taken from two different letters, attest:

It's bad enough having the damn blacks and foreigners foisted on to us, we are getting a bit sick [of] the way the country is being run.

Bring back hanging before a lot more innocent people get murdered. All countries know England is soft so all foreigners etc come here. Be tough and get rid of that woman before we all rise up and turn the whole lot of you out of office ... They know they can kill today and you are encouraging them. So let's get the gallows going and it will soon be better for all.

These authors articulate concerns about immigration from the Caribbean and South Asia, which had gathered pace during the 1950s (Goulborne, 1991) and the first quotation's reference to 'damn blacks' exemplifies the racism that was characteristic of these anxieties (Gilroy, 1987). Letters that utilise the discourse of *deterrence and decline* express fears about issues beyond those which might seem to be immediately connected with Mary's reprieve, such as non-white immigration. The correspondents quoted above interpreted Butler's mercy as indicative of a more general social malaise. For them, capital punishment figured as a potential remedy for society's ills.

Political conservatism discourse

The final discourse that was articulated in letters protesting against Mary's reprieve was one of political conservatism. Authors who expressed themselves through this discourse were Conservative voters who saw capital punishment as a constituent part of their political creed. They understood Butler's reprieve of Mary as having implications for how the Conservative government would be perceived, and for their own identities as Conservatives.

By reputation, Butler was a liberal leaning Home Secretary (Jarvis, 2005). He believed in reducing crime through rehabilitating criminals and in funding research into the causes of crime. The Institute of Criminology at Cambridge University and the Home Office Research Unit were established during his tenure (Ryan, 2003). Butler's views on criminal justice did not chime with the whole of the Conservative Party, especially the membership, many of whom believed in reinstating corporal punishment (Jarvis, 2005). Letters which include the *political conservatism* discourse frequently also draw on either *retribution* or *deterrence and decline* discourses. Authors

expressed their concern at Butler's chosen course of action, seeing it as counter to Conservative principles:

I really feel that my enquirers have the right to know what apparent infirmity of purpose infected the Home Secretary in connection with this creature. I must point out my friends are not bloodthirsty savages screaming for blood at a tribal ritual of vengeance, but decent honest Conservative citizens.

This male correspondent accuses Butler of cowardice and dehumanises Mary by referring to her as a 'creature'. He distances himself and his 'friends' from accusations of savagery or brutality, which were familiar criticisms of capital punishment, by stating they are not only 'decent' and 'honest', but also 'Conservative'. Letter writers also worried that the perception of a Conservative Home Secretary as unduly merciful would lose votes:

It has come to a point where the Tory party can no longer hope for the support at elections of the Tory populace, especially the women. By your so-called humanitarianism as Home Secretary, you are losing the next General Election.

This letter disparages the notion that reprieving an older woman from execution was a humane course of action. It also suggests that women especially would be dismayed by a putative unwillingness to use capital punishment. At the time, there was support amongst women in the Conservative Party for the reintroduction of flogging with the cat-of-nine-tails for sexual offences (Jarvis, 2005). This may be why the author thinks the reprieve could be damaging to female votes in particular. Other correspondents used a *political conservatism* discourse to describe their shaken faith in the government, sometimes also articulating their anger at the surrender of what they perceived as Conservative principles:

For many people like my self who have been staunch Conservatives all our lives the antics of the present Government have made us waverers, and your latest reprieve has clinched the matter as far as I am concerned. I am not a crank who writes to public [officials] often but your latest effort has made me "see red" if you are still with me.

These three anti-reprieve discourses represent enduring themes in pro-capital punishment arguments, namely retribution, deterrence and political conservatism. Analysis of the letters demonstrates how these themes were iterated in relation to specifically mid-twentieth century anxieties, such as declining imperial power and the fortunes of the Conservative Party at the time. The strong emotions, primarily anger, generated by the reprieve are apparent. The next section discusses the letters which opposed use of the death penalty in Mary's case.

Letters asking for a reprieve

Letters requesting a reprieve constitute the majority sent to Butler about Mary Wilson. The four discourses identified from these are: *merciful humanitarian; civilisation; gender class inequality; and empathy/sympathy*. These also reflect themes which are familiar from death penalty research, but the analysis places them within their 1950s context. Mary's social identity was especially important to shaping these constructions.

Merciful humanitarian discourse

This discourse framed granting a reprieve for Mary as the humanitarian response to her case. Capital punishment as inhumane is a well established anti-death penalty argument that has been iterated in different places and times (Sarat, 2005). Some of the correspondents who articulated the *merciful humanitarian* discourse mentioned God or thanked Butler for adopting a Christian approach in reprieving Mary:

As I told you I don't know her but whatever she has done may God have mercy on her soul.

In the 1950s, senior clergy in the Church of England supported abolition and the established church more broadly began to oppose the death penalty, along with traditionally abolitionist denominations such as the Quakers (Potter, 1993).

Letters sent before Mary had been reprieved often asked for mercy based on her identity as an older working class woman. They found the execution of a woman of her age to be morally reprehensible:

To pull off the head of an old woman aged 66 is unthinkable but it may happen if the woman accused of poisoning her two husbands is hanged as arranged on the 4th of June.

Whether women should be subject to the death penalty had been part of the discussion surrounding its use in the mid-twentieth century. The Royal Commission on Capital Punishment heard evidence on this issue, particularly in relation to the execution of Edith Thompson in 1923, which was regarded as troubling to public opinion (Royal Commission on Capital Punishment, Evidence and Papers, *H0301*)⁵. The hanging of Ruth Ellis in 1955 also reignited debate surrounding the application of the death penalty to women (Block and Hostettler, 1997).

⁵ Edith Thompson, along with her lover Freddie Bywaters, was executed for the murder of her husband. Controversy surrounded whether she had known Bywaters was going to stab her husband, and whether her execution was influenced by her 'loose' morals as an adulterous woman (Ballinger, 2000).

Civilisation discourse

Letters expressing the *civilisation* discourse argued either that the death penalty itself was barbaric and backward (Hudson, 2003), or that executing an old woman would be barbaric and backward. Appeals to 'civilisation' have been made in various places and times to justify or condemn different uses of punishment. Abolitionist movements in the mid-twentieth century argued that a civilised society was conditional on the absence of the death penalty (Pratt, 2002).

Like the *merciful humanitarian* discourse, the *civilisation* discourse often included reference to religion and criticised the death penalty as un-Christian and immoral:

Capital punishment is based on 'an eye for an eye' which is pre-Christian and anti-Christian, and no person claiming to be either Christian or civilised, can rightly support it.

In addition to this moral argument about civilisation, authors who utilised a *civilisation* discourse read Mary's death sentence as an indication that Britain was failing to modernise. Like the *deterrence and decline* discourse, the *civilisation* discourse framed Mary's case and capital punishment as symbols of the state of the nation. But instead of decline, the *civilisation* discourse was concerned with modernity. Mary's slated execution was represented as an indication of Britain's old fashioned values, which were understood to damage its standing in the world:

Execution is no deterrent. It is a barbaric relic of past ages. The sooner you do away with it once and for all, the sooner you will enable this country to play its part in this modern world without shame or remorse.

Similarly to the *merciful humanitarian* discourse, a *civilisation* discourse was affronted by the application of capital punishment to an older woman. This made the death penalty seem especially primitive and reflected particularly badly on Britain as a nation:

... the killing of an elderly woman, whose remaining days are probably relatively short anyway, would be a barbarous act well calculated to reduce our already depleted moral standing in the eyes of the world ... May we pray you Sir to act in this matter so that we need not feel ashamed of the outdated laws of our country.

Anxiety about the state of Britain as a nation and how it would be perceived suffused the *civilisation* discourse, as it did the *deterrence and decline* discourse. However, rather than being a discourse of decline, the *civilisation* discourse expressed anxiety about Britain's capability to modernise. Rather than fears about loss of global status, concerns about modernisation were related to the post-war optimism that Britain could

become a fairer society with prosperous citizens (Vernon, 1997). In the *civilisation* discourse the death penalty was a symbol of Britain's failure to become the 'new Jerusalem'.

Gender class inequality discourse

Mary's age and gender were elements of *merciful humanitarian* and *civilisation* discourses. The *gender class inequality* discourse was more explicit in constructing Mary's interlocking identities as an older working class woman as significant to her predicament. The *gender class inequality* discourse regarded Mary's death sentence as unfair and a reflection of wider social inequalities (on this issue, cf. Sarat, 2005). Letters argued that a man, or someone who was wealthier, would not be executed for a similar crime, or that Mary's circumstances as an older working class woman should be considered in mitigation. This was slightly different from the suggestions articulated by the *merciful humanitarian* and *civilisation* discourses that executing an elderly woman was barbaric. Rather, the *gender class inequality* discourse contended that Mary's experiences of misfortune and poverty should be taken into account.

A letter signed by three women argued that hanging Mary would constitute discrimination on the grounds of gender and class:

... we understand that the death penalty has been abolished in this country? If so why is it retained in the case of a woman being the offender? ... we believe this attitude is dangerous, as it gives privilege to the man to sin. The penalty is either abolished or retained, we want no favourites on the grounds of sex, or of class.

This letter does not mobilise a moral argument against capital punishment itself, as found in *merciful humanitarian* and *civilisation* discourses. Rather, perceived unfairness in its application is attacked. The authors were mistaken about the legislation surrounding the death penalty, which had been limited, but not abolished, by the Homicide Act 1957. However, their protest reveals concern about the equal treatment of women and working class people by the criminal justice system.

Perceived inequality in the administration of justice as it related to men and women was a theme of other letters that displayed the *gender class inequality* discourse:

Ruth Ellis, for instance she did no more than hundreds of men who get off with light sentences ... Mrs Wilson is an ugly old woman with no one to fight for her ... Reprieve this woman, as you have reprieved many men Mr Butler! I am all for hanging criminals, so many of the Public are, but if you are going to let men off, then you must be consistent for all, that's all we ask.

This quotation expresses overall support for the death penalty, but argues that various aspects of Mary's identity, such as her gender, age and

appearance make her less likely to be reprieved. The writer states that Butler has reprieved men and so must consider Mary's case also, and refers to the execution of Ruth Ellis three years previously as another example of the unfair treatment of women by the criminal justice system. This indicates both the strength of feeling about Ellis' case and its influence on views of the State's moral authority over capital punishment (Pratt, 2002).

The concern over unequal treatment may have been based on a misperception of certain contemporary cases. In 1957-8, there were cases where men convicted of capital murders of children and young people had had their convictions reduced to manslaughter after successful appeals on the grounds of diminished responsibility (Blom Cooper and Morris, 2004). These were not reprieves, but instances where a successful appeal meant a conviction for a lesser offence. The writers of letters including *gender class inequality* discourse may not have understood this. However, even if mistaken about the details of homicide law, these letters questioned why Mary's case should result in the death penalty if the murder of children did not. The *gender class inequality* discourse also reveals mid-twentieth century dissatisfactions with perceived discrimination against women and working class people.

Empathy/sympathy discourse

The final discourse under discussion in relation to Mary's case is one where letter writers made a personal identification with Mary, either on the basis of her age and gender, or because they felt sympathy for her predicament. The *empathy/sympathy* discourse contains elements of other discourses such as *merciful humanitarian* and *gender class inequality* as in itself it is not a view on the use of capital punishment. Correspondence displaying *empathy/sympathy* discourse tended to be from female authors and reflects how capital punishment can figure as a sign to which meanings become attached. For instance, the following writer made an emotional identification with Mary as a grandmother:

The only time she has cried was when she received a letter from her grandchildren telling her how they loved her ... I have cried all the weekend with relief.

The 'relief' to which the correspondent refers was experienced upon learning about the reprieve. The theme of the importance of family relationships arose in other missives:

Surely it is all too obvious that she was driven crazy with loneliness and lack of affection. Any mother who has brought up a family has a right to expect their love and devoted care in her old age so that loneliness and heartbreak do not force her to seek solace in a public house and commit murder for a few paltry shillings - if she did!

This quotation exhibits *gender class inequality* discourse in its suggestion that Mary's case has compelling mitigating circumstances. However, its references to 'loneliness' and 'heartbreak' create a different tone from the letters that argued Mary was a victim of unequal treatment by society and the criminal justice system. It discusses Mary's misfortunes as being emotional, as well as financial, by mentioning her need for a relationship with her children.

Other female writers reflected that they could find themselves in similar circumstances to Mary:

But I am minded that she was probably in a position financially in which I too may find myself someday ... such a position and the desire for security can play havoc with one's mind ... There is also of course, in this case, her age! In any case the poor creature has made a mess of the rest of her days ... I felt I must write something about the case as she is only 3 years older than myself and she looks such a poor type.

This author is explicit that similarities between Mary and herself inspired her to write to Butler. She exhibits both empathy and sympathy, commenting that Mary is a 'poor type'. Concerns about Mary's age and financial situation are combined with the author's own anxieties about the insecurities of old age.

Like the pro-death penalty letters, those in favour of a reprieve articulated anxieties about the state of post-war British society. They worried about its ability to modernise, and questioned whether greater fairness and equality had really been achieved. Emotional reactions consisted of revulsion and dismay at the thought of executing an old woman, and also feelings of empathy with Mary.

The conclusion reflects on the relevance of this examination of public attitudes towards the case of Mary Wilson to contemporary death penalty research and to current criminological understandings of cultures of punishment.

Conclusion

Analysis of letters sent to Rab Butler about the case of Mary Wilson enable identification of the discourses of punishment that shaped public attitudes to the death penalty in mid-twentieth century England and Wales. These discourses have some continuity with iterations of views on capital punishment currently found in the United States, where the death penalty is still used in many states. Research identifies political and religious beliefs as an influence on people's views on this issue and appeals to humanitarianism and 'civilisation' continue to characterise abolitionist arguments (Soss et al., 2003; Sarat, 2005).

One notable absence from the Mary Wilson letters is a discourse of justice for the victims' families. Since the establishment of the victims' rights movement in the 1980s, this has been a significant aspect of American pro-death penalty discourse (Lynch, 2002). There is no suggestion at all in the letters that Mary should be executed in order to provide succour for her victims' surviving relatives. This is unsurprising as the English and Welsh criminal justice system of the 1950s ignored victimhood (Rock, 1990). However, it highlights an important change in the discursive terrain surrounding capital punishment and retribution.

None of the letters which ask for a reprieve make reference to human rights, an important aspect of present day worldwide arguments for abolition (United Nations General Assembly, 2007; Amnesty International, 2008). Although the Universal Declaration of Human Rights was adopted in 1948, the concept of human rights was not part of popular discourse in the 1950s. This was prior to the establishment of groups such as Amnesty International, which led to wider use of the term, particularly in relation to punishment. The *merciful humanitarian* discourse shares many of the concerns of human rights arguments, as does the *civilisation* discourse. However, articulations of these two discourses in the letters concentrate on the unacceptability of capital punishment, rather than Mary's rights *per se*.

The recent downward trend in the use of the death penalty in the United States has been accompanied by the increased success of abolitionist campaigning that emphasises the criminal justice system's capacity for error and unfairness (Sarat, 2005; Unnever and Cullen, 2005; Ogletree and Sarat, 2006). Such arguments do not require opposition to the death penalty on the grounds that it is barbaric or inhumane, but rather object to its unequal application and the danger that the innocent will sometimes be executed. The *gender class inequality* discourse is the closest match to these concerns to emerge from the letters. Writers who articulated the *gender class inequality* discourse did so at a time when the State's moral authority regarding the death penalty had been damaged, which suggests issues of unfairness can be highly significant to abolitionist arguments in the right historical moment.

The final discourse from the letters, *empathy/sympathy*, is worthy of further consideration by criminologists. Maruna and King (2004) note that little is known about what motivates public compassion, forgiveness or empathy. Analysis of the letters that display *empathy/sympathy* discourse suggests that personal identification, especially from individuals who could imagine themselves in similar circumstances to Mary, is significant. This discourse also underlines the importance of emotion to leniency, which needs to be understood alongside emotion as an aspect of punitiveness.

In their study of children's talk about punishment, Sparks et al. (2002) explore the 'imaginative force of the past' (p. 120) in relation to contemporary penal culture. The past's 'imaginative force' also exerts its pull on criminologists and is a compelling reason for turning criminological attention to public attitudes towards punishment in the mid-twentieth century. The foregoing discourse analysis of letters written in 1958 reveals

that the case of Mary Wilson became the focus for a range of diffuse fears and anxieties, from increased non-white immigration to personal worries about approaching old age. This suggests that the linkage of discourses of punishment to wider narratives of anxiety and insecurity is not solely a late-modern phenomenon (Garland, 2001), but happened in preceding eras too. This has implications for the arguments criminologists make about social change and its effects on contemporary cultures of punishment.

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The Sex Offender Register

A measure of public protection or a punishment in its own right?

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Abstract

The sex offender register has been in existence for eleven years as a measure of public protection. It has never been a punishment for the offender but always an addition to the actual punishment given. During the last eleven years the register has been the subject of small incremental changes. This paper examines those changes and the influences on policy that have resulted in those changes and asks the question as to just how far they have taken us from the original idea of a register. In particular it poses the question 'has the register now moved so far that it has become a punishment in its own right?'

Key Words: sex offender register, public protection, surveillance, sexual offending, sex offenders

Introduction

The aim of this paper is to consider the nature of the UK sex offender register¹ introduced in 1997 and to ask questions about its changing nature. It is a commentary on the last ten to eleven years in which we have had a sex offender register and it is contested that, in that time, the register has moved slowly from being a measure of public protection to potentially being one of punishment.

The register was never intended to be a punishment – only a measure of community protection. The punishment was the sentence of the

¹ The register was for the whole UK from the start - a Schedule at the end of the 1997 Sex Offenders Act gives the different offences for England and Wales, Northern Ireland and Scotland.

court (e.g. a custodial sentence or a community sentence). The intention of the register has been explained by the Home Office: 'It is a measure aimed at protecting the community from sex offenders not an additional penalty for the offender' (Home Office/Scottish Executive, 2001:11).

The register keeps police records up to date by getting the offenders themselves to report their current whereabouts - i.e. their name, and their address - and to notify the police every time these details changed. The police are the custodians of the register, which has never been a register as such but an annotation of the national collection of criminal records stored on the Police National Computer (PNC) - to show that certain people were statutorily required to 'notify' on the basis of their offence being a designated sexual offence². Sanctions are applied to those who fail to comply. The requirement to notify changes lasts for a given period of time dependent on the seriousness of the original offence and the punishment incurred. Sometimes registration can be for life. Juveniles have their time periods halved.

The register has become part of what is sometimes known as the 'community protection' approach to regulating sex offenders - as opposed to the 'public health' approach of say organisations like 'Stop It Now'.

A question that arises when looking at the register is whether or not it makes a difference? Does it work? Can it be evaluated? To do that we need to go back to what the register was originally designed to do.

The origins

Going back to the mid 1990s we have to ask the question why the Home Office considered it necessary to create a sex offender register. What were the forces in play and the influences on policy makers at that time?

We know that some local authorities were keeping their own registers of sexual offenders and that the Home Office disapproved of this development (Home Office et al., 1991: paras. 6.52-6.54). We know that social workers were supportive of a register on the basis that it made as much sense - if not more sense - as keeping child protection registers on abused children (Thomas, 2004). We know that some police were quite keen on the idea of a register to keep their records up to date and to track the mobile offender (Hughes et al., 1996) but that it was the Police Superintendents Association (PSA) that were publicly most vocal in calling for registration and the Association of Chief Police Officers (ACPO) that eventually got the job of implementing it.

If we examine the 1996 Home Office Consultation Paper that first formally proposed the idea we find the primary aim to be that of simply:

... requiring convicted sex offenders to notify the police of any change of address ... to ensure that information contained within the

² For ease of expression this paper refers to 'the register' throughout.

police national computer was fully up to date (Home Office 1996: para 43).

there are three ancillary 'aims' for the register outlined as:

- "To help [the police] identify suspects once a crime had been committed;
 - Possibly help them to prevent such crimes; [and]
 - It might act as a deterrent to potential re-offenders."
- (*ibid*: emphasis added)

The language used in the Consultation Paper is tentative. A register might 'possibly' help with prevention and it 'might' act as a deterrent – a degree of uncertainty is present from the outset. The aims are not clearly espoused and the plural policy objectives are vague. Even the identifying of suspects after a new crime would mean the register had not helped in any way to prevent that crime or make the community any safer.

The parliamentary debate on the Sex Offender Bill during 1996–1997 looked at the possibility of open access to the register and community notification (or Megan's Law³) and decided against such a policy (but as we shall see this remained a theme behind forthcoming changes). The debate also decided against retrospective registration to include the estimated 110,000 convicted sex offenders who would not be required to register and against the inclusion of those not convicted but where there were serious concerns including, for example, the fact that a child had been protected by civil measures (see Thomas, 2004).

Opposition in Parliament was otherwise muted - a general election was in the offing and no one wanted to look 'soft on crime' - especially when it came to paedophiles (often seen as synonymous with sex offender). The sex offender register has often been mistakenly referred to as the paedophile register.

Some background research at this time carried out for the Home Office looked at the experience of registers in the USA. This was after the decision had been made to implement a register. 'Keeping Track? Observations on sex offender registers in the US' (Hebenton and Thomas, 1997) looked at what lessons we could learn from the USA. One of the findings was that no research had ever been carried out on the effectiveness of registers even though the first registers in the USA had been created as long ago as the 1940s:

In reviewing the available published literature on evaluation of registration as an investigative and preventive tool, one is struck by

³ Megan's Law is the colloquial name for Community Notification laws in the USA whereby the public have access to the State sex offender register. This is a Federal requirement made in 1996. Each State is allowed some discretion as to how the access is given and there are slight variations in each state (see Thomas, 2003b).

the dearth of good research studies. With few exceptions, no substantial effort has been devoted to examining base-rates for offending and the scientific literature on long term re-conviction data, nor even to looking at the career path of offenders and the efficacy of registering all (as opposed to some) sexual offenders. Neither indeed have there been any published workload analysis across states in respect of this rapid expansion of registration (Hebenton and Thomas, 1997:34).

The British police were soon to find out how significant those final words about workload would be.

The Sex Offenders Act 1997 that introduced the register was one of the last acts of the Conservative administration that had started back in 1979 and was inherited by Labour for implementation in September 1997. Alun Michael for the new Labour Home Office was as hesitant and tentative in his language as the White Paper had been. He wanted the register to work 'fairly and effectively' (Home Office, 1997a), but when he announced implementation said:

There is no magic wand – so we will be open to new ideas and initiatives – if changes are necessary I will look at how it can be developed and improved (Michael, cited in Home Office 1997b).

The register started slowly and steadily without great fanfare. By 2000 the register reportedly held some 8,608 names and the compliance rate amongst those required to notify was put at 94% (Plotnikoff and Woolfson, 2000:5-6). The compliance rate rose to 97% a year later (Home Office/Scottish Executive, 2001:5) and the total numbers registered put at 29,973 in 2006 (NPS, 2006).

'Strengthening', 'toughening' and 'tightening' the Sex Offender Register

Since its inception the sex offender register has been regularly 'strengthened', 'toughened' and 'tightened'⁴. When the register was reviewed in 2001 the terms of reference of the review were quite specifically 'to strengthen [its] operation and effectiveness' (Home Office /Scottish Executive, 2001:3). David Blunkett saw the register as 'a valuable tool' that 'could be strengthened' (*ibid*, p.1) (see also Home Office, 1997; 2002; and 2007).

Even the original parliamentary Bill had contained new elements that were never in the White Paper. Cautions for example, were never mentioned as being criteria for inclusion on the register but they appeared unannounced in the Bill and were put into the law. Cautions are arguably

⁴ The words are put in quotation marks because this is the language of successive Home Secretaries when they announce changes to the register.

for people thought unlikely to re-offend and therefore not needing to be prosecuted. Registration is premised on precisely the opposite idea that sex offenders will re-offend. The sanctions for non-compliance were also strengthened during the parliamentary debate before we had any experience of the register in practice; this was done at the suggestion of the police (Home Office, 1997c).

In summer 2000 one high profile case in particular was the trigger for the start of more strengthening and tightening of the register and a process that has continued till today. The abduction and murder of eight year old Sarah Payne became the focus of an immediate newspaper campaign demanding open access to the register and a Sarah's Law comparable to Megan's Law in the USA. The riots and recriminations of the campaign by the News of the World have been well documented (see e.g. Thomas, 2001; Silverman and Wilson, 2002 chapter 8); but within two months of the campaign's start (23 July 2000) the Home Office announced changes to the register (Home Office, 2000).

Over the next eight years incremental changes have been made to the register and duties imposed upon those required to register; these changes are listed in Figure 1.

Figure 1. 'Strengthening' and 'tightening' the Sex Offender 'Register' 1997-2008

(1) 2001 Criminal Justice and Court Services Act 2000 introduced five new conditions that registrants are obliged to comply with:

- Initial reporting must be within 3 days;
- The initial reporting must be in person;
- Reporting must be to prescribed police stations;
- Police given new powers to photograph/fingerprint on initial registration;
- New duty to notify police if going abroad more than 8 days.

Non-compliance is made an arrestable offence and sanctions for non-compliance are increased (6m custody goes up to 5 years max.); the new Multi-Agency Public Protection Panels come into being and Restraining Orders introduced as an option.

(2) 2001 Home Detention Curfew (i.e. early prison release with an electronic tag) is denied to sex offenders.

(3) 2001 – lay people are to join Multi-Agency Public Protection Panels – announced within days of the conviction of Roy Whiting for the murder of Sarah Payne – they will have an advisory role only and not be privy to information on individual cases.

(4) 2003 - Sexual Offences Act - a further five new conditions placed on the registrants:

- All changes must be notified within 3 days;
- Annual verification exercises introduced – personal visits required – no emails or letters;
- Must notify any change of address of longer than 7 days;
- New offences added (created by the Act);
- Notification Orders (putting them on the register) may be placed on people who have offended abroad when they either visit or come home;

as well as higher penalties for non-compliance for young offenders

(5) 2003 Criminal Justice Act s 327 requires all those on the register to be 'risk assessed' annually by the Multi-Agency Public Protection Panels.

(6) 2006 in June John Reid demands all those on the register living in probation hostels be moved out of that hostel if it was near a school.

(7) 2006 Violent Crime Reduction Act (passed in November) allows the police to apply to a magistrate for powers to force entry to the home of a registered sex offender to carry out a risk assessment – introduced May 2007

(8) 2006 in December it was announced* that another six offences were being added to the designated offences leading to registration:

- Outraging public decency;
- Theft;
- Burglary with intent to steal;
- Child abduction;
- Harassment; and
- Sending prohibited articles by post

(9) 2007 a Home Office review** recommends the collection of five more pieces of information from those on the register: DNA sample be taken;

- E-mail addresses taken;
- Passport numbers;
- Bank account numbers;
- Notify the police of any children under 18 living in the same household; and
- Notify the police of any foreign travel - of whatever length

and two more obligations be placed on them:

- to report regularly to a police station if homeless;
- to inform the police of any risk factors that might lead to re-offending.

Plus – possible new drug treatments, satellite tracking using GPS, and polygraphs ('lie detectors') and more disclosures on request to those with a need to know (see below)

(10) 2008 new disclosure powers in Criminal Justice and Immigration Act 2008 s140 amending the Sexual Offences Act 2003 with a new s327A – contains a new duty to disclose information to the public on request if they have a legitimate concern; a presumption to disclose if children are known to be in a household, whether or not there is a request.

Notes:

* Home Office (2006) Sex offender register to expand to include more offences (press release) 18 December

Vernon Coaker for the Home Office explained that 'the offences may not seem inherently sexual, but could have had a sexual motive. These changes are necessary to strengthen the monitoring and management of sex offenders'

** Home Office (2007) Review of the Protection of Children from Sex Offenders, June, London (p18)

The underlying themes to the changes

A number of themes can be distinguished that lie behind these 'strengthening' and tightening' exercises.

1. The lack of evidence

The lack of any evidence base to demonstrate that sex offender registers make any difference to community safety has already been noted in looking at experiences in the USA. What subsequent UK evaluation there has been has also noted that:

Forces had no agreed way of quantifying the contribution of sex offender monitoring to improving community safety. In some forces, senior officers had asked for measures to be developed to support cost-benefit analysis ('Best Value'). No single measure of effectiveness emerged from this study as suitable for performance measurement (Plotnikoff and Woolfson, 2000:50).

The problem is a difficult one – how do you demonstrate a negative and show that nothing happened (i.e. further offences) because of your interventions? How do you demonstrate links between registers and recidivism when there are so many other factors to consider? It leaves the register more as an act of faith. Ministers have talked of success in terms of high compliance rates but that is not necessarily the same as a desistence from offending. No one - to the author's knowledge - is researching the degree of re-offending by those currently required to register⁵.

Using the Sarah Payne case again we could say that the furore over community notification and a Sarah's Law overlooked and marginalised the fact that the register in itself had been no help at all. The perpetrator of the offence - Roy Whiting - was on the register when he re-offended to abduct and murder and the fact of being required to notify had had no effect on his propensity to re-offend. The furore - if it noted this at all - did so only to argue for community notification as the answer.

We might also note the marginalisation of what evidence exists on the more micro scale.

The reduction of the initial reporting time from 14 days to 3 days in 2001 ignored the evidence that the police were sometimes unprepared for a person coming in to register within the 14 days they originally had:

Many designated officers mentioned that they first heard about a registration requirement from the offender himself ... [and] failed to receive timely notice from the official sources in the majority of register cases (Plotnikoff and Woolfson, 2000:21).

When the reporting time for all reporting (i.e. not just initial) was reduced to three days in 2003 this ignored the Consultation Paper that had

⁵ At the time of writing – August 2008

suggested it be eight days because three days 'is too short to enable effective action to be taken and would make unreasonable demands on police resources' (Home Office/Scottish Executive, 2001:23).

When the Home Office invited views on the registration of young people (under 18) it again ignored the responses made. A series of more welfare-orientated proposals had been made for young sex offenders (Home Office/Scottish Executive 2001: chapter six) which had received a generally warm welcome from respondents⁶. The Home Office then simply ignored its own proposals and the positive response and even increased the sanction on young people for non-compliance, despite having a compliance rate of 97% (Thomas, 2003a).

As a digression we might also note here why it is that the length of time for registration for young sex offenders is simply halved compared to that of adults. Arguments could be made, for example, that the time periods for young offenders should be longer than for adults given the greater potential for change; especially if a welfare element were added in to this time period. The simple 'halving' exercise was carried just to mirror the Rehabilitation of Offenders Act 1974 (Home Office, 1996: para 54).

2. The influence of the media and the lobbyists

The government has been far more comfortable in responding to media influences rather than research and evaluation evidence where it existed. The reduction of reporting times from 14 days to 3 days (see above) had been demanded by newspapers and the Home Office has been very conscious of a need to appear tough; as Garland says:

Acting out the punitive urges ... [to] assuage popular outrage, reassure the public, and restore the credibility of the system, all of which are political rather than penological concerns (Garland 2001:173).

The ACPO spokesman on sexual offending has himself accused the government of following media agendas at the expense of more considered sources (BBC, 2006). We might also surmise that the quiet rejection of a welfare approach to young people on the sex offender register (see above) reflected a populist need to be seen to be tough on young offenders rather than show any understanding.

The spectre at the feast, always waiting in the background for the last eight years, has been the media demand for Community Notification or Megan's Law with the press even claiming a victory for their campaign when the government announced greater rights of information disclosure to certain sectors of the community ('It's Victory for Sara' News of the World 17 February 2008⁷. These 'rights' are now embodied in the

⁶ A summary of the responses was made available by the Home Office at www.sexualoffencesbill.homeoffice.gov.uk

⁷ Sara was Sarah Payne's mother

amendments made to the Criminal Justice Act 2003 by the Criminal Justice and Immigration Act 2008 (s140).

The more specialist lobbyists have also been successful in influencing policy. The NSPCC came out against community notification⁸ but in favour of tightening up the requirements to notify foreign travel arrangements (Gillan, 1999); such notification has duly been tightened up.

3. The retrospective legitimating of practices already developed

The activities of some practitioners in this field have strayed to the limits of their own guidance and the law. The response has been not to sanction these activities but to legitimise them with changes in the guidance and law. The police photographing, fingerprinting, and taking of DNA swabs of those on the register, for example, was reported in 2000 (Plotnikoff and Woolfson, 2000:35) and later legitimated by the Criminal Justice and Courts Services Act 2000 (s66 and Schedule 5)).

In similar fashion the discretionary disclosure of sex offender registration to certain parties was supposed to be with the authorisation of senior officers. Research found that this was not always happening and that junior officers were taking it upon themselves to make this decision – often spontaneously (Cann, 2007:6). The new law now requires these disclosures to be ‘as soon as practicable’ (Criminal Justice and Immigration Act 2008 (s140)) which seems to cover the spontaneous disclosure and retrospective authorisations.

We might also speculate that there is still no real oversight on the risk assessment process whereby sex offenders are categorised as more or less of a risk to the community. This categorisation usually implies a system of grades Level 1, 2 or 3 with 3 being the offenders most likely to pose a risk and therefore most likely to have information disclosed on them. The process of categorisation is a closed process yet the consequences of a disclosure based on it might have far reaching consequences for the offender being so assessed. An offender, for example, who lost his home following a disclosure of information, might question the process that saw him classified as ‘high risk’. A process that is potentially carried out behind closed doors and that appears to have no legal ‘due process,’ or ‘right of redress’ built into it⁹.

Discussion

The sex offender register is arguably a prime example of criminal justice policy made at a political level in response to perceived populist demands and with no real supporting experience or research to support it. Policy is

⁸ A study for the NSPCC confirmed a further lack of research in this area and that ‘Megan’s Law’ is not an evidence-based policy, but rather a reaction to a series of high-profile crimes against children. Since its implementation, there has been little detailed monitoring and evaluation to ascertain its effectiveness’ (Fitch, 2006: para 8.1)

⁹ The existing system of risk assessment itself seems to suffer from a lack of rigour and supervisory oversight within the police (Home Office, 2005: paras. 7.4-7.6)

made in a vacuum, with ill-defined and hesitant aims, which is then left 'hanging in the air' to be adjusted and amended by politicians listening to the practitioners and specialist lobby groups as well as the public reactions to the latest high profile crime against a child.

Policy created in response to public demand and media recommendations and with no reference to the evidence, is not confined to policies on sex offenders. We have seen the same policy formulation processes in place elsewhere based on populist demands and no evidence. As Tonry has put it, policy is based on a 'belief that [the government's] own continuation in office justifies the unnecessary human suffering and waste of public resources that its policies produce' (Tonry 2004:ix). Or Garland's contention that governments today are:

Highly attuned to public concerns, particularly to the sentiments that offenders are being insufficiently punished or dangerous individuals inadequately controlled (Garland 2002:172).

The sex offender register has moved on the back of these pressures and has incrementally become far more onerous for those required to register. The Home Office has itself speculated about its continuing compliance with human rights regulation:

Challenges to the SOA on human rights grounds have been successfully resisted because the registration requirement has been seen as an administrative consequence of a sentence passed by the court, rather than being a separate sentence in its own right. Were the registration requirement to become more onerous, there could come a point at which the Act could no longer be seen as an administrative requirement (Home Office/Scottish Executive, 2001:13).

This statement was made in 2001 and there have been further changes since that date that arguably make the register more onerous.

As the Home Office says, what legal challenges there have been to the register have been successfully resisted. For instance, in the case of *Adamson v UK* (1999) the European Court of Human Rights has ruled that the requirements to notify do 'engage' Article 8 of the European Convention on Human Rights – the right to a respect for a person's private and family life - but that the requirements are otherwise proportionate (*Adamson v UK* [1999] 28 EHRR CD 209). Others have been unsuccessful in challenging life time registration requirements when there is no court or appeal tribunal that can be approached at any point during that indefinite period (re. Kevin Gallagher [2003] NIQB 26).

A very expensive bureaucracy in the form of Multi-Agency Public Protection Arrangements (MAPPA) has been built up with little or no evidence to demonstrate its worth. Politicians have pushed it in directions that suit their own purposes and practitioners and campaigners have been

able to push it in the directions that they want. The pushing in question has often been based on a high profile crime against a child and that is very difficult to argue against. In the meantime the register has become more burdensome and pressing on the human rights of those required to notify.

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The Elasticity of Rehabilitation

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Abstract

This paper contributes to a debate on what constitutes rehabilitation. Current criminal justice practice tends to focus on lowering recidivism by utilising strategies geared towards cognitive behavioural modification and educational/vocational skill development. The paper focuses on the perspectives of custodial educators in a Juvenile Justice Centre in Northern Ireland. Their definition of rehabilitation is less concerned about lowering recidivism and instead focuses more on meeting the needs of the young people entering custody, more so than preparing them for their return to the community. Education staff present a model of rehabilitation that is fundamentally about improving the lives of young people. Despite expecting young people to return to custody Education staff contend that young people's lives improved because they were exposed to a welcoming, caring and pro-social environment which has helped the young people transform into academic and social achievers whilst in custody.

Key Words: rehabilitation, juvenile, custodial, education

Introduction

This paper emerges from a doctoral ethnographic study of an Education Department within a Juvenile Justice Centre in Northern Ireland. It is an attempt to represent the views of custodial educators whose voices on the potential of education to be rehabilitative are perhaps under-represented in the literature. The following perspectives of custodial education staff represent those who Ward and Maruna (2007:175) refer to as 'confused coalface rehabilitative programmers' who work in an environment bereft of a clear model of rehabilitation.

This paper examines the rehabilitative capacity of education in custody. Rehabilitation is often discussed in terms of behavioural change and reduced criminality. However recent UK reconviction/re-offending

research based on young people identifies that recidivism remains problematic. In this study, education staff frequently acknowledged - and indeed expected - young people to re-offend and as a result return to custody. Despite this, education staff felt that they made a genuine contribution to the young people's rehabilitation. Staff tended to describe young people who came into custody as troubled, with a wide variety of needs including: a lack of confidence, low self esteem, fractured educational backgrounds and damaged relationships with teachers. From this perspective, most education staff members believed that young people were *transformed at least while in custody*. Staff described creating and maintaining an alternative space for young people which was welcoming, caring, and characterised by pro-social modelling and relationship building. Staff described the young people as growing in confidence, elevating their self-esteem and, crucially, academically and vocationally achieving. For the staff, these outcomes constituted their discourse on rehabilitation. This perspective presents an alternative model of rehabilitation still grounded in notions of change or transformation. Custodial education staff argue that rehabilitation is a temporary phenomenon and focuses more on addressing needs and improving lives rather than reducing recidivism.

Methodology

An ethnographic study of an Education Department within Forest Grove Juvenile Justice Centre¹ took place between September 2006 and June 2007; in which the researcher spent on average 3 to 5 days a week over the period of an academic year. A variety of data gathering techniques were utilised including observation, participant observation, semi-structured interviews and focus groups. The researcher carried out a review of policy and agency documentation, as well as gathering information on young people's educational and offending backgrounds and photographing the educational environment. Both education staff and young people were the focus of this study. The researcher observed from the staff room and classroom, took on the role of classroom assistant and taught lessons, shadowed education staff, attended staff and union meetings and participated in staff training events. The researcher carried out semi-structured interviews with 19 education staff members and 11 focus groups from a sample of 31 young people aged between 13 and 17.

Rehabilitation: A review of literature

The literature identifies some conflict over the definition of rehabilitation; however a common theme tends to identify rehabilitation as a process, designed to affect change, transform or correct behaviour. According to

¹ Forest Grove Juvenile Justice Centre is a pseudonym. Additionally, all names used in this paper have been changed to protect the identities of the staff and young people.

Raynor and Robinson (2005) this is the *orthodox* perspective of offender rehabilitation and tends to be discussed as an intervention, or a series of interventions, that have the desired function of bringing about *change* or *reform* (Raynor and Robinson, 2005) in individuals who have been involved in criminal activity. How change or transformation occurs appears to be contested. One such perspective presents criminal justice agencies as correctional interventionists (Duguid, 2000; Maruna, 2001) aiming to correct behaviours envisaged as criminally deviant. The process of *doing* rehabilitation has involved counselling, therapy, (Ashworth, 1997) medical interventions (such as prescribed drugs), behavioural and cognitive training or retraining (Ross and Fabiano, 1985) and educational interventions (Duguid, 2000).

According to others, particularly those who advocate desistance perspectives (Rex, 1999; Maruna, 2001; Burnett and Maruna, 2004; Farrall, 2004; Maruna et al., 2004a; 2004b; Vaughan, 2007; Ward and Maruna, 2007), rehabilitation should be less about trying to change individual's offending behaviour, and more about recognising human agency and the fact that individuals are more likely to make choices to desist from criminality on their own terms (Farrall and Bowling, 1999; Maruna, 2001) - rather than be changed by any rehabilitative interventions. Some argue that factors such as age or maturity contribute to desistance (Hirschi and Gottfredson, 1983; Farrington, 1992; Moffitt, 1993; Maruna et al., 2004b; Farrington et al., 2006; McGuire, 2007). Others argue that social structures or social practices such as marriage, (Sampson and Laub, 1993) relationships (Vaughan, 2007), becoming a parent (Sampson and Laub, 1993; Uggen and Kruttschnitt, 1998; Jamieson et al., 1999) and employment (Sampson and Laub, 1993; Farral, 2004; Farrington et al., 1986; Uggen, 2000) act as significant forces that affect an individual's decision to desist from further criminality.

Rehabilitation: Responding to risk/need

Ward and Maruna (2007) argue that current rehabilitative practice is geared towards a model of rehabilitation that gauges the level of risk an individual poses to their community and responds to that risk level with the appropriate rehabilitative intervention or series of interventions. The current rehabilitative strategy operating in custodial institutions across the UK focuses on trying to lower re-offending and reducing the numbers of people returning to custody, by utilising behavioural and cognitive modification programmes and providing opportunities for individuals to engage in educational and vocational training activity. It is hoped that those who offend may acquire the skills and qualifications that, in the first instance improve basic skills, but also improve their chances of re-engaging in education or finding employment or training opportunities after custody – thus reducing the likelihood of further criminality.

This rehabilitative model has emerged from an evidenced based policy agenda often referred to as 'What Works' which has identified that

cognitive behavioural programming (Ross and Fabiano, 1985; Izzo and Ross, 1990; Lipsey, 1995, Redondo et al., 1999; Feilzer et al., 2004; Cann et al., 2005) and education (Porporino and Robinson, 1992; Duguid, 1998; Wilson et al., 2000; Steurer et al., 2001; Callan and Gardner, 2007) are most likely to reduce recidivism.

However the evidence base for this model remains contested. Harper and Chitty (2005) highlight that much of the evidence originates from the USA and Canada and that this may not translate into a UK context. Furthermore they argue that there are significant concerns about the methodological integrity of many of the studies and that the evidence base in the UK is more modest and contested. Others (Merrington and Stanley, 2004: 18) have argued that despite the message emanating from the 'What Works' literature, evidence in the UK would suggest that it is too early to make claims that significant reductions in re-offending can be achieved. Pawson, (2000:66) described the 'What Works' perspective as a 'dangerous over-simplification'.

Critics have argued that the 'What Works' agenda came to dominate criminal justice practice in custody (Reuss, 1999) and as a result has confined or narrowed (Warner, 2005) the definition of rehabilitation to its ability to reduce recidivism. Reuss (1999:114) elaborates on this perspective:

...educational programmes in prison are frequently assessed as successful when measured against recidivism as opposed to describing the reality of prison classroom practice ... Put simply, the question of what changes suggests that people expect and hope that if an offender attends a particular course or courses in prison, then those courses will stop any future offending behaviour. It is the question most asked of educational practitioners who work within the current penal system in England and Wales, closely followed by: 'How can you show it?' or alternatively: 'How do you know they have changed?'

In Northern Ireland, recent juvenile reconviction research carried out by Decodts, (2005; 2006) and re-offending research by Lyness (2008) indicates clearly that recidivism is problematic. Juvenile reconviction records in Northern Ireland over the last decade have been described as *depressing* (O'Mahony and Deazley, 2000). In 2001, 36% of 10-17 year olds were reconvicted within one year and within 2 years that figure had doubled (Decodts, 2005). The following year, reconviction rates had risen to 42% over one year - however the reconviction rates over two years were not reported (Decodts, 2006). The most recent report examining re-offending patterns in 2005 (Lyness, 2008) identified that 72.9% of young people in custody had re-offended in one year. This report differs from previous reconviction studies, because it examines re-offending patterns *throughout* a one year period, rather than traditionally examining reconviction *at* a one year interval. In effect, the figures are still based on

reconviction via the courts, but the figures show the extent of re-offending by young people. While the 2008 report cannot accurately be compared with previous reconviction reports, there is a clear indication that recidivism remains significantly high among young people who have been in custody.

The reality that young people return to the centre was readily acknowledged by the education staff. Recidivism was discussed as the norm and expected. The following interview transcript extracts identify how staff normalised recidivism:

Author: *Is it frustrating to work in an environment, where you see young people coming back?*

Catherine: Yes. It's not so bad, them coming back once, even twice but when it gets a way up, you just actually realise that you haven't got through so far and they have heard it all, they have done it all and they become, possibly quite immune. One day you hope that the penny will drop, I doubt it. (26.04.07)

Another member of staff indicated:

The reality is, for some of these kids they are going to have to come back two or three times to go through the process, the learning process. You can't smugly stand up and say, rehabilitation and reducing offending, I'll cure you the first time you are here and I will never see you again, that would be foolish. (**Ian:** 17.05.07)

Despite the common expectation that young people would re-offend, most staff at interview still felt that they were making a genuine contribution to the rehabilitation of the young people. What will become evident is that staff tended to conceive of rehabilitation beyond its relationship with recidivism.

Rehabilitation and the 'Good Lives Model'

Ward and Maruna (2007) suggest a model of rehabilitation that emerges from and compliments the risk/need model of rehabilitation. While it remains important for criminal justice agencies to pursue a model of rehabilitation that reduces the likelihood of re-offending, Ward and Maruna advocate a 'Good Lives Model' [GLM] of rehabilitation. They argue that as well as responding to the risk/need paradigm; humans are 'fundamentally social creatures, driven to find meaning in their life through social interaction and individual achievement' (Ward and Maruna, 2007:143). Rehabilitative intervention should also be fundamentally about improving the lives of those who have offended. This model advocates that rehabilitation should also address basic human needs. Ward and Maruna suggest the importance of addressing individual needs of *autonomy, relatedness and competence*.

Autonomy refers to individuals' propensity to self-regulate and organise their experiences and to function as unified, integrated beings. Relatedness refers to individuals' propensity to establish a sense of emotional connectedness to other human beings and to seek the subsequent goals of feeling loved and cared for. Competence refers to the propensity to establish a sense of mastery in one's environment, to seek challenges and increasingly to master them. (Ward and Maruna, 2007:144)

This paper presents a model of rehabilitation which reflects aspects of this Good Lives Model. Of particular significance is the notion of *relatedness*. Staff frequently discussed how building and maintaining relationships with young people was a rehabilitative pursuit as well as creating a welcoming and contrasting environment that promoted respect and pro-social values. Education staff promote a model of rehabilitation that focuses less on addressing the risks that young people pose to their communities and instead focus more on a model that attempts to improve young people's lives and compensate them for missed opportunity.

Research findings

The model of rehabilitation put forward by custodial education staff at Forest Grove Education and Learning Centre

From the outset education staff at Forest Grove characterised young people as having multiple and complex needs, alongside coming from turbulent and unstructured backgrounds. Staff argued that the young people tended to lack cognitive, moral, social and emotional skills; they were disenfranchised from education, lacked educational skills and often had poor relationships with teachers from formal education. Others highlighted that many young people came from difficult family backgrounds where abuse was commonplace, with some referring to histories of alcohol and substance abuse. The following extracts summarise this need perspective:

A lot of young people are very damaged in lots of ways. So if we can help them to become more rounded then that's a form of rehabilitation. I think it is very important. It's the start of a process that will go on outside. (**Catherine:** 26.04.07)

As an alternative, staff identified in interviews that they felt their role was about creating a contrasting environment that was characterised by structure and routine, where activity and achievement could be meaningful, purposeful and celebrated. In this environment, staff felt that young people could develop their social, personal and educational skills:

...we are here to give them back their own self respect as well. A lot of re-offenders have no respect for themselves, no self worth. They are out there, doing things they might not necessarily even want to do themselves but they don't think that they are capable of anything else, you know? They have no confidence. I think by coming to the school they gain confidence, they gain self respect, they gain all those... It's part of their social skills as well, where they are in a controlled environment where they are not just talking about crime and cursing and things like that. I think the school is really multi-functional and it does in a way go towards helping prevent re-offending. (**Carol:** 05.12.06)

It provides structure for the young people's day. It provides a meaningful input for the day. It is meaningful activity, which is interesting, engaging and that's sounds really stupid because most of these kids haven't been in school for couple of years. (**Betty:** 29.11.06)

Education staff tended to respond to need by employing three broad approaches, which I will argue, formed the Education/Learning Centre's rehabilitative strategy. Education staff described that they:

- Attempted to create a contrasting and pro-social environment
- Focused on building relationships with young people
- Provided opportunities for young people to acquire skills and qualifications

Creating a pro-social environment

There are a variety of studies and emerging literature that examine the potential of using a pro-social approach when working with those who have offended (Trotter, 1990; 2000; 2002; 2006; 2007; Rex, 1999; Rex and Gelsthorpe, 2002; Burnett, 2004a; 2004b; Cherry, 2005). Ultimately being pro-social involves a combination of promoting and reinforcing particular types of values that encourage a pro-social lifestyle (Cherry, 2005:20). The particular values that an institution or an education staff member would hope to instil or promote must be the same values that they are prepared to model. According to Cherry (2005:2):

Pro-social modelling refers to the process by which the worker acts as a good motivating role model in order to bring out the best in people. The worker engages the client in an empathetic relationship within which they actively reinforce pro-social behaviour and attitudes and discourage anti-social behaviour and attitudes.

The role of pro-social modelling for most staff tended to be discussed as a process designed to change, alter or challenge behaviours

and values. For most, pro-social modelling was described as an explicit strategy, rather than an implicit one. Pro-social modelling was presented as a mechanism by which staff could promote values that they felt offered young people contrasts to the perceived anti-social values that young people held and were exposed to in the community. Staff tended to identify a variety of values and behaviours that they were keen to change or challenge. For some, *swearing*, *shouting* and *using fists* were examples of behaviours that they hoped to challenge:

By treating them along the same level as myself; by being absolutely consistent. If they swear, I don't accept that and they accept that I don't accept it and they don't do it. There is very rarely occasions where there is a swear in here. They may well start and they will say oops sorry and they will stop, I react I suppose. I won't do it, they will never ever hear me swear. (**Frances:** 15.05.07)

Many staff argued that pro-social modelling was about creating and maintaining a consistent environment and positive culture:

In terms of pro-social modelling - I am not going to use my fists and I am not going to shout and rant and rave. One of the learning outcomes is that there are examples of Gavin sitting down and talking to [Ian] about his bad hair day. ... We slow the whole process down, let's talk about this, let's explore this. It goes pear shaped, they throw wobblers, they leave, they walk out of their rooms, they are taken out of their rooms, but I think by and large we have a culture of working with kids and supporting kids and the fact that you don't have 22 removals a day. The culture amongst the staff and the environment is a positive and supportive one and I think that it is part of what we have to do. (**Ian:** 17.05.07)

Staff argued that they modelled behaviours that they hoped young people could emulate. Staff frequently talked about having a *calming* and *positive* influence on young people.

Relationship building

Wright (2006) proposed that relationship building and a caring attitude were at the 'heart of prison teaching'. The frequency with which relationship building was mentioned at interview and in general discussions with staff throughout the study suggests that relationship building was at the *heart of teaching* at Forest Grove. Staff often talked about the importance of building and maintaining relationships with young people. Evidence of this is reflected in conversations with young people who highlighted that they felt that teachers took them seriously, listened to them and helped maintain a positive and enjoyable learning environment:

Author: *What makes the teachers in here different from those teachers in school?*

Barry: Cos the teachers in here take us serious

Warren: Teachers in school think they are a lot better than us

Barry: In here they work with ye. See in school, they just stand up and beat your self down, ... and then go home more or less

Warren: Teachers in here when you do the work, they have a bit of craic with ye have a bit of a laugh, while you are working

Barry: Teachers in here do show that they want to help ye, teachers in school they just don't, I dunno?

Author: *You say teachers in here do want to help you?*

Warren: Teachers in schools have a lot of more people to look after, in here there are 3 or 4 people in a class in school there are 20 to 25 people in a class

Barry: Teachers respect you in here

Warren: Aye (08.03.07)

Relationship building appeared to act as the central mechanism which maintained a pro-social environment, allowing the staff to both engage and manage the young people whilst they were attending the Education and Learning Centre. Trotter (2006) describes the role of someone who works with involuntary clients - such as a young person in custody - as having a dual social control and welfare role (Trotter, 2006:87). This duality is reflected in the following transcript extract:

You couldn't have a class, you couldn't do anything if you didn't have some sort of relationship with the young people in here. The main thing is the trust, that you are not gonna laugh at them or that you will listen to what they have to say and respect what they have to say otherwise nothing will work. (**Frances:** 15.05.07)

Relationship building techniques often involved listening, talking, being respectful, being consistent, using humour and being empathetic. Staff explained that they would often talk to the young people, informally counsel, and give advice about their future plans.

They all have days where maybe they have had a phone call from their Mum saying she is not signing bail or whatever... But they are gonna come into the classroom and they are going to tell you that, they are going to want to talk to you about that. They are gonna tell you why they are upset. They are very open about their feelings, well, most of them are. Having a positive relationship has a positive effect on them and the whole aspect of their education and the education centre. (**Sharon:** 26.04.07)

Some staff explained that once they had built a relationship with the young people they were able to engage them, motivate them to learn and achieve. Some felt that they were able to engage young people directly about their offending behaviours:

It is one thing to build a relationship, but on the other, are we using that type of relationship to help, transform the young person? **(Bruce: 23.11.06)**

Relationship building was also discussed by many staff members as a means of maintaining control in the classroom. For many staff, having good relationships with the young people meant that there was less disruption and discipline issues. Several members of staff identified how they used relationships they had developed to manage the behaviour of other young people, especially those new to the centre:

I think the interaction and the relationship building that you have with young people is probably the most important part of it, even in front of education and control. If you build a relationship, control becomes easier and therefore it opens the door for educating. Engagement, having respect for each other... the kids will do stuff and ask you can they do this rather than charging on, if you set those simple rules but not sternly or a dictatorial thing. It's just letting them get to know each other. **(Robbie: 30.11.06)**

Gaining skills and qualifications is rehabilitative

...it has been more about trying to engage them than actually doing anything meaningful. A lot of work has been put in to just trying to get them there and be engaged. **(Betty: 29.11.06)**

According to Hurry and Moriarty (2004) those in custody are more likely to have poor qualifications, likely to have been excluded from school and to have truanted. They are more likely to have significant literacy and numeracy needs and likely to experience unemployment. Desistance literature (Sampson and Laub, 1993; Graham and Bowling, 1995; Saylor and Gaes, 1997; Berridge, et al., 2001; Hayward et al., 2004; Haslewood-Pocsik and McMahon, 2004) identifies education, exclusion, low attainment and unemployment as significant predictors of criminality. According to Berridge et al. (2001:vi) exclusion from school has the potential to 'loosen a young person's affiliation and commitment to a conventional way of life'. It therefore stands to reason that addressing educational needs and striving to re-engage or keep young people engaged (YJB, 2007) in education may impact on their offending behaviour as well as providing opportunities to gain skills and qualifications in order to find employment or training. Addressing skills and qualifications is presented as a rehabilitative pursuit,

by providing and assisting those who offend to find education, training and employment (ETE) opportunities after custody and thus not re-offend.

However the dominant model of custodial education discussed by education staff members tended to focus more on re-engaging young people with education and learning whilst in custody. As a result education staff talked less about preparing young people for life after custody. Many staff identified that the role of custodial education was more about immediate enrichment, providing structure while in custody, providing stimulus throughout the day, reacquainting the young people with school and the classroom (Stephenson, 2007) and providing the young people with varied educational opportunities and experiences. Education in custody is presented as an opportunity to *redress missed opportunities*:

The first thing I was told was engagement which to me is another word for relationship building. It is offering the opportunity for the kids to better themselves. I love the fact that they are learning new skills that they are willing to do because it is practical. The practical thing seems to be getting bigger and bigger. Its things like, woodwork, mechanics, catering, horticulture, all hands-on stuff. It does give them an opportunity to try stuff that they have never ever tried before. **(Robbie: 30.11.06)**

Similarly:

The role of education [in custody] is to try to re-integrate the kids into education in a lot of cases, because a lot of our kids come from a place where they don't really engage in education. Some of them have been out for such a long time. So part of our role is re-engage them in some sort of meaningful and structured work. **(Caroline: 21.06.07)**

What becomes apparent after examining these transcript extracts is that most staff tended to view educational achievement as a rehabilitative process in itself. Evidence of rehabilitation is presented as: young people coming to education again and engaging in *any* educational activity. The notion of educational re-engagement and rehabilitation become intertwined. Staff tended to characterise young people as entirely disengaged from education and therefore were able to present any type of educational engagement as successful endeavour:

I think basically we are dealing with kids that are educationally disadvantaged, that are educationally challenging, and I think it is even a success for some of them if you can get them to sit on a seat. If you can get them to tune in for 15-20 minutes of a 40 minute period or you can get them to actually interact with you in a pleasant manner where they can put a wee bit of effort in to their work and basically that you can show them that this is working you

towards a certain goal. It has to be short term goals for our kids.
(Daniel: 05.12.06)

Rehabilitation is confined to the custodial experience

What emerges from examining the rehabilitative approach proffered by education staff is the emphasis placed on engaging young people while they are in custody. Staff *mostly* conceived of rehabilitation as a short term process, confined to evidencing changes while the young people were in custody. Coupled with this, the prevailing view amongst staff was that young people would re-offend after leaving custody and would return to the centre.

The aims of education in custody according to Youth Justice Agency Website (YJA, 2008) appear to present a model of custodial education that focuses on engaging young people whilst in custody, more so than preparing young people for leaving custody. The rehabilitative potential of custodial education is presented as a temporary, short term process:

- Provide an enjoyable and worthwhile time
- Improve basic skills – reading and writing, number work
- Help young person pass exams
- Learn new things
- Build friendships
- Build confidence

With staff, there was *some* discussion on the rehabilitative potential of education in the context of impacting on recidivism and preparing young people for their lives after custody. However in most cases, discussions about education as a rehabilitative pursuit tended to focus on addressing the need/inadequacy conditions of their entry into custody and less on the potential of education to impact on their lives once they left custody.

Many of the staff appeared to focus on providing evidence of how a positive, caring and pro-social environment impacted on the young people during their stay. Table 1 highlights the type of rhetoric that staff used to describe the young people since coming into custody.

Table 1: Indications of Rehabilitation

<ul style="list-style-type: none"> • Settled • Safe • Learning new skills • Happy • Re-engaging 	<ul style="list-style-type: none"> • Experiencing • Confident • Achieving • Stabilising • Gaining self-respect
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Robbie, a staff member, described rehabilitation as a *change in lifestyle* and felt that the Education and Learning Centre was capable of achieving this;

however he did not think this *change* was able to be maintained outside of custody:

Rehabilitation could mean change their lifestyle, we can do that. You see so many times in here, where the kids do come in and buy into it, they are actually rehabilitated while they are in working in here or while they are in the centre. The behavioural patterns are broken, they don't have the same chance to do what they want to do, but that is ok in a controlled environment, not ultra controlled but in a closed environment where they have to exist, this is the way to do it. Yes they do rehabilitate. But, once they are released out that front gate, the support services aren't there to make sure that they are continuing to do that. (**Robbie:** 30.11.06)

Education staff appeared to adopt a position that talked about change and transformation in an orthodox manner but that rehabilitation was confined to the custodial experience. Adopting this position allows education staff to avoid using recidivism as an indicator of efficacy. Education staff argue that rehabilitation can also be conceived as a temporary process that can take place in custody. Change or transformation occurs because staff felt that they could create an environment that contrasts with many of the experiences that young people have had prior to coming into custody.

Discussion

This paper argues that the notion of rehabilitation is contested and as suggested by Raynor and Robinson (2005) *problematic*. A variety of perspectives have emerged in this paper that demonstrate that rehabilitative terminology can be used flexibly. Ward and Maruna (2007) identify how academics and practitioners tend to use a variety of terminologies such as *resettle*, *reintegrate* and *restore* to describe rehabilitation. Rehabilitation is used to describe a process aimed at changing an individual, *transforming* (Reuss, 1999) an individual and even healing an individual - as much of the medicalised rhetoric suggests (Duguid, 2000). Rehabilitation to others is a process that should be less about trying to do onto others or change individuals and more about creating or facilitating situations where individuals can desist from criminality themselves. In this case, rehabilitation is about helping individuals change on their own volition (Farrall and Bowling, 1999; Maruna, 2001). Others have argued that rehabilitating offenders may not *work* and that almost no interventions have any appreciable affect on offending or re-offending behaviour (Martinson, 1974). Rehabilitation has also been described as a process aimed at preventing re-offending and as such, recidivism figures have become the measure of rehabilitative efficacy

(Reuss, 1999). Some are critical of this perspective describing this 'What Works' perspective as narrow (Warner, 2005).

Some advocate that many of those who offend do not reason well, have cognitive difficulties, have trouble making decisions and are morally deficient (Ross and Fabiano, 1985). As a result, addressing an offender's cognitive and moral reasoning capacities could be considered rehabilitative. Others have argued that offenders typically lack educational, personal and social skills (Berridge, et al., 2001; Hayward et al., 2004; Haslewood-Pocsik and McMahon, 2004), and therefore providing opportunities for skills development in these areas can be rehabilitative. These strategies tend to reflect modern criminal justice systems influenced by a 'What Works' perspective or an evidenced-based approach. Modern custodial facilities tend to concentrate on education and cognitive development as the main rehabilitative strategy aimed at tackling offending and re-offending behaviour.

Others (Ward and Maruna, 2007) have argued that rehabilitation is not just about reducing crime or addressing and minimising risk and should also be about addressing fundamental human needs and improving lives. The views of the custodial educators in this paper contribute to this perspective.

Conclusion

An additional theme that has emerged from this paper has been not so much about trying to define or argue for a concrete definition of rehabilitation; instead, what has become more interesting is how academics, agencies and practitioners talk about rehabilitation. It has become evident that rehabilitation is not only a contested definition, but also has a particular elasticity.

This elasticity was particularly evident in discussions with education staff at Forest Grove Education and Learning Centre. Overall, staff talked about rehabilitation from an orthodox perspective, as a process designed to bring about change. However, for the most part, staff did not talk about rehabilitation in terms of impacting upon recidivism as is reflected in much of the literature. Most staff expected young people to return to the centre because of re-offending. Yet despite this, staff still felt that they were involved in the rehabilitation of the young people. Interviews with education staff identified that their rehabilitative strategy comprised of three aspects:

1. Creating and maintaining a safe, welcoming, pro-social and alternative space for young people who have offended
2. Actively pursuing relationship building between young people and staff as the principle mechanism for maintaining the rehabilitative environment

3. Facilitating achievement and skill development

Crucially, education staff described a short-term process that was confined to and occurred during the custodial period. Most staff described that they could evidence change or transformation (Reuss, 1999) that occurred in custody, but that they felt that rehabilitation for most young people, *stopped at the gates*. Most staff felt that young people faced a wide variety of personal and social issues in their communities. The literature may identify these issues as criminogenic risks (Farrington, 1997), but staff tended to translate these risks into personal and social needs. As a result, staff tended to describe young people as troubled, damaged, under-confident, having low self-esteem, having fractured relationships, and not achieving. In turn, adopting this perspective the staff tended to focus a rehabilitative strategy on addressing the conditions of entry into custody rather than the preparation for leaving custody.

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Call the (Fashion) Police

How fashion becomes criminalised

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Abstract

This paper examines and reviews how fashion comes to be associated with crime and deviance, and postulates that contemporary fashion, dress and style are an important, yet frequently overlooked, dynamic with which criminologists ought to engage. It begins by looking at the evolving way in which fashion trends have traditionally been linked with crime and deviance (and control) before charting the emergence of contemporary concerns regarding forms of dress focusing, particularly on the 'hoody' and a more niche variant, the 'goggle jacket'. Drawing upon cultural criminology, the paper examines the stylistic presentation of the self (Goffman, 1990 [1959]) through attire and clothing. Finally it examines a contemporary paradox whereby the fashion industry makes capital out of branding its items so to make them seductive by virtue of their links with deviant image; yet paradoxically those wearing such items can face the consequence of increased surveillance and social control.

Key Words: fashion, crime, hoody, goggle jacket, cultural criminology, urban space

Introduction: 'Fashion crime'

An allegation made of those who would align themselves with the emergent perspective termed 'cultural criminology' is a tendency towards seeing the quite recent past as a 'golden age', now lost to the late-modern period (O'Brien, 2008). There may be some truth in that allegation, as when examining the 'new', multiple and various ways in which crime and crime control intertwine with the 'new' cultural dynamics born out of late-modernity, it is easy to overlook historical continuity.

For instance, on Monday 5 July 1736, before the Rt. Hon. the Lord Hardwick, Lord Chief Justice of England, James Baylis and Thomas Reynolds were tried by a special jury. After a case lasting some time (four hours was

then a lengthy trial) the pair were found guilty of a capital crime. On 10 July, both men received the sentence of death. Baylis sentence was later reprieved. Reynolds was sent to the gallows (Ordinary of Newgate, 1723).

In London on the 26 July 1736, the execution of Reynolds was spectacularly bungled. After his 'death' on the rope, his 'lifeless' body was cut down. However, as the executioner attempted to close his coffin, the 'executed' man thrust back the lid. Block and Hostettler (1997) tell of the hangman's attempts to make good his former failing, but the crowd angrily interjected and carried Reynolds to a local public house. He vomited three pints of blood and was given brandy, but still died a short time after. While Reynolds' execution has received much attention because of its exceptional nature (Ordinary of Newgate, 1723; Block and Hostettler 1997:31) his crime was also something quite different.

The sentence of death had been passed on Reynolds because he had violated the 'The Black Act' (or the Waltham Black Act). Reynolds had been involved in a Turnpike riot in Ledbury, Herefordshire. There, it was alleged, he had disguised himself in a woman's dress and hat, and deliberately 'blackened his face' (Reynolds refuted these details, but testimony at his trial told he had purchased the items only shortly before committing the offence). It was that act of disguise, rather than riot or violence which ultimately cost him his life.

To press this point further it is perhaps worth providing more detail on the Black Act. Passed in 1723 while Sir Robert Walpole was Prime Minister, it was enacted, principally as a means of protecting royal parks and forests, and the property of the nobility (Block and Hostettler 1997:20). Pre-empting its passing, a group of deer poachers had been apprehended in the Epping and Windsor Forests near Waltham. The bandits had blackened their faces, which gave both the group (the Waltham Blacks) and the subsequent Act their names. The act added fifty new capital offences to statute, including 'damaging ponds to allow fish to escape' and 'cutting down or otherwise destroying any trees in any avenue, garden, orchard or plantation'. Other categories of offences included people who were found to be:

- Armed with swords, firearms or other offensive weapons, and having their faces blackened
- Armed and otherwise in disguise
- Having their faces blackened
- Otherwise disguised

It is also the case that the carrying of weapons was regarded as less significant than having ones face blackened, with the later clearly the most offensive to the state (Malcolm, 2002). While it might seem strange that I begin this piece by considering the bizarre case of Reynolds, I feel that the Black Act tells us something of the recurrent concern that links offenders with what Goffman would term 'dramaturgical accomplishment' while

involved in crime (Goffman, 1990[1959]). It suggests there is long held concern with offenders' fashion, particularly concerning disguise. The types of attire that have concerned the state have varied, for 'Waltham blacks', the Edwardians' Peaky blinders (Pearson, 1983) and now in contemporary Britain, the hoody and the 'goggle hoody' jacket.

A quick read through early descriptions of criminals shows clearly the way in which 'offenders' and 'criminal classes' have long been regarded visibly different – for example note Lombroso's concern with the tattoo which he read as a mark of atavism, a stigmata on the body that could be helpful in identifying the criminal (see Morrison, 2004). Yet making fashion synonymous with criminality is not my aim here. Instead, what I propose is that it is not so much the study of fashion as a sartorial style that is of merit to criminologists, but rather it is the case that, once we move beyond the attire, we can see something more of the social structure. This is not new; take for example Cohen's observation that:

The Mods and Rockers symbolised something far more important than what they actually did. They touched the delicate and ambivalent nerves through which post-war social experience in Britain was experienced (Cohen, 1972:192).

It is in this spirit of inquiry that cultural criminology has re-discovered 'style' (Ferrell, 1995), recognising that style can tell us something of the contemporary moment. Clothing-as-fashion is one of the prime conduits for the construction of identity (Niederer and Winter, 2008). Fashion and its particular icons communicate non-verbal cultural and social ascriptions, and fashion apparel, most notably clothing, is clearly one of the foremost features of demonstrating affluence, or lack thereof. Fashion is integrated in people's everyday lives, it is one 'of the ways ... in which the social order is experienced, explored, communicated and re-produced' (Barnard, 1996, *cited in* Niederer and Winter, 2008:690). Fashion theory, as an extension of social theory, 'can be used to explore conflicts involving class, race, religion and sexual preference – all of which are cultural issues of politics, consumption and identity' (Niederer and Winter, 2008:691), which in turn, are all issues with which cultural criminologists engage.

Traditionally cultural scholars who infused criminology with their qualitative work suggested fashion styles could be interpreted as acts of 'resistance' (Hall and Jefferson, 2006 [1976]). A number of these early qualitative studies (often the product of academics aligned to the Birmingham Centre for Contemporary Cultural Studies) noted the role of consumption in the construction of working-class youth subcultures beginning in the post war. Academics such as Hebdige examined the ways in which distinctive styles (such as punk and skinhead) were mobilized as forms of resistance to the marginalization of the working classes in the context of economic uncertainty. This work served to demonstrate the significance of consumption in the construction of identity, the struggle for

status and the negotiation of social position. However, the symbolic resistance that accompanied the punk's safety pin and the skinhead's Doc-Martins was seen largely as a bottom-up process, whereby young people inverted and manipulated cultural symbols for their own purposes (Hebdige, 1979).

Of course with the benefit of time and hindsight it is possible to suggest that such a view tends to neglect the origins of punk, as 'sold' from Malcolm McLaren and Vivienne Westwood's *SEX/seditionaries* boutique on 430 Kings Road, Chelsea. It can be argued that punk might have been more a product of art college privilege than any genuine working class solidarity. It would follow that punk was as much top-down fashion, generated from above and adopted by the streets, as it was about resistance or the creation of authentic sub-culture by young people (Jewkes, 2004:79).

This is something some cultural criminology seems to have recognised. In focusing on consumer culture, cultural criminologists have noticed that the generation of fashion is in part a corporate-driven process (see Hayward, 2004; Hayward and Young, 2007). As an emergent perspective cultural criminology has retained a concern with resistance, symbolism and style, but has also added recognition of the more consumer and market driven nature of contemporary life.

In many ways, it is continuing the traditions of early cultural scholars, but reworking them for a new late-modern epoch (Hayward and Young, 2007). Cultural criminologists for the most part have preferred the term 'style' to fashion, as its scope is broader and it captures more than fashion alone, and is:

... embedded in haircuts, posture, clothing, automobiles, music and the many other avenues which people present themselves publicly. But it is also located between people, and among groups; it constitutes an essential element of collective behaviour, an element whose meaning is constructed through the nuances of social interaction. Style defines the lived experience of ethnicity, social class and other essential social (and sociological) categories... in moments of lived experience style becomes the medium through which social categories take on meaning (Ferrell, 1995:170).

Yet clothing as fashion is clearly one of style's core conduits. As a period 'unique [because of] the way that the creation and expression of identity via the display and celebration of consumer goods have triumphed over and above other more traditional modes of self-expression' (Hayward, 2004:144), style in late-modernity is inescapably linked to consumerism. The clothing industry is one of the core conduits of this consumerist phase. Selling what has been termed 'the charade of self improvement' (a term that captures the mood of the times where individuals can create identity through purchase and acquisition of consumable items, yet paradoxically are driven by narrow need for conformity - see Hayward, 2004:72). Elsewhere Hayward and Yar (2006) have demonstrated how this charade

is played out, as forms of consumption bring with them exclusion. They examine the emergence of 'chav' (a term used to describe young people associated with excessive consumption of some fashion branded items). They argue:

... the 'chav' represents a popular reconfiguration of the underclass idea. However, we are also keen to note the way in which the concept of social marginality is reconfigured in this substitution ... the discourse of the underclass [is] turned crucially upon a (perceived or real) pathology in the working classes' relations to *production* and socially productive labour. Its emergent successor, the concept of the 'chav', is in contrast oriented to purportedly pathological class dispositions in relation to the sphere of *consumption* (Hayward and Yar, 2006:9, emphasis in original).

Socially excluded groups, it seems, are no longer regarded with disdain because of their seeming pathological lack of attachment to work, but rather, disapproval is now premised upon their style and preference for vulgar and conspicuous displays of 'mainstream' fashion apparel.

In this paper I draw on this cultural criminology in interpreting fashion and criminalisation, specifically focusing on the 'hoody' and 'goggle hoody' jacket. A possible criticism is that this risks, as Cohen (1972) has noted, an 'over-reading' of style and signs. The point of Cohen's observations was that, traditionally, sub-cultural scholars had demonstrated a tendency to privilege the spectacular and resistance at the expense of the ordinariness of sub-cultural life or alternate readings of sub-cultures. However, for the most part, my argument here does not hint at a single reading. I certainly do not see - to use Cohen's terms - the hoody wearer as either 'frustrated social climber' or 'cultural innovator and critic'. Indeed, I see little commonality between my position in this paper and that of Birmingham Centre scholars (e.g. Hall and Jefferson, 2006 [1976]), other than a broad concern with fashion. Unlike them, I argue that there is little authentic resistance. And as I hope I make clear, the resistance that I allude to is, for the most part, *purchased* sartorial resistance that is manufactured more in the boardroom than on the streets. In this paper I take the view that the main reason young people purchase and wear hoodies and goggle jackets is not symbolic resistance, but conformity with stylistic convention. Yet I appreciate there are other readings that might be made of the hoody and goggle hoody. I accept, therefore, that my line is but one reading.¹

¹ For example, I have no doubt that for some the hoody and goggle hoody are useful devices in the commission of crime, and for some wearers it might be to achieve power and, potentially, to exploit and bully other outsider groups. However, I do not see the fashion industry or sub-cultural display as resistance. Indeed I am closer to the belief that in contemporary consumer society there is little authentic resistance; rather I take a view that every fashion fad and foible is the product of consumerism, even when it seems quite ardently anti-consumerist (for a more detailed contemporary argument see Hall et al. 2008).

My interest in fashion and crime commenced in the 1990s when buying *Stone Island* to wear to football matches. Much of what is presented here builds on this personal experience and is best described as a multi-method approach, drawing on various ethnographic fieldwork projects with active offenders and young offenders (in an array of settings), interviews with security staff in shopping centres, interviews with those involved in and around the fashion industry, and content analysis of newspapers. What is presented forms only a small part of far more substantive material gathered during a number of empirical fieldwork projects, some more background detail of which appears in Williams and Treadwell (2008).

The emergence of the 'goggle hood'

Popular representations have long held that youthful groups associated with particular stylistic fashions constitute the greatest threat to civil order; indeed in criminology this is a recurrent theme (Pearson, 1983). The most recent of this long legacy of concern, and perhaps the single most relevant to those examining contemporary constructions of 'deviance', is the 'hoody'. This is a sartorial choice that serves, in the eyes of many of the public, as a hide-the-face declaration of criminality.

The hoody (a term used to describe hooded sports apparel principally worn by young people) and the goggle hoody (a more niche variant that can cover the face partially or fully and includes goggle lenses affixed to the hood - see Figure 1) are not uncommon on British streets as fashion wear amongst young people. I shall on occasion shift in discussion between the hoody and the goggle hoody. While the latter is a less apparent and has been less discussed than the former, both articles of dress are essentially similar and variants on one another – the goggle jacket has been cast (as this piece suggests) as a 'hoody' and subject to many of the same connotations.

Figure 1. Example goggle hoody



In late 2007 British newspapers began to report what they referred to as an 'alarming new development'. The stories concerned the growth in popularity amongst 'young wearers' of the 'goggle hoody'. Alternative descriptions included the 'super hoody'; 'gas mask hoody', and perhaps most interestingly *The Times* newspaper's label, a 'burqua for boys' (Tahler and Hind, 2007). These reports surfaced at a time when there had already been an established concern with 'the hoody' as a fashion choice amongst young people for some time. The goggle hoody was variously described as the 'new uniform for the ASBO generation', 'essential thug/ yob wear' and an 'intimidating fashion trend'. Reportedly, it was selling at what was at 'an alarming rate'. In the space of one week, seven national tabloid and broadsheet newspapers ran stories on the topic. There was similar widespread reporting on local television and newspapers. The newspaper the *Metro* (which now has the highest circulation of any daily newspaper in the UK and is given away free in various public places) placed a prominent story on its emergence noting that:

Anyone who feels intimidated by youths wearing hoodies should probably look away now - it's the goggle jacket... The latest incarnation of the hooded top... appears to have more in common with a gas mask than designer wear, leaving just small plastic discs for users to see through (Metro, 2007).

Many of the stories were reproduced on websites. Blog and comment sites linked to the newspapers publishing the story quickly began to receive public comments, many of which described unease at the jackets; for instance:

These jackets are ridiculous! my son is 11 years old and has just been dragged to the ground and mugged of his mobile phone by three youths of about 15 years old he cannot identify them and cant [sic] stop crying he is afraid to go to out. now you are telling me these jackets are nice. i dont think so they make it easier for people to commit crimes and get away with it it [sic] is damn discusting [sic] and i am going to start a petition and get it to parliment [sic] and get these BANNED! (Posted on *Metro.co.uk*, 9 December 2007²).

Ooh yay, give the chavs something to make themselves COMPLETELY anonymous. Now they don't have to worry at all about being recognised and caught when they're mugging/raping/killing/stealing. GREAT idea' (Posted on *The Student Room*, 12 December 2007³).

² Available at: www.metro.co.uk/news/article.html?in_article_id=79052&in_page_id=34

³ Available at: www.thestudentroom.co.uk/showthread.php?t=495536

In keeping with Cohen's 'Moral Panic' thesis (1972), it is interesting that such public expressions have been made at a time where there are broader connected anxieties about youth and crime, in particular a spate of fatal stabbings among young people. Yet I will argue that the 'goggle hoody', and its wider adoption by a significant section of youth, can be read as significant in its own right, indicative of wider late-modern processes in relation to the marketing of crime and transgression, and social practices concerning the increased relegation, monitoring and control of male youth where public space is concerned.

Interestingly the goggle hoody so lamented by the press is not new. British youth are being sold clothes that are inspired by the criminal imagery of the football hooligan, blended that with American gang culture. The goggle hoody is by no means a recent creation, indeed ironically it is the product of Italian high-couture. The first goggle hoodys (then called the 'Mille Miglia') arrived on the shores of the UK with little comment in the late 1980s; a homage to the protective clothing worn by Italian drivers in the road race from which the product took its name.

The designer of the jacket, Massimo Osti, had established his name amongst discerning football hooligans with his revolutionary jacket designs for the Italian Sportswear Company *Spa*, sold as *Stone Island* (a label still synonymous with British football violence). Arguably, this is where the association linking the goggle hood to criminality becomes most obvious, as *Mille* jackets - and a later full-face covering version called *The Explorer* - came to be 'must have' items for football lads in the 1990s (Thornton, 2003). Thornton has noted the football casual movement, which commenced in the 1980s, drew heavy inspiration from other youth cultures such as mod, skinhead, suede head and soul boy, while also having its origins in British youths travelling to European football matches, where they began to seek out exclusive brands as a form of competition and a means of demonstrating regional superiority. He suggests 'the scene':

... brimmed with vibrant self confidence and optimism, and yet was all too often disfigured by needless, internecine violence ... Scally/Casual has always been a lifestyle that operated on the margins of criminality and gangsterism (Thornton, 2003:10).

For football hooligans the underpinning logic of adopting expensive clothes was avoidance of police attention - and using designer ware and comparatively more expensive modes of transport ('intercity', rather than football special trains) ensured this. Moreover, they could readily identify others dressed like them, but following other clubs, who would be willing to fight - but also demonstrate the ability to acquire core items most admired by peers (see Hobbs and Robbins, 1991).

The new 'goggle hoods' now present on the streets of the UK drew stylistic expression from that source, with reworking by way of American street/gang culture. In the United States, circa mid 1980s, sports clothing was adopted as part of the street image of young black men and women.

The 1986 hit track by *Run DMC*, 'My Adidas' confirmed the sport brand had similarly landed in the US (Polhemus, 1994:107). Sports clothing, and combat attire, became uniform for 'street gang members, which in turn was subsumed into emergent rap music scenes on the East and West coast. Sportswear for American football and basketball teams was often based upon iconography of ferocity and raw strength, and this uniform became synonymous with individual gangs, as Miller notes:

Georgetown shirts mean 'gangster'. Raiders mean outlaw. Um, The Bulls, because of the violence of the Bull, it means, uh, you know to run over people. You will find that a lot of gangs have taken up the sports clothing and it's a really big industry right now, and you'll notice that a lot of them wear the violent-type animals, like the bulls and the bulldogs. And you see, like the Raider, you see the eye patch with the eye, you know it's a pirate, outlaw, you know, outcast from society (Miller, 1995:221).

Such styles seem to have become increasingly influential on British youth culture (Hayward, 2004). The current goggle hoods bought by young men in the UK owe as much to the culture of the ghetto as the 'high fashion' culture of 'the casual'. Newer goggle jackets made by clothing companies such as *Projekts NYC*, *Location* and *Goi-Goi* elude to the fusing of these two sub-cultural influences into a uniquely British product. We arguably live in a time when:

... masculinity is seen to increasingly depend upon matters of style, self-presentation and consumption as opposed to more traditional models of masculinity centred on work and production or, to put it more simply, masculinity is perceived to be increasingly predicated on matters of how men *look* rather than what men *do* (Edwards, 2006:111, emphasis in original).

For young men in British urban spaces, sportswear tinted with a hint of militarism could be regarded as apparel that is suggestive of more traditional form of masculinity. Stylistic choices are not simply predicated upon social exclusion which strips away all fashion choice, as some accounts argue (see McAuley, 2007). Rather, it is possible that such styles are encoded with messages. The goggle hoody might be regarded as epitomizing many of the qualities that urban youth would like to suggest that they possess - its association with extreme sports and therefore physicality being the most obvious. That such fashions are increasingly being adopted at exactly the same time many traditional pursuits and avenues for making such masculinity (via work or involvement in sports leisure) have become ever more limited (Winlow, 2001; McAuley, 2007) is perhaps significant.

The goggle jacket, or goggle hoody can be seen simply as a new variation on traditional stylistic tendencies of youth. But it can also be seen

as reaction to new extreme surveillance that now permeates British cities (e.g. Armstrong and Norris, 1999). One British company *Bench* - which markets hoodys and urban fashion ware to British youth - have aptly demonstrated this through their own marketing (see Figure 2). Logging on to the *Bench* website now sees potential purchasers met with loading screens that ask them 'Stalked by CCTV?', before flashing up text suggesting 'There is now one camera for every 14 people', before they finally come to the main message as part of 'The campaign'. Furthermore, according to their website:

It is human nature to be inquisitive and curious. We are all voyeurs by nature. The increasing use of CCTV in public places has caused a debate over public surveillance versus privacy. This campaign aims to evoke feelings of intrusion on the subject's city lifestyle and almost a feeling of voyeurism on the viewer's behalf as we live in this CCTV generation (<http://www.bench.co.uk/home.php>).

Figure 2. *Bench* shop front



Arguably, before CCTV putting your hood up was likely to be regarded as 'un-cool'. Now it has been reworked into the statement 'I am the kind of character who needs to stay out of sight and off the (security) camera' (Calcutt, 2006). The hoody can be used as a statement of willingness to transgress convention, to not abide by or to reject repressive and restrictive practices. Yet alternate readings of the 'hood', as Calcutt notes, reveal that it is a mixed mass of contradiction. Although affording anonymity, it functions as an 'alternate identity card' (Calcutt, 2006). It conveys a sense of anonymity and anti-consumerism, suggesting at low-culture, while tipping a nod to the high-end Italian fashions that inspired it, and suggesting the wearer has appetite that is 'low culture, voracious and hedonistic' (Calcutt, 2006). There may be a final reading, in that in a context where for young people personal security has never been more important, youthful 'hoodys', more generally, seem to secure themselves as 'one of the

gang' (Calcutt, 2006). Their attire suggests at self-reliance and self-preservation at a time when such things are socially ascribed as dominant near hegemonic values for many urban male youths in their peer groups. Perhaps in some way the take up of the 'goggle hoody' by young men eludes to that fact that they feel they have to take responsibility for their own self-protection? Yet ironically, might it be that while wearing it seemingly affords anonymity and ensures conformity, paradoxically it stands out as non-conformist and brings both attention and real exclusion.

Crime sells... but who is buying?

I have already argued that the emergence (or return) of the hoody and goggle hoody at this given moment is significant. I intend here to examine in further detail the social context that forms the backdrop to the goggle hood. A key point here is that crime is being increasingly used as a means of 'marketing' at the same time that we are subject to increasing social controls, including in less overt and more subtle forms (Presdee, 2000; Hayward, 2004). As Hayward notes, while crime has long sold, in contemporary consumer society it is being used to sell more than ever. That selling seems, for the most part, to be being targeted predominantly at young men through a connotation with overt, 'ladish' masculinity.

At a general level the fashion industry continually courts controversy and pushes the boundaries, engaging in its own forms of transgression, but only very infrequently citing a higher purpose than to sell products. For example one of the few attempts to utilise such images for political purpose (besides selling) is the now infamous *United Colours of Benetton* advertising campaigns which deliberately courted controversy from as early as the late 1980s by using images such as an electric chair (1992), the blooded fatigues of a Bosnian soldier (1994), a black woman breastfeeding a white baby (1989), and black and white hands 'cuffed' together (1989). Yet it is much more common to find the fashion industry trading off images and iconography drawn from drug cultures, or making use of transgressive images linked to underage sexuality, anorexia, or bondage (Young, 2007:13). Perhaps amongst the best known example of fashion borrowing from crime was the movement which became known as 'heroin chic', a term used by the media to describe the way in which the fashion industry adopted and emphasised an emancipated, drug addled look for models in the mid-1990s (black smudged eyeliner became seemingly ubiquitous in advert campaigns for major fashion houses, notably in *Calvin Klein* posters featuring Kate Moss). The reaction to the movement included a response from then US President, Bill Clinton, 'you do not need to glamorise addiction to sell clothes'.

Yet when fashion wants to sell to young men, it often encodes its products with subtle (and not so subtle) references to criminality. Fashion brands such as *Goi-Goi*, created on the back of Manchester's illegal warehouse rave scene, openly celebrate drug use and hedonism, often

using slogans full of double meaning that elude to the appeal of recreational drugs on their t-shirts. Elsewhere the British clothing company *Criminal* drew much of its inspiration from the iconography of crime to sell its products (it only recently ceased trading after the death of its founder Reza Dehghani). Its high-end fashion products were adorned with images of flick knives, baseball bats, knuckledusters and AK-47s. It also used images of graffiti and experimented with hiding identity with full zip hoody type garments. Such was the appeal of the brand that even with a 'no-advertising' policy it supplied to 1,700 stores and had developed a worldwide annual retail turnover of £10 million. Elsewhere brands such as *Section 60* (named after a controversial police power to stop and search, used for the most part against football supporters suspected of violence) and *One True Saxon* (a brand that with obvious imperialistic overtones has become a contemporary football hooligan's chic with its t-shirts emblazoned with 'Smile, you are on CCTV' and 'Stars of CCTV' slogans) have made plays on criminal imagery. These are but a few examples of fashion drawing on crime (space prohibits further discussion, but there are numerous others).

Crime, of course can be used to sell to other groups. A most interesting turn on how fashion sells through crime is the emerging use of the fear of crime to sell fashion apparel. For example, *Bladerunner*, a UK-based company which traditionally manufactured garments for the security industry, has just completed a lucrative move into the children's market, where it is selling bullet proof and stab proof hooded garments aimed at those as young as seven. Elsewhere *Karrysafe*, another British company, combined preventative ideas based on the notion of designing out crime in order to produce a range of anti-crime garments, such as bags and cases, designed so as to be difficult to steal from the person. Their advertising specifically targets business women. The first lucrative deal to stock the product was with Selfridges, the high-end department store.

Outlaw of the shopping mall

The examples above are just a few drawn from the fashion industry's reliance upon the transgressive and criminal image. While crime is being used to sell, paradoxically, some fashions and styles associated with crime are again being subject to an increased range of social controls. In this respect, today's fashion police are the private security and police officers who enforce aesthetically driven exclusionary practices; for instance according to a former homeless person cited by Millie et al. (2005:32):

Every Friday night I walk in Soho and I see [people] kicking the shit out of each other and the police don't seem to be handing out anti-social behaviour orders to them. They're handing out anti-social behaviour orders to people who are homeless and badly dressed rather than people in suits yeah ... They're effectively isolating

people who are already pretty isolated. These are social discrimination orders.

As Millie notes elsewhere (2008:383), 'how we use and enjoy our urban spaces is largely dictated by our expectations and understandings of others' behaviour' (2008:383). People hold radically different expectations and understandings of what is acceptable or unacceptable, and this is true even where clothing is concerned. It follows that with competing demands, the young are policed not just because of their behaviour, but because they are judged sartorially acceptable as defined by dominant 'adult' groups strongly influenced by sensory or *aesthetic* cues (Millie, 2008).

Presdee has noted, much public space is contested, but over the last two decades the shopping mall has become one of the most contested of all public spaces:

For many young people, especially the unemployed, there has been a continuing congregation within modern shopping centres... At the mall... young people push back the limits imposed on them... young people, cut off from normal consumer power, invade the space of those with consumer power. They become the 'space invaders' (Presdee, 1994:182, *cited in* Hayward 2004:189).

Hayward has countered that the twenty-first century shopping centre has evolved, and:

... no longer functions in the way it used to as a (albeit unintended) transgressive landscape for young people, who are easily identified by new crime control apparatus and technologies. These spaces are now 'hermetically sealed' private places where anything but the aesthetically acceptable is banished (Hayward 2004:189).

Young men are the principal targets of aesthetic exclusion. The goggle hoody is not alone in being increasingly restricted and monitored on the streets because of its association with youthful, male criminality. Increasingly, we witness in city centres and public places, 'policing by attire' to an ever greater degree. Lusher (2005) noted the negative association that could be borne out of choosing to wear expensive 'Prada high-tops trainers'; while attempting to access a range of nightspots only to be turned away. He quotes a professional DJ who notes that, 'Prada... is for posh scallies, mate, drug dealers, council' (Lusher, 2005). Elsewhere pubs in Leicester *The Parody* and *Varsity* banned a range of items due to their association with criminality (particularly football violence) including *Burberry*, *Henri Lloyd* and *Stone Island* (BBC News Online, 2004). For the most part, it is young males conforming to particular types that are excluded.

In 2005, Adam Sheppard, a nineteen year old male, was convicted under laws prohibiting religious hatred after he was arrested when a

woman complained to the police about a t-shirt he was wearing. The shirt, for the band *Cradle of Filth* depicted a nun masturbating with a crucifix and was emblazoned across the back with the words 'Jesus is a c**t'. When Shepherd refused a police request to cover the garment (which he had purchased in a high street chain store nearby) he was arrested. When he appeared before magistrates he was given 80 hours of community service and £40 costs.

Elsewhere the Bluewater shopping centre in Kent (like a number of others) stipulates it prohibits any persons 'deliberately obscuring their faces', although the garments it prohibits remain on sale in the centre itself. Tony Blair similarly supported the centre's actions by advocating any clampdown on youthful anti-social behaviour (BBC News Online, 2005). Interestingly, this in itself is indicative of a fusing together of young people, dress and anti-social behaviour into a homogenous entity, something which it seems is becoming more apparent. Take the following:

Britain was mourning the latest innocent victims of violent crime last week after a spate of senseless murders. In every case, the killer's sullen face was hidden beneath the disguise of feral society - the hooded top. Across the country, violence, vandalism, theft and disorder are an everyday menace, created by faceless gangs of youths with little fear of ever being caught. Streets, trains, buses and shopping centres have become no-go zones for terrified citizens who have been intimidated by hoodys for too long ... Today the *Sunday Express* calls for a crackdown on this terrifying trend and demands that police officers get tough and order hoods to be removed in public places Just as banks ban people from wearing crash helmets on their premises, we believe high streets and public transport would be safer if hoods were outlawed and exclusion zones imposed (Drake, 2008:1-4).

So launched the *Sunday Express* campaign to 'ban the hood for good!', an appeal to create laws that prohibited the disguising of one's face on public transport, on the streets and in shopping centres by wearing of a hood. Keen to demonstrate that they were not indiscriminately criticising hooded tops the *Express* noted that hooded garments were quite appropriate when walking one's dog on a blustery day on the local common, braced against a chill wind. Instead, the hoody becomes 'deviant' and inappropriate only when it is placed in context where it is connected to youth and public space.

Conclusions

We need to consider very carefully what becomes the target, why is it the hoody? Indeed we ought to ask why we often ascribe to the youthful 'hoody' the label of 'criminal', while fashion houses perpetrate very real criminality using slave and child labour with impunity? (Klein, 2000). Yet

instances of the control of this 'fashion crime' are far less than that targeting young people who elect some forms of fashion (whether they actually commit any crime or not).

Yet I think it holds that if one wants to understand what a criminal looks like, we should think about the men in suits, the type that sit quietly behind the exclusionary and corporate practices could easily be regarded just as deviant. Sutherland (1949) long ago suggested something similar. It is for that reason I finish with this anecdote. I know a 'professional shoplifter', though few people on the affluent street where he lives would recognise that this is his vocation. His house is well maintained, his car is a top of the range Audi TT. He, like businessmen, wears a suit to work, but in his case not because his choice of employment demands it. Rather, he does it because, he says, it distracts CCTV operators and the security staff. He will tell how they are far more interested in 'youths', 'scruffy looking sorts... you know smack addict types', and 'young moms with pushchairs'. He knows that few are likely to closely scrutinise well groomed man, even if he is stealing thousands of pounds worth of property. Of course, such manipulation of popular perception is easy once one knows what to avoid looking like, and he has told me with no hint of sarcasm or irony that, 'the thing is mate, if people really knew what criminals looked like, then they might catch a few more of them'.

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Trust in Police Community Support Officers

The views of Bangor students

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Abstract

Police Community Support Officers (PCSOs) were introduced to assure the public that disturbances and misbehaviours are dealt with. In this paper Bangor University students showed a moderately high level of trust in PCSOs. The study identified factors which contributed to the level of student trust in PCSOs. The results emphasize what has been labelled by Tom R. Tyler as 'process-based policing': that citizens should be treated fairly by police. Students who felt they were treated impartially by PCSOs tended to trust more. Students who were informed by experiences of friends and family showed less trust indicating that these mainly reported negative encounters. Visibility of PCSOs alone is insufficient to create trust. Male students had less favourable views of PCSOs. Generally, there is a lack of accurate information about PCSOs which suggests further informative efforts by police authorities are needed.

Key Words: trust, Police Community Support Officers, fairness, policing, students

Introduction

England and Wales currently have 16,000 Police Community Support Officers (PCSOs). They were introduced in 2002 and are key in a policy of 'reassuring' the public that unsocial behaviour and petty offenses are dealt with effectively and that their community is safe (Cooke, 2005; Cooper et al., 2006; Innes, 2007). This paper addresses public trust in PCSOs using the example of students at Bangor University. How do students experience and evaluate PCSOs? A questionnaire study forms the empirical basis of this

paper. Factors affecting trust in PCSOs were drawn from the limited number of existing studies on PCSOs. More importantly, our research is informed by general theories related to trust in state institutions and authorities. Our paper is therefore of interest beyond the circle of police specialists. The paper is the result of a research seminar for MA students in Bangor.

Across England and Wales, the function of PCSOs is fairly similar. North Wales Police (no date, p2) describes PCSOs as follows:

Police Community Support Officers (PCSOs) are members of support staff who are employed, directed and managed by North Wales Police. They work to complement and support regular police officers. Their role provides a visible and accessible uniformed presence, aimed at improving the quality of life in the community and offer greater public assurance. (Our emphasis)

The exact powers PCSOs vary from area to area. North Wales Police (*ibid*, p3) outlines their powers as follows:

- Issuing fixed penalty notices (riding on footpaths; dog fouling; litter)
- Power to confiscate alcohol and tobacco
- Power to demand the name and address of a person acting in an anti-social manner
- Power of entry to save life or prevent damage
- Removal of vehicles.

As a new institution that was given only limited powers, the status of PCSOs within the society is uncertain. PCSOs are also seen sceptically within parts of the police force (Johnston, 2005). Union representatives of the police and many police officers are very critical of PCSOs. In particular, they are suspicious of the creation of a cheap alternative to the police (Cooper et al., 2006; Caless, 2007). For instance, the training of PCSOs is significantly shorter than the training of police officers (Cooper et al., 2006).

Ideally, the public should be well informed about PCSOs, yet, it has only vague knowledge (Cooper et al., 2006:33). Nevertheless, the public may be influenced by debates around PCSO training, powers and effectiveness. However, PCSOs wear a similar uniform to 'full' police officers and only on closer examination, the title 'Police Community Support Officer' can be recognised. In many ways, this similarity may lend credibility to PCSOs. Furthermore, many citizens may be generally ready to accept their authority and trust PCSOs as state servants.

Classic theories explaining 'trust'

Social scientists have noticed the importance of public 'support' for state authorities and how this affects the acceptance of their decisions. For

instance, David Easton's (1965) concept of 'diffuse versus specific support' emphasized that a general endorsement of state institutions allows authorities to carry out specific policies, which are opposed individually or even by large segments of society. Easton and Dennis (1969) argued that, normally, children grow up in a society learning to trust political institutions, including the police. This was long before Max Weber (1980 [1922]) stated in his theory of dominance that modern societies legally create rights and obligations, creating 'legitimate' order and signifying 'legitimate' authorities. Bureaucracies are the typical form of social organisation and they increasingly take over responsibility for the conditions of life. Yet, Weber also noted that this often happens at the expense of individual liberties. Even more, Weber's social theory always accounted for the fact that members of the society may deviate from its rules. He defined a 'legitimate' order or rule by the 'chance' that it will be obeyed (Weber, 1980 [1922]). Other theorists have more specifically addressed the issues of crime. In the tradition of Emile Durkheim (1976), it is suggested that the society's interest in social cohesion motivates the strong response to crimes (Pepitone, 1975:198-199; Mead, 1980:262-263). It is implied that law enforcement agencies will command a high degree of public allegiance when they represent general values (Jackson and Sunshine, 2006).

Fair procedures and their implications

Among the values people acquire during their socialisation are those related to fair procedures. According to the 'group value theory', procedures symbolise the values of a group or society (Lind and Tyler, 1988; Tyler, 1990). Tom R. Tyler and collaborators investigated the conditions under which citizens will preserve and, indeed, built up trust in authorities, including the police. When citizens feel fairly treated by the police, they are more likely to obey police orders and trust the police (Tyler and Folger, 1980; Tyler, 1990; Tyler and Huo, 2002). Early approaches of procedural justice focused on the factor of 'voice'; that individuals want to be heard by authorities before they decide (Thibaut and Walker, 1975; Röhl and Machura, 1997). Later, Tyler and Lind (1992) formulated a 'relational model of authority in groups'. Their view was that group members wish to have a good relationship with the group authority as authorities stand for their group. Individuals employ a 'fairness heuristic' (Lind 1994a) when they determine whether or not the authority abuses its power. Is the authority benevolent, does it respect the individual as a fully entitled group member ('respect'), is it unbiased against the individual ('neutrality') and does it give the group member enough opportunity to 'voice' his or her views (Tyler, 1994; Lind, 1994a; 1994b)?

The group value theory has been successfully applied in a variety of contexts, including citizens' encounters with legal institutions (e.g. Tyler et al., 1997; Machura, 2007a; 2007b). Perhaps the most striking example is

given by Raymond Paternoster and collaborators (1997). They investigated how police intervened in cases of domestic violence. There were different ways in which the police arrested violent men, but males were less likely to re-offend against female partners when they were treated in a 'fair' manner. Tyler and Huo (2002:91) emphasise that even the 'high-risk group of young minority males' would react favourably to a police strategy of fair behaviour. A police authority which treats citizens fairly not only would have more immediate compliance with its measures but would also provide 'a form of civic education'.

In a secondary analysis based on the 2005/2006 London Metropolitan Police Public Attitude Survey, Bradford et al. (forthcoming) confirmed the basic findings of Tyler and others. They also suggested that the police should aim to influence public trust by demonstrating fair treatment to citizens. The same argument was presented by Jackson and Sunshine (2007), re-using data from a study on the fear of crime in a rural area in England. They noted that their analysis was the first evidence in Britain detailing the link between perceived police fairness and public confidence in policing (2007:229). In line with these findings, it can be expected that trust in PCSOs is correlated with experience of fair treatment from PCSOs. Compared to previous English studies, we believe the study reported in this paper is the first in Britain on a police 'type' specifically designed to also cover the criteria of fairness outlined by Tyler and Lind (1992).

Other factors related to trust in police

The visibility of the police has been identified as an important factor shaping public trust (Dalglish and Myhill, 2004; Quinton and Tuffin, 2007; Bradford et al., forthcoming). In recent years, citizens have become increasingly critical of police officers infrequently passing by in cars. Rather, they wish to see police on regular foot patrol in their neighbourhoods. A certain professionalization of the police has resulted in more specialised staff working in offices. Police authorities concentrate valuable resources during peak hours of 'business' and at hot spots of criminal activity. Therefore, large areas rarely see regular police officers just patrolling on foot. PCSOs take over this traditional role of the neighbourhood 'Bobbie'.

Unless a police force is accused of wide-spread corruption (for example Machura, 1998), citizens will normally wish to see it equipped with powers that allow it to intervene effectively. Trust in PCSOs might depend on whether they have the powers people expect. However, it is likely that the public is misinformed about PCSO powers. The powers of PCSOs may be unknown to many. The public may also expect PCSOs to have powers which are reserved to the police.

Opinions can also be influenced by a variety of sources of information (Asimow et al., 2005; Machura, 2008). Friends and family may

talk about their experiences with PCSOs. Media reports can shape the understanding of PCSOs. Among students, some may be influenced by academic texts, especially if they are students of law or criminology. Consumed popular fiction can deal with PCSOs and there are some British soaps which feature PCSOs. According to Asimow et al. (2005:411):

People often fail to consider that the information extracted could be from fictitious sources. In other words, they don't always 'source discount' information derived from media, meaning that they forget that the information was derived from stories rather than real events.

As young males are most likely to cause the disturbances which PCSOs are to address, their confidence in PCSOs may be less strong. Work objectives of PCSOs, as described by North Wales Police (no date, p3), are to 'tackle anti-social behaviour', 'deter juvenile nuisance', 'handle reports of vandalism or damaged street furniture' and 'suspicious activity'. These are all social ills which are, at least stereotypically, attributed to young males.

The study presented addresses the trust students at Bangor University have in Bangor PCSOs. Bangor is a student city with over 13,500 'regular' inhabitants and a further 10,000 students (Bangor University, 2008). PCSOs in Bangor patrol areas around the city centre, the university and student halls. Contact with students may be initiated from either side. Students may just ask for advice or report an incident, alternatively they may be the ones having action taken against them. Factors like 'being male', belonging to the age group of 15 to 24 years, being employed part-time or being a student, as well as living in private rented accommodation increase the chances of having police-initiated contact (Bradford et al., forthcoming). People between 16 and 24 years of age have been found to be the age group most sceptical towards the police (Jackson and Sunshine, 2007). According to Cooper et al. (2006), PCSOs are found to spend much of their time on foot patrol dealing with 'youth nuisance'. A sample of students should give ample opportunity to investigate trust in PCSOs.

Hypotheses tested

The focus of this study is on the factors influencing student trust. It aims to enhance our understanding of trust in legal authorities by identifying correlations. We test the hypothesis that student trust is influenced by a variety of sources of information. Of particular interest is positive prior experience, namely having been treated fairly by PCSOs, which may enhance trust. Male students are expected to have less trust in PCSOs than female students. The perceived visibility of PCSOs should correlate positively with trust. Belief in strong powers of PCSOs should enhance trust. The study also controls for student age and for the degree course studied.

Methods

Data were gathered in March and April 2008 from first year students at Bangor University. The questionnaire can be found in an Appendix. Questionnaires were distributed to students in their classes. A sample of 217 was drawn from a possible 2,212 first year students. A PCSO vest and a male and female PCSO in uniform were depicted on the questionnaire to facilitate understanding. The questionnaire had mainly closed-ended questions. Questions were in part modelled after previous studies on the impact of personal experience, media and other sources of information on first year law students' views of lawyers (Asimow et al., 2005) and on German college students' views of legal authorities (Machura, 2008).

Trust was measured by asking respondents about their respect for PCSOs, perceived effectiveness of PCSOs and whether they felt comfortable to report incidents to PCSOs. It is assumed that people who trust an institution will respect it. They would also believe in its effectiveness and feel that they could rely on it to address their problems. We found these three variables to be closely interrelated (Cronbach's $\alpha = .832$) and were thus combined into one measure labeled 'trust'.

Respondent demographics

The mean age for the respondents was 20.72. Of all respondents, 27% were aged eighteen, 40% were aged nineteen, 17% were aged twenty, 7% were aged 21-25, and 4% were 26-31. The remaining 6% were older than thirty-one¹. Female students constituted 53% of the respondents.

Approximately one third of the respondents studied sports science (35%), followed by 17% studying history. One fifth indicated that they were studying criminology (13%) and law (8%), while 12% were studying a foreign language. Theology students accounted for 6% of the sample, with a further 4% specifying English as their subject. The remaining 6% of respondents were studying other subject.

Of the total sample, the majority (78%) had resided in Bangor for less than a year (only 5% had lived in Bangor for more than a year). Another 17% lived outside of the city, thus may have had less contact with PCSOs in the Bangor area. However, the majority of students had a fair chance to encounter Bangor PCSOs.

Survey results

Observations of PCSOs

Approximately four out of ten students stated that PCSOs were visible in the Bangor area (4% 'highly visible' and 34% 'visible'). Another 29% indicated that PCSOs were 'less visible', while the remaining third indicated

¹ In this article, percentages may not add up to 100% due to rounding.

either that PCSOs were 'not visible' (14%) or that they did not know if PCSOs were visible or not (19%).

Only 4% of respondents observed PCSOs daily. Another 30% observed PCSOs once a week in the Bangor area, while 21% observed them monthly, and 26% observed them 'less often', and 20% 'never' in the Bangor area. This measure for sightings of PCSOs will later be used to explain trust in PCSOs. Respondents were also asked to report on observed PCSO activities (Table 1). PCSOs were most often seen on foot patrol and less often seen talking to the public. Giving out information is the least frequently seen activity.

Table 1. Observed PCSO activities, percentages

	Very frequently	Frequently	Less frequently	Never
Foot patrol	4	34	41	21
Talking to the public	1	13	41	45
Giving out information	1	2	35	62

210 < N < 213.

Perceived powers of PCSOs

Bangor students had an inaccurate knowledge of PCSO powers (Table 2). The questionnaire asked respondents to indicate which powers they believed PCSOs to have from a list of PCSO and police powers. PCSOs cannot caution, yet 70% believed that PCSOs have this power. Approximately one third (38%) of respondents incorrectly indicated that they thought that PCSOs have the power to stop and search and 20% thought that they can hold people in custody. On the other hand, only 16% knew that PCSOs have the power to remove abandoned vehicles. Less than half the respondents were aware that PCSOs can enter into private premises to save life or prevent damage.

Sources of information

Students were given a list of possible sources of indirect information (Table 3). They were asked to indicate whether their answers to the questionnaire were influenced by these sources. Approximately two thirds of all respondents were 'less' or not influenced by academic texts, while 58% were 'somewhat', 'quite' or 'very much' influenced by TV documentaries. The latter also proved similar for TV news (63%). Of the respondents, 80% were 'less' or not influenced by soaps², but six out of ten were 'somehow'

² Further information was gathered as to which TV soaps were consumed. The questionnaire contained a choice of three shows which featured appearances of PCSOs. Approximately 20% of all respondents watched 'The Bill' and 'Emmerdale', while 30% watched 'Hollyoaks' (summarising the answers 'very frequently' and 'frequently'). On the other hand, approximately 40% never watched 'The Bill' or 'Hollyoaks', and 50% never watched 'Emmerdale'.

influenced by newspaper articles. Approximately one third of the respondents were ‘somehow’ influenced by websites. Importantly, 40% were in someway influenced by their family’s experiences and almost 50% by their friends’ experiences.

Table 2. Perceived powers of PCSOs

Powers	%
Confiscate alcohol and tobacco	69
Take details*	68
Issuing penalty **	67
Entry***	42
Removal of abandoned vehicles	16
General power to caution	70
General power to stop and search	38
Hold in custody	20

216 < N < 217.

Powers PCSOs do not have are italicised.

* ‘Power to demand the name and address of a person acting in anti-social manner’

** ‘Issuing fixed penalty notices (riding a bike on a footpath; dog fouling; litter)’

*** ‘Power of entry into private premises to save life or prevent damage’.

Table 3. Indirect sources of information, percentages

	Very much	Quite	Some-what	Less	None
Academic texts	4	11	20	22	43
TV documentaries	6	23	29	17	25
TV news	9	26	28	12	25
TV soap consumption	2	8	14	19	58
Newspapers	5	26	30	16	24
Websites	3	13	19	25	41
Family’s experiences	7	15	17	16	44
Friends’ experiences	8	25	25	12	41

195 < N < 211.

Responses to influences of TV documentaries, TV soaps and TV news were closely related and therefore combined to form one measure labelled TV consumption (Cronbach’s $\alpha = .774$). For the same reason, family’s and friends’ experiences were combined to form one measure labelled other’s experiences (Spearman’s $\rho = .75$, $p < .001$, two-tailed, $n = 194$).

Personal experience with PCSOs

Of all 217 respondents, 34 (16%) had personal experience with PCSOs. Table 4 indicates the nature of this experience. Of this 34, half reported that PCSOs appeared not at all biased. Additionally, 59% indicated that PCSOs ‘very much’ or ‘quite’ listened to what they said. Asked if they were treated with respect, 59% of the respondents chose answers ‘very much’ or ‘quite’.

Half felt that they ‘very much’ or ‘quite’ had enough opportunity to express their views to PCSOs (‘voice’). These items corresponded to the four criteria of fairness discussed by Lind (1994a; 1994b) and Tyler (1994): neutrality, benevolence, respect and voice. As the correlations in Table 4 show, despite low frequencies, they are significantly related to the respondents’ evaluation of the fairness of the PCSOs they have met. Of the 34 respondents, 59% felt that they were treated ‘very’ or ‘quite’ fairly.

Table 4. Self-experience with PCSOs, percentages

	Very much	Quite	Some-what	Less	Not at all	Don’t know	<i>Correlation with fair treatment</i>
Fair treatment	35	24	29	9	3	-	-
Appeared biased	6	18	15	12	50	-	-.51
Listened	38	21	21	6	12	3	.78
Treated with respect	35	24	24	12	6	-	.80
Voice	29	21	18	24	9	-	.80

N = 33 or 34. All correlations Spearman’s Rho, significant at $p < .01$, two-tailed

Trust in PCSOs

Returning to the full respondent sample, six out of ten students ‘very much’ or ‘quite’ respected PCSOs, and only 12% had little or no respect for PCSOs (see Table 5). However, one in four did not know how effective PCSOs are, with 18% thinking that PCSOs are ‘less’ or ‘not at all’ effective and only 29% believing that PCSOs are ‘very’ or ‘quite’ effective. Half of all respondents felt ‘very’ or ‘quite’ comfortable to report an incident to a PCSO.

Table 5. Trust in PCSOs, percentages

	Very much	Quite	Some-what	Less	No	Don’t know
Respect for PCSOs	28	31	25	9	3	3
Effective in role	6	23	28	10	8	25
Comfortable to report incident	23	31	20	7	12	6

161 < N < 209.

The high level of respect for PCSOs can be corroborated by the results of a scenario type question which took the situation to an extreme. Students were given the entirely hypothetical situation:

Peter (Sally) is a 17 year old PCSO who passes you on the street and notices that you are drinking alcohol. He (she) asks you to put the

alcohol in the bin as it is illegal to drink on the streets³. How likely is it that you put the alcohol in the bin?

Here, we were interested in how much the authority of a PCSO depends on the person of the individual officer. Or, in terms of Weber (1980 [1922]:675), whether the 'Amtscharisma' (the authority of the office) trumps a possible individual weakness. If a very young officer's request is obeyed, this is a strong indicator of the legitimacy of PCSOs. We also decided to give half the respondents a vignette with a female officer 'Sally' and the other half a vignette with a male officer 'Peter'. There is no significant difference between the respondents who answered the Sally questionnaires and those who did not ($t(208) = -1.07, p = .29$). Generally, 26% of respondents were 'very likely' to obey the order, with 19% 'likely' and 21% 'somewhat likely' to obey. Only 18% were 'less likely' to obey and 13% indicated that they were 'not likely at all' to obey. Thus, more students were likely to react positively than negatively to the order from a PCSO younger than them.

Which factors influence the trust of Bangor students in PCSOs?

A multivariate regression was conducted with trust as the dependant variable (Table 6). The following explanatory variables were entered: age, gender, law-related course, sports course, sightings of PCSOs, self experience of unbiased PCSOs, other's experiences, websites, newspapers, TV influences, academic texts and the assumed powers of PCSOs, including the powers to confiscate alcohol and tobacco, take details, issue penalties, enter, remove vehicles, and caution.

Several factors proved to be clearly non-significant; among them age, sightings of PCSOs and influences by TV, websites and newspapers. Similarly, none of the powers ascribed to PCSOs were significant. Some factors were significantly negatively related to trust. Males were more likely to report less trust in PCSOs. Students who studied a law related course including criminology had less trust in PCSOs, as had Sports students. The experiences of others also tended to influence trust negatively.

³ This is a hypothetical situation and, we admit, this does not reflect the precise wording of the law on street drinking (see e.g. the Confiscation of Alcohol (Young Persons) Act 1997, and the Licensing Act 2003).

Table 6. Linear regression for trust in PCSOs

Factor	Beta	Sig.
Age	.01	.883
Male student#	.25***	.007
Law related course degree#	.28***	.006
Sport student#	.20**	.041
Sightings of PCSOs	.13	.143
Self-experience of unbiased PCSOs#	-.19**	.034
Other's experiences	-.25**	.013
Websites	.04	.701
Newspapers	.03	.837
TV influences	-.12	.319
Academic texts	.33***	.002
Power to confiscate#	.10	.256
Power to take details#	-.16*	.079
Power to issue penalties#	-.17*	.058
Power of entry#	-.04	.674
Remove vehicles#	.13	.137
Power to caution#	-.02	.817
Power to stop and search#	-.17*	.062
Power to hold in custody#	-.02	.854

N = 121, multivariate regression, $R^2 = .355$

Dummy coding: negative values indicate higher trust

'Self-experienced unbiased PCSOs': '1' = 'not at all biased'

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

Powers PCSOs do not have are italicised.

Other factors were significantly positively related to trust. First year students who reported that they were influenced by academic texts had greater trust in PCSOs. Those who had themselves experienced unbiased PCSOs in a past encounter trusted them more.

Most of these factors cannot be influenced by the individual PCSO who meets students in the streets and shops of Bangor. The exception is the experience of unbiased PCSOs which forms one of the criteria for fairness. This finding motivates a last look at how perceived fairness relates to opinions of PCSOs. Table 7 shows bivariate correlations. To be treated with respect and to be listened to strongly correlated with the three individual measures for trust and they correlated strongly with the trust index. They were also significantly related to whether students would follow a request by a 17-year old PCSO.

Table 7. Self-experience with PCSOs, percentages

	Respect for PCSOs	PCSOs effective	Comfortable to report	Trust index	Obey young PCSO
Unbiased	.29*	.33*	.27	.29	.25
Listened	.61***	.47***	.45***	.61***	.35**
Treated with respect	.47***	.43**	.49***	.58***	.41**
Voice	.35**	.27	.47***	.42*	.30

30 < N < 34, correlations are Spearman's Rho, except 'trust index': Pearson's r

* p < .10, ** p < .05, *** p < .01, two-tailed.

Discussion

To summarise, Bangor students showed a moderately high level of trust in PCSOs. However, students often had doubts about the effectiveness of PCSOs and they do not know much about the powers of PCSOs. Students who indicated acquiring their knowledge on PCSOs from academic books exhibited more trust in PCSOs. This indicates one possible way in which to improve the standing of PCSOs: better information. Quality of information has been found to be related to trust in police more broadly (Bradford et al., forthcoming).

Other ways to enhance trust in PCSOs are suggested by the analysis. Fair and unbiased behaviour is important to how authorities, among them the police, are evaluated by citizens. Students who had prior experience with PCSOs showed more trust when they felt that they had been treated without bias. On the one hand, our findings reinforce theories of procedural fairness. On the other hand, they indicate that the training and the daily demeanour of PCSOs should be sensible to issues of fairness. It suggests a policy of 'process-based policing' amounting to 'a form of civic education' because individuals will generalise from experience with individual officers (Tyler and Huo, 2002:xiv-xv). Experiments have shown that fair behaviour can be trained (Tausch and Langer, 1971; Tausch et al., 1975).

Experiences with Bangor PCSOs tended to be positive for students. However, experiences shared by others with the respondents diminished trust in PCSOs. This suggests that the respondents' friends and family members mainly revealed and discussed negative experiences. Again, it seems important for PCSOs to treat citizens fairly. It also suggests that incidents of bad treatment can be very detrimental to the standing of PCSOs in the Bangor community and beyond.

In many respects, males differed from females. There were fewer males than females in most courses with the exceptions of Sports, Music and History. A clear divide was found between male and female students, as male students have significantly less trust in PCSOs. Males not only reported seeing PCSOs more frequently ($t(213) = 2.22$, $p < .05$), but they also indicated that they have less respect ($t(207) = -4.32$, $p < .001$), view

PCSOs as less effective ($t(159) = -3.64, p < .001$) and would feel less comfortable reporting incidents to PCSOs ($t(202) = -2.07, p < .05$).

Generally in Britain, young males are more often drawn in the criminal justice system than females. In addition, heavy alcohol consumption and accompanying public misbehaviour are more typical for young men than women. To address problems like these is a primary task of PCSOs. Police authorities perhaps should develop an information campaign that specifically targets young males to explain the work of PCSOs to them. In addition, a markedly fair interference from PCSOs that avoids disrespectful treatment of difficult young people will again be important.

Students of Law, Criminology and Sports Science were found to have a less positive view of PCSOs. Perhaps, it is more than a cliché that Sports students tend to spend more time going out into the city centre? This life-style may affect the relationship with a public service that polices the streets. Sports students may also feel more confident to tackle situations without assistance. As the student respondents were in their first year, the lower opinions of students from law-related courses does not necessarily imply a better knowledge of PCSOs. There may be a degree of prejudice against what is not clearly a fully equipped police officer.

Sightings of PCSOs were not decisive for trust in PCSOs when compared to other factors. This does not render visibility of PCSOs negligible. Rather, it suggests that visibility on its own is worthless without having high standards for police action. The underlying importance in regards to the visibility of uniformed officers is 'that they actually 'engage' with the community' (Cooke, 2005:236) (similarly Johnston, 2005; Innes, 2007). Again, the quality of interaction is highlighted.

The reported findings regarding PCSOs in Bangor have some limitations. Attitudes towards the Police more broadly were not accounted for. Further research should look at a possible transference of experience and opinion, affecting how respondents view PCSOs. Bangor students are ethnically less diverse than students in other parts of Britain, most certainly less so than in larger cities like London or Birmingham. Yet it can be argued that the main findings are basic in nature and could to apply to PCSOs and police generally.

Beyond that, the findings presented are relevant for those who study the responses of citizens to state authorities. The paper underlines the importance of fair treatment by government agents generally, not only police. But there is more. It has been generally accepted, that the media often draw a negative picture of state authorities. This study now suggests that citizens often tell each other about negative experiences and that these decisively form opinions on public authorities. Therefore, it is of utmost importance to avoid unnecessary burdens for citizens including unfair treatment by the personnel representing the state.

Endnote: Research seminar with MA students

This final section of the paper addresses the way this research was conducted by MA students. In the seminar Comparative Criminological Research at Bangor University, students agreed to conduct an empirical project rather than just read literature about methodology and criminological studies. A basis for this was laid by another module, The Research Process, starting in semester one of the MA studies which continued to run simultaneously with Comparative Criminological Research during the second semester. The MA students formed a good group, no student was excluded and motivation was generally high. Students came from criminology, law, linguistics and psychology backgrounds, combining skills like legal research and statistical analysis. To further enhance the commitment of the group, the seminar group was free to choose its topic of research after the lecturer suggested a direction and introduced studies of manageable size. The students decided to address the topic of knowledge of, and opinion on, PCSOs. The next seminar sessions dealt with preparing the ground for the field phase. Students had to identify relevant literature and to formulate hypotheses, informed by social science theory, to find information about PCSOs in Bangor, and to identify the targeted respondents. Students were also involved in sampling, data entry and statistical analyses. Large parts of the activity were self-organized by the students with the lecturer following an arms-length approach. The prospect of producing original data, of presenting the results at the British Society of Criminology conference in Huddersfield (July 2008) and of finally publishing the results in a journal served as further motivation for the group. Students were evaluated by giving poster presentations in three groups on the theory and hypotheses of this research, on methods applied and on the results. Looking back, a good balance of group work and individual motivation proved decisive.

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Appendix: Questionnaire

SURVEY OF OPINIONS ABOUT POLICE COMMUNITY SUPPORT OFFICERS WITHIN THE BANGOR AREA

This survey is voluntary and anonymous. Your answers will be combined with others and not individually identified. You can decline to answer any question or all of the questions. Please tick the appropriate response. Thank you very much for answering!

A.1 What is your age? _____

A.2 What is your gender? Female _____ Male _____

A.3 What degree course are you doing? _____

A.4 How long have you lived in Bangor?

Less than a year _____

A year _____

More than a year _____

I live outside Bangor _____

The next three questions will be on the visibility of the Police Community Support Officers (PCSOs) in the Bangor area. Their typical uniform is shown on the pictures above.

B.1 Are PCSOs visible in Bangor?

Highly visible Visible Less visible Not visible Don't know

B.2 How often do you see PCSOs?

Daily _____

Once a week _____

Once a month _____

Less often _____

Never _____

B.3 How often do you see PCSOs performing the following activities?

Very frequently Frequently Less frequently Never

Foot patrol

Talking to the public

Giving out information

What do you think about Police Community Support Officers (PCSOs)?

C.1	Very much	Quite	Some- what	Less	No/ Not	Don't know
Do you have respect for PCSOs?	_____	_____	_____	_____	_____	_____
Are PCSOs effective in their role?	_____	_____	_____	_____	_____	_____
Would you feel comfortable reporting an incident to a PCSO(s)?	_____	_____	_____	_____	_____	_____

C.2 Sally is a 17 year old PCSO who passes you on the street and notices that you are drinking alcohol. He (she) asks you to put the alcohol in the bin as it is illegal to drink on the streets. How likely is it that you put the alcohol in the bin?

Very likely Likely Somewhat likely Less likely Not likely at all Don't Know

C.3 Which of the following powers do you think PCSOs have? (Tick as appropriate)

- ___ Issuing fixed penalty notices (riding a bike on a footpath; dog fouling; litter)
- ___ Power to confiscate alcohol and tobacco
- ___ General power to caution
- ___ Power to demand the name and address of a person acting in anti-social manner
- ___ Power of entry into private premises to save life or prevent damage
- ___ Removal of abandoned vehicles
- ___ Power to hold someone in custody
- ___ General power to stop and search

Experience

D.1 In assessing the above questions how much were you influenced by:

	Very much	Quite	Somewhat	Less	None
Academic texts	___	___	___	___	___
TV documentaries	___	___	___	___	___
TV news	___	___	___	___	___
Soaps	___	___	___	___	___
Newspaper articles	___	___	___	___	___
Websites	___	___	___	___	___
Experience of family	___	___	___	___	___
Experience of friends	___	___	___	___	___
Other please state _____					

D.2 Have you watched any of the following TV programs?

	Very frequently	Frequently	Less frequently	Never
The Bill	___	___	___	___
Hollyoaks	___	___	___	___
Emmerdale	___	___	___	___

E. Have you had personal experience[s] with PCSOs? For example having reported an incident, or being addressed by them? (Circle a or b as appropriate)

- a- Yes – please answer questions 1 to 5.
- b- No – please skip questions 1 to 5.

	Very	Quite	Some- what	Less	Not at all	Don't know
1. How fair were you treated by the PCSOs?	___	___	___	___	___	___
2. Did the officers appear biased?	___	___	___	___	___	___
3. Did they listen to what you said?	___	___	___	___	___	___
4. Did they treat you with respect?	___	___	___	___	___	___
5. Did you have enough opportunity to discuss your views?	___	___	___	___	___	___

Thank you very much!

Relating Target Hardening to Burglary Risk

Experiences from Liverpool

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Abstract

This paper explores the relationship between the allocation of target hardening and burglary risk based on recent research in the City of Liverpool. Individual property-level data from a range of sources was collated for each residential property in the city using a unique property reference number. This produced a rich data set enabling burglary and target hardening activity to be analysed through time at both the individual property-level and across a variety of spatial units (e.g. super output areas, wards and regeneration areas). The results highlight an imperfect alignment between target hardening and burglary risk locations largely attributable to the influence of Liverpool's area based regeneration initiatives. The paper makes the case for prioritising properties for target hardening based on a combination of the prior burglary history of individual properties, the burglary risk of an area, and existing levels of target hardening protection.

Key Words: burglary risk, target-hardening, resource allocation

Introduction

Target hardening is a term used to describe the process of increasing the security of a property to make it more difficult to burgle, thereby increasing the effort needed by the offender to gain entry to a property. The intended outcome is ultimately to deter the offender from burgling an individual property. It is a well established strategy within the situational crime prevention literature (Clarke, 1997; Cornish and Clarke 2003) that has arisen from a number theories around crime opportunity (including routine activities theory and rational choice perspective), and ultimately

aims to reduce opportunities for offending through a range of measures. Target hardening has been employed internationally, and has been widely cited as an effective strategy for burglary reduction (Weisel, 2002; Hirschfield, 2004; Millie and Hough, 2004; Hamilton-Smith and Kent, 2005).

This paper examines the use of target hardening in the City of Liverpool. It stems from research commissioned jointly by Liverpool Citysafe and the Liverpool Housing Market Renewal Initiative¹ (HMRI). The objective of the study was to evaluate the impact of target hardening in the area, and to inform future prevention strategies. It is important to emphasise that the term target hardening used in this paper refers to a range of measures used by Liverpool Citysafe and includes all strategies which they themselves refer to as 'target hardening'. These include the fitting of new door and window locks, installation of alarms, the fitting of movement detection lighting, and fitting chains to doors. (The authors acknowledge that some of these may not be viewed as strictly target hardening strategies as they do not reduce the physical vulnerability of a property to attack).

Before the impact of target hardening on burglary could be examined, a key initial step was to assess the relationship between the occurrence of burglary and the allocation of target hardening. This required the generation of new data by combining information on burglary and target hardening at the individual property level. It also raised a number of questions about how target hardening was prioritised, the criteria used for selecting which individual properties to protect, what funding streams were available for target hardening, how resources were distributed across the case study area, and whether there were any additional or alternative objectives beyond burglary prevention for allocating target hardening. This paper, therefore, focuses on the relationship between the allocation of target hardening and burglary risk, as opposed to the actual impact of the target hardening on levels of burglary in the area. We also note there is an important distinction between risk and personal vulnerability (Millie, 2008) and this is likely to have implications for the allocation of resources. This will be touched upon again in the discussion at the end of this paper.

This paper will first briefly discuss the established literature on both domestic burglary and the use of target hardening for burglary prevention. It will review the established body of knowledge around burglary prevention and the relative successes demonstrated in the use of target hardening. It will suggest potential reasons why target hardening may be less successful, and will highlight the importance of allocating target hardening to properties most 'at risk'. It will then consider what happens to the link between protection and vulnerability to victimisation when alternatives to burglary risk (e.g. regeneration potential, housing demand) are used as the primary rationale for target hardening.

¹ http://www.liverpool.gov.uk/Housing/Housing_Market_Renewal_Initiative/index.asp

The paper will then outline the background and context to this project and the primary research questions to be explored. This will include a brief description of Liverpool City and its housing structure followed by a discussion of the data collected for this research and the methods used. The findings are then discussed, highlighting some of the mismatches evident between the allocation of target hardening and burglary risk and how far there have been any changes in this over time. An explanation of these patterns is then attempted paying particular attention to the priorities used by the City Council to determine the allocation of target hardening measures and the evidence base that has been available (e.g. data on prior burglary risk and prior target hardening at the individual property level) to inform such decisions. The paper concludes with suggestions for future policy and recommendations for further research.

Research questions

The research questions focus on the relationship between target hardening and burglary risk, how this changes over time and how this might be explained, more specifically:

- To what extent does the allocation of target hardening relate to burglary risk?
- How has the relationship between burglary and target hardening changed over time?
- What potential reasons can be identified to explain overlap or mismatch between target hardening allocation and burglary risk?
- How far was target hardening distributed appropriately, given the distribution of populations and burglary risk across Liverpool?

Domestic burglary and target hardening

The reduction of domestic burglary has remained high on the agenda of government and law enforcement policy for a number of years (Hamilton-Smith and Kent, 2005), and there has been a number of large scale national measures aimed at reducing domestic burglary. These have coincided with a long term trend of reductions in levels of burglary in England and Wales (Nicholas et al., 2007). Large national programmes aimed at tackling domestic burglary included the Safer Cities Programme (Eckblom et al., 1996) and the Crime Reduction Programme (CRP) (Homel et al., 2004). The Reducing Burglary Initiative² (RBI) was perhaps the largest initiative within the CRP where, over three rounds, 240 locally targeted projects received grants totalling in excess of £25 million (Kodz et al., 2004). In parallel to this funding a large volume of research into burglary prevention has evolved. This has identified a range of factors or characteristics that are

² <http://www.crimereduction.homeoffice.gov.uk/bri.htm>

known to increase burglary risk, and, as a result of a number of large scale evaluations, has created a broad evidence base of potential measures for effective burglary reduction.

There is an established body of research into factors likely to increase a given property's risk of burglary. Perhaps the two most salient of these are the importance of repeat victimisation as a predictor of future victimisation (Pease, 1998), and the fact that properties without home security measures run the highest risk of burglary (Nicholas et al., 2005). Repeat victimisation generally refers to repeatedly victimised targets (individuals or properties). There is an established literature on repeat victimisation and this is summarised well in a chapter by Farrell (2005). It is highly relevant to burglary prevention as the re-victimisation of properties has been shown to be swift, within a known time period, and tends to be highest in high crime areas. An additional concept coined is that of near repeats (Townsend et al., 2003), which suggests that properties near to burgled properties have a higher risk of burglary within a defined time period and distance (within 400m up to two months, Johnson and Bowers, 2004). This finding was particularly true for more affluent areas.

There is a growing evidence base on the characteristics of a property and its occupants that may increase burglary risk and these include; household composition, for example, single parent households, head of households aged 16-24 (Budd, 1999); property characteristics, for example, terraced properties and a lack of security measures (Nicholas et al., 2005); and the type of street/area where a property is located, for example, having rear garden gates, being alongside footpaths to shops, and being adjacent of open land (Armitage, 2000).

As stated earlier, target hardening has been widely employed as a burglary reduction strategy. It was used in many of the RBI areas and was demonstrated to be a highly effective tool for burglary reduction. However, across the different RBI areas the success of target hardening varied (Hamilton-Smith and Kent, 2005), and success was found to be dependent on a combination of the particular content of interventions and the methods used to allocate preventative measures. Targeting strategies varied from the less successful 'first come first served', which risked response bias and funds becoming exhausted before the most at risk properties were protected, to strategies targeting properties deemed most vulnerable either based on their occupancy (e.g. elderly residents) or prior experience of burglary. Two key issues raised were the importance of getting the dosage of targeting right (Millie and Hough, 2004) in terms of the number of properties to protect (effectiveness could be limited if too narrow a group of households was targeted) and the challenge of identifying the most vulnerable properties (those that are both actually 'high' risk, and high risk 'at the time' of target hardening installation).

It is argued that whilst many studies have addressed the effectiveness of target hardening, there are relatively few studies that have examined the criteria that should be used to decide which properties to target. This paper seeks to highlight the importance of this, particularly

when this target selection is set against the political and resource constraints facing those mandated with reducing burglary. This paper builds on concepts developed by Hirschfield and Newton (2008) which assessed the synergy between crime prevention interventions and crime risk at the ward level. Hirschfield and Bowers (2000) discuss a number of philosophical and political stances that underpin decisions about how to allocate and prioritise resources. Questions arise around the scale of targeting (for example which individuals or properties, or groups of individuals or properties should be targeted). Furthermore, temporal considerations such as when to target, and the spatial dynamics of targeting (where to target, when, and for how long) are also highly relevant. Moreover, the decisions over targeting may evoke a series of dilemmas around equity and fairness (for example, highly vulnerable properties within low crime areas may not receive any target hardening whilst low risk properties in high crime areas are given protection).

Existing studies have produced recommendations for the allocation of target hardening. Hirschfield and Bowers (2000) suggest targeting households simultaneously at three levels based on burglary risk of the property (previous burglary), the area (for example is it a deprived or high burglary area?) and social characteristics of the occupants (are they high risk?). Indeed, in Merseyside, such an approach was adopted over ten years ago (Bowers et al., 2001) and was shown to be effective. The criteria for target hardening were for properties to be located in a regeneration area, for the burglary to be a repeat, and for the occupants to be categorised as socially vulnerable. It is perhaps useful to highlight that this system is no longer employed, that the regeneration area and funding no longer exist, many of the individuals central to driving this policy no longer operate in the area, and one of the key organisations no longer exists. Another study (Anderson et al., 1995) suggests that prior victimisation should be used to assess risk, (not the characteristics of the individual victim), that early intervention should be emphasised, and that a number of interventions exist and are well established. This advocates that prioritisation should be related to cost (the most expensive measures should be reserved for those most at risk, and with highest chances of offender detection). They identify gold, silver and bronze standards against which to prioritise burglary prevention measures.

Research context and description of study area

This study examined burglary and target hardening in the City of Liverpool for the three year period, January 2005 to December 2007. Liverpool has a population of 436,100 (ONS, 2006 mid-year estimate) living in 210,366 households (Liverpool Local Authority, 2007). Administratively, it is divided into five Neighbourhood Management Areas (NMAs), Alt Valley, Central, City & North, Liverpool East and Liverpool South, each containing

around 20 per cent of Liverpool's households. Households are distributed relatively evenly across the 30 Liverpool wards.

The City has undergone an intense programme of regeneration in recent years, with over 40 per cent of households located within the boundaries of an area based initiative. Current programmes include the Housing Market Renewal Initiative (HMRI) which aims to tackle problems of housing market failure. There are seven Neighbourhood Renewal Areas (NRA) funded under the Neighbourhood Renewal Fund³ (NRF) and all, with the exception of Garston NRA, are situated within the boundaries of the HMRI.

Figure 1 depicts the main administrative areas in Liverpool. The location of the five Neighbourhood Management Areas is demarcated by the red boundary lines, and the shaded beige area shows the Housing Market Renewal Initiative area. The Neighbourhood Renewal Areas are also highlighted (in blue), and the wards are shown by the light grey boundary.

Around a third of Liverpool's households are situated within postcodes classed as 'Urban Prosperity' by the ACORN Classification⁴, 28 per cent are classified as 'Comfortably Off', while 18 per cent are classified as 'Hard Pressed.' The majority of Liverpool housing (72%) is privately owned (including owner occupied and privately rented dwellings), 20 per cent of homes are managed by registered social landlords and the remaining 8 per cent are owned by Liverpool City Council⁵. The majority of residential properties in Liverpool (78%) are in Council Tax bands A or B.

Target hardening in Liverpool

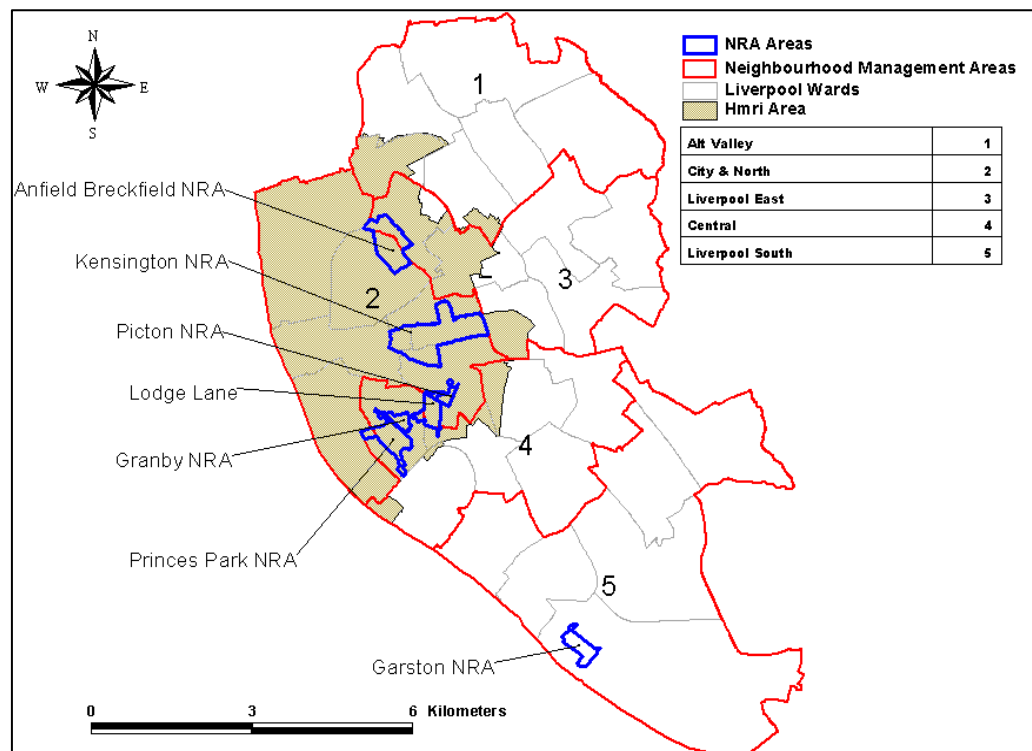
Funding for target hardening came from a number of different sources but predominantly through Liverpool Citysafe, the Housing Market Renewal Initiative and the Neighbourhood Renewal Fund. Target hardening delivered through different funding streams was carried out with different objectives, for example in the HMRI target hardening was not aimed solely at reducing burglary, but rather was conducted to increase residents' feelings of safety, and to retain residents within the community whilst regeneration takes place around them. Some of the target hardening installed in order to prevent crime was aimed at reducing domestic violence and criminal damage, and not primarily burglary. Furthermore, target hardening may have been introduced by private owners of households, and this is not included in the analysis, nor the findings presented in this paper.

³ <http://www.neighbourhood.gov.uk/page.asp?id=611>

⁴ The ACORN classification (<http://www.caci.co.uk/acorn/>) categorises all 1.9 million UK postcodes based on demographic statistics and lifestyle variables. The UK population is divided into 5 categories from *Wealthy Achievers* (25.1%) to *Hard Pressed* (22.4%).

⁵ From 1st April 2008, Liverpool City Council-owned homes are now under the umbrella of Liverpool Mutual Homes. A large programme of capital investment is expected on these properties.

Figure 1. Map of Liverpool key administrative areas



Data and methodology

Various data sets were captured for this research including information on domestic burglary, target hardening, housing tenure and other characteristics of individual properties, regeneration schemes, and social and demographic characteristics of Liverpool neighbourhoods. These data were cleaned and merged together into a Geographical Information System (GIS), which was then combined with a statistical programme (SPSS), to produce a number of new variables that were necessary for the research. This brought together information on burglary, target hardening, and household characteristics for each individual property. Without this preliminary stage of data processing and data linkage this analysis would not have been feasible. The data was geo-coded where necessary and the accuracy of this was tested. A final stage was to identify the number of burglaries and target hardening episodes for each individual property. This was achieved by assigning to each address a unique property reference number (UPRN) generated using the National Land Property Gazetteer (NLPG). This was used not only to identify repeat victimisation, but also, repeat episodes of target hardening.

Hot spot maps were produced to help visualise the relationship between the distribution of burglary and target hardening. The distribution of burglary was examined by producing kernel density estimate (KDE) surfaces (hot spot maps) in CrimeStat III (see Levine, 2004, and Chainey

and Ratcliffe, 2005 for more details of this hot spot technique, which is currently widely used by police forces to produce hot spot maps). The new research step here was to overlay this map with information on the location, timing, nature and cost of target hardening. A map was also produced to compare the location of target hardening with the location of repeat victimisation.

In addition to mapping the spatial distribution of target hardening and burglary at individual property level, the GIS was used to identify which properties fell into which of the various administrative zones and policy priority areas used by the City Council. Once this had been achieved the total number of burglaries and target hardened properties could be identified for each administrative and regeneration area. This allowed correlations to be generated between burglary and target hardening across a number of spatial units (census output area and ward area, and housing renewal areas) and across different time periods.

An Index of Dissimilarity was constructed to identify the co-alignment between the location of the burglaries and that of the target hardened properties by quarterly periods. This revealed the alignment between proactive target hardening and areas with the greatest burglary risk. The use of an Index of Dissimilarity has a long tradition in urban sociology and social geography as a means of comparing the spatial distributions of two distinct populations (e.g. Duncan and Duncan, 1955; Timms, 1971). It measures the percentage of one group (e.g. black residents) who would have to move location to make the group's spatial distribution identical to that another group (e.g. white residents). It has been used to compare the spatial distribution of social classes, occupational groups (for example professional workers and manual workers), populations in different ethnic and country of birth categories and by gender across given group territorial units (for example census zones and wards). It has also been used to compare the spatial distribution of a single population at two different points in time (for example, the residential location of black people between 1991 and 2001 Population Census).

An innovative feature of this research is the use of an Index of Dissimilarity to compare the spatial distribution of target hardening to that of burglary. This was examined at both ward and super output area level. The formula for calculating this is:

$$\sum_{i=1}^n \frac{(x_i / \sum x_i) - (y_i / \sum y_i)}{2}$$

(Where x_i is the number of burglaries, and y_i the number of target hardened properties in area i . Both of these are then divided by the total number of burglaries ($\sum x_i$) and the total number of target hardened properties ($\sum y_i$) across all zones in the city.)

Research limitations

There are some caveats to the research. The research only includes publicly-funded target hardening activity directed through Liverpool Citysafe. This data excludes any target hardening activity conducted and funded separately by householders or landlords of privately owned properties. It also uses police recorded data on domestic burglary which is known to be subject to under-reporting (Nicholas et al., 2007). This under-reporting may not be uniform by geographic area or social group. Additionally, the monitoring period creates an artificial time window through which burglaries are analysed; burglary events prior to the monitoring start date may have influenced future burglary and target hardening activity in ways which it is not possible to gauge. Further, burglary outcomes occurring post-2007 are not included in the analysis. There was a 99% success rate in the geo-coding of target hardening properties, and a 94% success in the unique property matching. However non-matched burgled properties (6%) are excluded from the individual property analysis.

One final potential limitation is the influence of the Modifiable Areal Unit Problem (MAUP) (Openshaw and Taylor, 1981). This may occur because spatial analysis can be sensitive to the definition of the units for which data are aggregated. By altering the shape and size of the boundaries used, the outcome of an analysis may also be altered. However, the research has considered a number of administrative areas (ward, super output area, and output area), and examined burglary and target hardening at the individual property level to minimise the potential impact of this.

Results

Burglary and target hardening in Liverpool

A total of 15,089 burglaries were recorded in Liverpool during the period January 2005 to December 2007. The average annual burglary rate was 23.6 burglaries per 1,000 households. This has reduced over the three year period from 24.9 to 21.5, a reflection of a wider trend (in all of Merseyside this figure has reduced from 17 to 13). Of the properties burgled in Liverpool during the monitoring period, 14 per cent were burgled two or more times (the average for England and Wales is 13%).

Liverpool East NMA experienced the highest rate of burglary with 27 burglaries per household per year. The City and North and Central NMAs both experienced near equivalent rates of 26. The lowest rate was identified in Liverpool South where 19 burglaries were recorded per 1000 households per year. Forty four per cent of burglaries committed during the analysis period were located within the boundaries of area based regeneration initiatives. The average annual burglary rate in these zones was 27, marginally higher than the average for Liverpool.

Altogether, 1,739 properties were target hardened between July 2005 and December 2007 from the above funding streams, at a total cost of

£911,715; a rate of 8 per 1000 households. This is three times lower than the burglary rate, thereby demonstrating the scarce nature of target hardening resources compared to burglary risk. The average (median) spend on target hardening was £478 per property, with a maximum of £2,746 and a minimum of £11. Fifty percent of target hardened properties received installations costing between £159 and £680. The majority of properties received one episode of target hardening. A total of 219 properties received two separate target hardening installations during the monitoring period. Eight properties received three or more target hardening installations. The most frequent type of work carried out was the installation of movement detecting lighting; this was fitted in 64 per cent of installations. Improvement to door security was the second most common intervention with 50 per cent of installations involving the fitting of door locks or bolts.

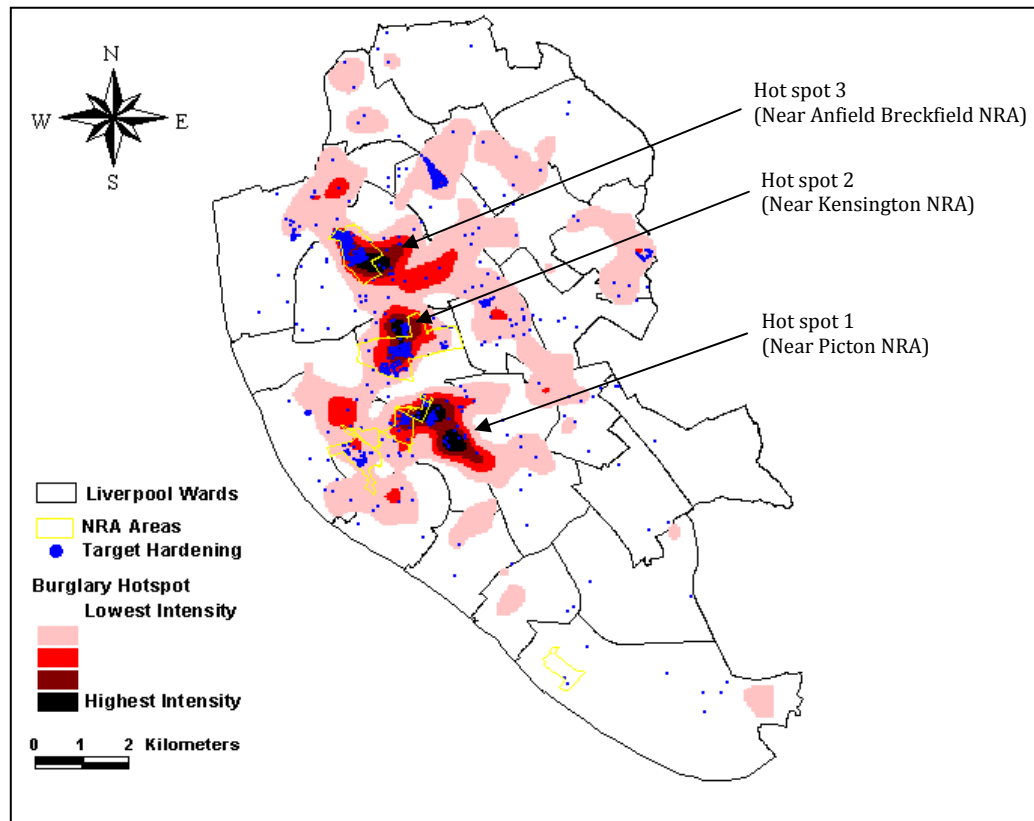
With a total of 210,366 households and an allocated spend of £911,745 it would not have been feasible, nor cost-effective, to target all Liverpool homes. Were burglary the only objective behind target hardening, protecting every previously burgled home would have diluted the spend on target hardening to just £77 per property. This highlights the necessity of 'rationing' the intervention by effectively targeting those homes that stand to benefit most from its implementation.

Following best practice and concentrating the intervention solely on those properties repeatedly victimised during the monitoring period would allow an average spend of £550 per property. However, given the broad objectives behind target hardening in Liverpool, burglary has been only one of the factors directing the targeting of the intervention. The analysis that follows contains an assessment of the extent to which target hardening resources in Liverpool have been directed towards the locations of greatest burglary risk.

To what extent does the allocation of target hardening relate to burglary risk?

The spatial distribution of burglary during the period July 2005 to December 2007 is depicted in Figure 2. This map shows hot spots of burglary represented by the dark black areas, and less intense hot spots in the light browns and red areas. This map was produced using the kernel density estimation method mentioned previously. The spatial distribution of target hardening across Liverpool during the monitoring period is also overlaid on Figure 2 in which all properties target hardened during the monitoring period are depicted using the blue circles.

Figure 2. The spatial distribution of burglary and target hardening in Liverpool (2005–2007)



Three main burglary hot spot areas can be identified from Figure 2. The southern most hot spot area (hot spot 1) has two distinct zones, one inside the City and North NMA and one that falls in the Central NMA. A second hot spot (hot spot 2) is identifiable in the City and North NMA. Further north, the final major hot spot (hot spot 3) is again within the City and North NMA (NMAs are not on this map). With the exception of the most southerly hot spot (hot spot 1) these high burglary locations have received a large proportion of target hardening. Less intense hot spots can be identified to the west of hot spot one and north of hotspot three. These areas have received little target hardening.

Overall it is noticeable that the majority of target hardening has occurred in hot spot areas, although it is evident that much target hardening falls outside of the hot spot areas. This target hardening is not concentrated in particular areas but spread out across the whole of Liverpool, and reflects the targeting decisions made by Liverpool Citysafe to target individual properties it has identified as high risk.

It is important to note that the hot spots produced in this figure are for the entire period July 2005 to December 2007 and can be considered relatively stable hot spots. However, hot spots do change in both location

and intensity over time. Thus, for particular time periods, other areas may have been hot spots for a shorter duration.

Table 1 summarises the geographical distribution of burglary and target hardening by the five administrative NMAs. The table presents the number, percent and cumulative percent of burglary in Liverpool NMAs ranked by number of burglaries. This is compared to the proportion of properties target hardened and the proportion of households in each ward. The table demonstrates that target hardening was far more concentrated than burglary, with half of all target hardening concentrated on just one quarter of Liverpool's properties. In comparison burglary was relatively evenly distributed across the City.

Table 1. Burglary and target hardening by Neighbourhood Management Area in Liverpool (2005–2007)

Neighbourhood Management Area (NMA)	No. of Burg-laries	% Liverpool Burglaries	Cum. % Liverpool Burglaries	% Properties Target Hardened	Cum. % Target Hardening	Cum. % Liverpool Households
City & North	3803	25.2	25.2	51.1	51.1	23.3
Liverpool East	3401	22.5	47.7	27.1	78.2	43.1
Central	3160	20.9	68.7	14.2	92.4	62.1
Alt Valley	2526	16.7	85.4	6.4	98.8	81.4
Liverpool South	2175	14.4	100	1.2	100	100

It was noted above that the Liverpool East, City and North and Central NMAs all displayed comparable rates of burglary. This is not the case for target hardening. City and North NMA experienced a quarter of the City's burglaries but received over half of the target hardening. Consequently, levels of target hardening in the remaining NMAs are disproportionately low compared to levels of burglary.

At the level of NMAs a very strong positive correlation was identified between frequency of burglary and the number of target hardening installations. This relationship was also identified at the ward level confirming that the wards with the highest level of burglary had the highest levels of target hardening. A weaker, but still statistically significant relationship was identified when the locations of target hardening and burglary were examined at the more detailed Super Output Area level. Correlations between burglary counts and target hardening were higher than those for burglary rates. This suggests that target hardening has been directed towards burglary hot spots without taking into account the underlying population levels. Correlation coefficients for each level of analysis are summarised in Table 2.

As outlined above, the most significant predictor of a future burglary is a prior burglary. It therefore appears surprising that of the 1,739 properties target hardened only eleven per cent were identified as having

been burgled prior to target hardening. Only one per cent of Liverpool's burgled properties received target hardening during the monitoring period. Analysis revealed that the average time elapsed between a burglary and receipt of target hardening was 261 days; suggesting that even in these cases target hardening was not implemented as a direct response to a prior burglary.

Table 2. Correlations between burglary and target hardening

Level of Analysis	Burglary Rate		Burglary Count	
	Number of Installations	Total TH Spend	Number of Installations	Total TH Spend
Neighbourhood Management Area (n=5)	.703**	.669**	.925**	.895**
Ward (n=30)	.436**	.401**	.626**	.598**
Super Output Area (n=250)	.157**	.130*	.202	.196

** Correlations significant at the 0.01 level

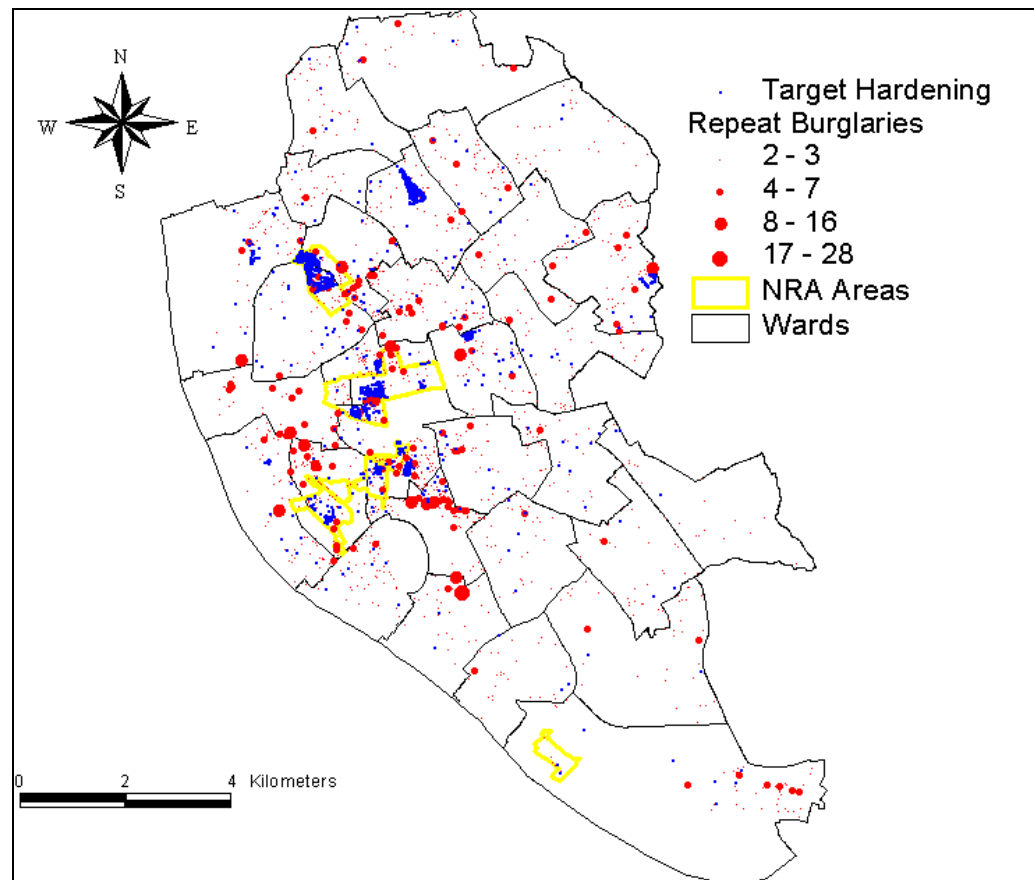
* Correlations significant at the 0.05 level

Future burglary risk increases with the number of prior burglaries experienced. Repeat victimisation should therefore be central to the targeting of crime prevention interventions. Again targeting of repeat victims is lower than would be expected. Of the 1,663 homes which experienced two or more burglaries over the analysis period only 82 (5%) have been target hardened.

Figure 3 displays the geographical distribution of target hardening with the distribution of repeatedly burgled properties (those properties victimised more than once during the analysis period). The map shows that repeats located in the Anfield Breckfield and Kensington NRAs overlap, or at least are in close proximity to, target hardening activity. However, repeats distributed elsewhere in the City do not appear to have been responded to with target hardening. The average spend per property was greatest for properties that had not been burgled, (£560.91) compared to those that had been burgled (£349.60), and there was no difference in average spend between repeatedly victimised properties and those properties experiencing one burglary. Although expenditure is a measure of the level of target hardening allocated to an individual property, it is not a measure of the actual effectiveness of the intervention as for some housing less expensive measures might actually be more effective.

In summary, an area-level analysis suggested that target hardening and burglary locations were strongly aligned, but a more detailed examination (at an individual property level) revealed that a number of high risk burglary properties were not protected by target hardening interventions.

Figure 3. Repeat victimisation and target hardening in Liverpool (2005-2007)



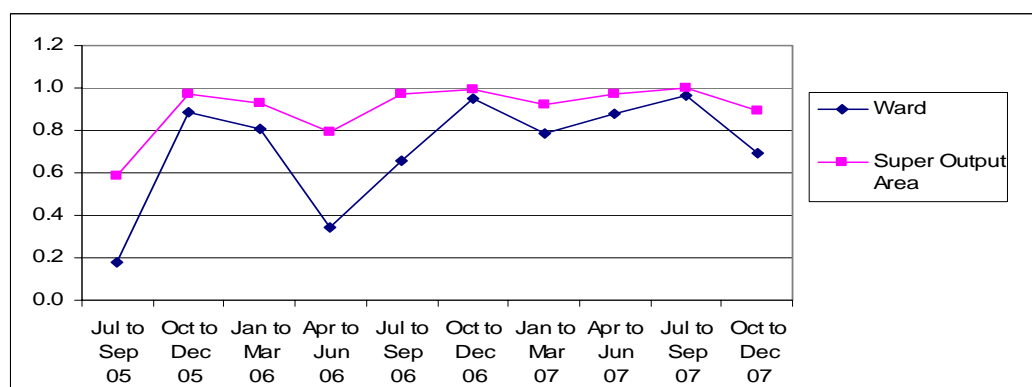
How has the relationship between burglary and target hardening changed over time?

The relationship between target hardening and burglary locations did not remain stable throughout the monitoring period. The Index of Dissimilarity (IOD) compares how far the spatial distribution of one variable compares to that of another (see above). In this case it compares how far target hardening matches the distribution of burglary. It produces a single value that can be used to relate burglary with target hardening. The value of the IOD ranges from 0.1 (least dissimilarity) to 1.0 (maximum dissimilarity). IOD values were calculated over ten quarterly time periods to identify the alignment of target hardening to burglary and how this was changing over time. The results of this are shown in Figure 4. The IOD is examined for two different areas, at ward level, and at Super Output Area.

The IOD is consistently lower for wards than for Super Output Areas. This suggests that burglary and target hardening are better aligned at ward level but less so across smaller areas. In other words, the apparent inter-ward similarities between target hardening and burglary are not

reproduced at the intra-ward level, that is, when comparing burglary and target hardening across the Super Output Areas within wards. At both ward and Super Output Area level, levels of burglary and target hardening were most aligned in quarter one (i.e. most similar). Over time, at both Super Output Area and ward level, the IOD has increased, thus the distribution of burglary and target hardening has become more dissimilar (i.e. less well aligned).

Figure 4. Index of dissimilarity between burglary and target hardening by ward and Super Output Area (2005-2007)



Time Period	Jul-Sep05	Oct-Dec05	Jan-Mar06	Apr-Jun06	Jul-Sep06	Oct-Dec06	Jan-Mar07	Apr-Jun07	Jul-Sep07	Oct-Dec07
IOD (Ward)	0.2	0.9	0.8	0.3	0.7	1.0	0.8	0.9	1.0	0.7
IOD (SOA)	0.6	1.0	0.9	0.8	1.0	1.0	0.9	1.0	1.0	0.9

What reasons can be identified to explain the overlap or mismatch between the allocation of target hardening and burglary risk?

There are several reasons that underpin the imperfect alignment of target hardening resources to burglary risk: the challenges of implementing this intervention in the private sector; the prioritisation of certain localities as a condition of funding; and the broader non crime-specific objectives of target hardening.

Although the majority of burglaries in Liverpool (72%) occurred in privately owned dwellings (including both owner occupied and privately rented) they received only 51 per cent of the target hardening, whereas properties of Registered Social Landlords experienced 17 per cent of Liverpool burglaries and 30 per cent of target hardening. This probably reflects the fact that it is more straightforward for authorities to implement change in properties over which they have more direct control (for example, local authorities do not require the consent of occupiers to undertake security upgrades to homes under their direct control, and legislative powers provides some leverage to ensure homes managed by Registered Social Landlords meet certain standards). Implementing target

hardening interventions in the private sector presents greater challenges, not least gaining the involvement of landlords and homeowners. The relatively low level of installations within private homes is also likely to reflect the smaller proportions of such properties found within the City's regeneration zones.

Liverpool's area-based regeneration programmes probably had the strongest influence on the allocation of target hardening within the City. These initiatives provided most of the resources but restricted their spending to a few well defined areas. Consequently, 78 per cent of Liverpool's target hardening installations were concentrated within two of the NRA areas, yet these areas experienced only 48 per cent of Liverpool's burglaries.

Area-based initiatives such as the HMRI and NRAs inevitably involve prioritising some communities at the expense of others. A problem inherent in area targeting is where to draw the boundary as there are typically more households in need outside of priority areas than within them (Deakin and Edwards, 1993). The concentration of target hardening within NRAs in Liverpool is a reflection of the dilemma about how best to target scarce resources and one from which crime prevention is not immune (Hirschfield and Bowers, 2000). This is brought into sharper focus when target hardening and burglary risk are compared. However, it is also the case that the additional funding for regeneration in Liverpool has enabled more properties to be protected through target hardening than otherwise might have been the case.

Table 3 demonstrates that within these regeneration areas target hardening activity was concentrated within the Anfield Breckfield NRA. While this NRA had a high level of burglary, it was not the highest. The over-representation of target hardening in this area reflects the timetable of housing renewal activity for which Anfield Breckfield is amongst the first phases, along with Kensington NRA, the area receiving the second highest level of target hardening.

Table 3. Burglary and target hardening in six of the Liverpool Neighbourhood Renewal Areas (2005–2007)

	Number of Burglaries	% Liverpool Burglaries	Cumulative % Burglaries	% Properties Target Hardened	Cumulative % Target Hardening	Cumulative % Liverpool Households
Kensington	700	4.6	4.6	14.9	14.9	3.5
Anfield Breckfield	506	3.4	8.0	36.4	51.3	5.7
Princes Park	201	1.3	9.3	3.2	54.5	7.1
Lodge Lane	181	1.2	10.5	2.6	57.1	8.0
Picton	123	0.8	11.3	2.1	59.2	8.5
Granby	44	0.3	11.6	0	59.2	8.9
Rest of Liverpool	13,299	88.1	100	40.8	100	100

The high levels of target hardening activity in the City and North NMA identified in Table 1 is also attributable to the concentration of neighbourhood renewal activity, with all but one of the NRAs and the majority of HMRI activity sited within its boundaries.

The three burglary hot spot areas identified in Figure 1 above overlap with the regeneration zones. All three hotspots fall within the HMRI area, although the most southerly of these three main hot spot areas does extend to outside the HMRI. Hot spot one overlaps with the Picton and Lodge Lane NRA areas, hot spot two with the Kensington NRA, and hot spot three with the Anfield Breckfield NRA.

These hot spot areas have a large proportion of target hardening, especially in the Anfield Breckfield NRA and the Kensington NRA. However, the most southerly hot spot (three) has been afforded less target hardening, potentially as part of it lies outside of the HMRI area. Consequently properties at risk of future burglary are more likely to receive target hardening if they are located within a regeneration zone.

Area based regeneration initiatives in Liverpool have adopted target hardening to meet a number of objectives, not limited to burglary reduction. This includes other crime prevention targets, such as the reduction of domestic violence, hate crime and criminal damage, but also includes wider social targets including 'living through change'⁶ and community cohesion.

Discussion: Was target hardening distributed appropriately, given the distribution of populations and burglary risk across Liverpool?

This research has examined the relationship between the allocation of target hardening in Liverpool and burglary risk, both in location and time. It is evident from this research that although an examination at ward level suggests those wards with high levels of burglary also experience high levels of target hardening, this relationship becomes less apparent when looking at smaller geographical scales (super output area and individual property level). Indeed only 11% of target hardened properties had previously been burgled. Over time, the distributions of target hardening and burglary have shown increasing dissimilarity. Furthermore, despite the well established research demonstrating the importance of repeat victimisation in predicting future burglary, the target hardening in Liverpool has not been directed towards repeats. This is a missed opportunity to help those properties most at risk.

⁶ Liverpool City Council define 'living through change' as 'a range of services designed to support housing renewal activity and make clearance sites and their surrounding areas safe, secure, clean and well managed, making the process of regeneration easier for the people who live in these areas'.

It is suggested that there are a number of potential reasons for the imperfectly aligned relationship between burglary and target hardening. There are perhaps three that can be clearly identified from this research:

- There are a range of priorities (beyond burglary reduction) for which target hardening is implemented.
- A large proportion of the funding is from regeneration activity which has distinct geographical locations and a wider remit than burglary prevention
- There is no clear systematic method for allocating target hardening based on a number of key risk factors. These include burglary risk, prior target hardening, the funding available (incorporating discussion between the registered social landlords, Citysafe and HMRI), and also potentially the vulnerability of the occupants.

It is evident that the co-alignment between burglary and target hardening has decreased over time. One of the likely reasons for this is that the funding activity within the NRA areas has been phased in over time and has been channelled primarily in two areas during the study period. Although this has increased the volume and dosage of target hardening in the areas that have benefited, it has at the same time widened the gap between areas of need, where burglary risk is greatest, and the areas that have been protected that contain only a small proportion of the properties most at risk. This is clearly reflected in the IOD values that show an increasing disparity between the areas most vulnerable to burglary and those best protected against it.

It would have been useful for the purposes of this research to examine target hardening by each of the sources of funding separately to ascertain if there were differences in the relationship between target hardening and burglary risk by funding source. Unfortunately, the available data did not permit this. The next stages of this research, which the authors will discuss in a future paper, will examine the actual impact of target hardening on burglary, and then from this to recommend suggestions for the future strategic deployment of target hardening resources.

Future research

This paper has presented an analysis of the spatial distribution of a policy intervention, an area of research which, unlike the analysis of policy problems, has received limited attention from academics. Further development of this approach for other crime prevention contexts is necessary to comprehend the extent to which:

- crime prevention measures are allocated appropriately given the populations most at risk;
- 'inverse prevention laws' exists where areas with lower crime receive more attention (Harvey et al., 1989);

- there is a variation in crime prevention response across communities with similar levels of need;
- improvements in the alignment of prevention with risk are required.

It has been acknowledged that target hardening in Liverpool was implemented to meet a broad range of objectives. Within the scope and remit of this research it was only possible to consider the alignment of resource inputs to locations of burglary risk. Future research should consider the alignment of resources to these other objectives and assess whether different priorities produce complementary or competing registers of at risk properties.

While the impact of target hardening has not been the subject of this paper, previous research has indicated that methods of resource allocation are instrumental factors in the effectiveness of interventions. Where detailed policy data are available future research should compare the impact of variant targeting strategies on outcomes. The analysis of the spatial and temporal distribution of crime prevention overlaid with the corresponding distribution of crime might shed more light on how far crime change can be attributed to policy interventions; the inability to do so being a persistent dilemma that confronts most policy evaluators (Pawson and Tilley, 1997; Eck, 2005). This approach to policy questions may require the development of refined methodologies for evaluation.

The benefits of policy analysis are not limited to crime and crime prevention, and are eminently applicable to other social policy domains, and notably to investigations into the interactions between policy domains.

Future policy and practice

It has been acknowledged that target hardening is installed to meet a wide range of policy objectives. However, as burglary reduction remains an intended outcome of target hardening it is essential that the highest risk properties are protected. The analysis has shown that to date this has not been the case. There is an indisputable case for prioritising properties on the basis of prior burglary history, area crime levels and existing levels of target hardening protection. The authors are working with Liverpool City Safe to pilot the use of a Property Risk Index which incorporates these three risk factors in order to produce a register of at risk properties.

An additional factor in this is the difference between risk and vulnerability highlighted by Millie (2008), and the implications this has on the how to prioritise target hardening. Should properties in high crime areas be targeted, or those which have been burgled before in high crime areas (highest risk), or those with residents deemed to be more vulnerable, or a combination of some or all of these?

The limitations of geographically-bounded funding streams can result in a 'post code lottery' where high risk cases lying outside funding zones are poorly served. Opportunities for more flexible funding sources should be explored where possible. The current round of HMRI funding

offers greater flexibility in providing assistance in that a proportion of funds can now be allocated outside of the regeneration zone.

A clear implication of the research outlined above is the sheer volume and detail of information that would need to be captured on policy interventions such as target hardening, the responsibility for which would fall on a range of agencies and gatekeepers. The centralised approach to data collation adopted by City Safe is valuable offering greater efficiency and economies of scale and the potential to be expanded to a wider range of policy interventions.

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Developing Criminal Personas for Designers

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Abstract

This paper describes a research method used to develop *criminal personas* for use by designers in a process called Cyclic Countering of Competitive Creativity (C4). Personas rather than profiles are developed to encourage designer ownership, to improve the level of engagement with countering the criminal mind, and encourage the responsibility to keep the personas live and developing, rather than be adopted as simple checklists built from available criminal profile data. In this case study indirect access to offender details was used to develop the personas. The aim was to give particular focus to the offenders' 'creative prompts', which enable designers to more effectively counter their own design solutions, by a role-play approach to critical review and counter design. The C4 process enables learning through failure, and strengthens the development and selection that takes place within the design process, but C4 does rely upon the development of relevant and engaging personas to be effective.

Key Words: personas, design against crime, C4, creativity, critical review

Background

Criminology has great opportunity to develop and disseminate its knowledge and research methods across disciplines. Further to this, not only might criminology teach others, it might learn something new through such a beneficial process. Presently, as commented by members of the British Society of Criminology at their 2008 conference in Huddersfield, there is a growing need to bring new perspectives into the profession. With a view to enabling criminologists to better appreciate the opportunities of working with designers, this paper first provides background and a

description of process. It goes on to discuss how crime research and approaches to persona development have aided designers from the School of Design at Northumbria University in the development of criminal personas for counter perspectives in crime prevention projects, using the C4 critical design process.

C4, (Cyclic Countering of Competitive Creativity), engages members of a development team with key personas of their competition. These personas are applied within the 'proposal-critique' cycles of the design process at the points of critical review, enabling users to consider the creative counters to their creative proposals. These personas are researched and applied specifically to enable designers to think more like their competitors when reviewing proposals, from concepts through to developed designs. In addition this process helps avoid subjective protectiveness over ideas, and improves experiential learning. In the absence of the C4, a typical design process would likely focus upon an analysis of the user experiences, and in this case possible crime data including victim perspectives. This would be followed by a review of development and market opportunities. It is proposed here that more value, in the form of inspiration and realism, may be acquired for the process by broadening the Human-Centred Problem Solving¹ approach, by adding the offenders' perspective.

The beginnings of the C4 process originated with Hilton taking a novel approach to crime prevention in response to a Royal Society of Arts tamper evident baby food packaging project in 1989, which resulted in a major award. The approach followed the observation that designers, at times, fall into the trap of being protective of their ideas, seeking to prove a proposed function rather than investigating disproof. The scientific method of looking to disprove, was arguably more logical. If no disproof was found for the success of a function or aesthetic, then it would be reasonable to conclude that the proposal would be effective.

In the early stage of developing the C4 process it was acknowledged that a more demanding or negative process would quickly be dropped in favour of easier approaches, unless the rewards were clearly desirable and engaging. The approach proposed was to use, and to enjoy using, a role-play process. The personas of 'Malicious' and 'Calculating' packaging tamperers were developed and applied on the first occasion. These personas were, however, what are now referred to as 'assumption' personas (Pruitt and Adlin, 2006), developed from preconceptions and some readily available information through the media. In brief, the personas used for the RSA project were:

- The Malicious persona who tampered opportunistically for kicks; they would 'have a go' at almost any package but give up if it required determination;

¹ Human-Centred Problem Solving is a design method for engaging systemically with the human impact of problems and their solutions; aiming to improve quality of life.

- While the Calculating persona was a planner with the goal of extortion from retailers, they would target packaging of those products and brands which carried the greatest commercial impact; and these individuals would be very determined.

At this point a differentiation between profiles and personas should be made clear. Profiles, were first developed by Brussel (1968), and are defined here as ‘working constructions’ of yet to be identified individuals. Crime scene data is gathered to develop criminal profiles, which are applied as investigative tools to narrow down suspect pools and to catch suspects. Ainsworth, (2000) reported that it has been difficult to evaluate the success of profiling, as profiles are not evidence or proof themselves, and inaccurate profiles may lead some investigators off track. An accurate profile may equally fit a number of other people, and so care must be taken not to treat the ‘suspect’ as guilty until proven so.

Personas, as defined here, are ‘working constructions’ of identified types. The persona development uses criminal records and direct accounts from the offenders; otherwise it uses secondary accounts through their associates, or crime-prevention agencies. These accounts develop the offenders’ perspectives, reflecting their opportunity and risk imagination, which could then be used in team situations, as a countering tool to improve the critical thinking and analysing processes in Design Against Crime (e.g. Cooper et al., 2002). The success of this approach is that it immerses and engages the team members in the development and application of the counter perspectives, and more effectively informs the process than the use of assumptions developed from personal experience alone.

This process is not without its own ethical concerns though. The users must guard against developing and applying the personas in an unethical manner. The intention is to determine solutions which challenge and positively change the offenders’ behaviour. The process must not physically or mentally harm the offenders, their associates, or bystanders, by either the process of investigation, role-play, or solutions developed.

So why invest time in development and application of criminal personas and the C4 process if it can be ethically challenging? It was found in review of these projects, to provide designers with:

- Counter perspectives which enable a more objective critical review process
- An understanding of how offenders may see and think about opportunities differently
- A more effective learning experience within the project development process
- A means of more effectively undermining the value of the offending behaviours

- Opportunity to develop solutions which may avoid escalation, like some form of 'arms-race'.

In the case of C4, the personas are used in cycles to attack concept solution proposals intellectually, following each concept generation period. The 'criminal' aim is to see if the crime prevention proposals can be obstructed, resolved, or even misused for further criminal intent. The 'designer' aim is then to address, negate or counter the 'criminal' criticisms and propositions. The C4 process cycles the phases of creative and critical thinking from designer to criminal to designer to criminal, until a point is reached where strong propositions have been selected and developed.

It was identified during the tamper evident packaging project that, though the profile background of a persona was useful in establishing a context and motivation, the most important element of the personas was their creative prompts. The prompts specifically relate to opportunity identification and considerations of criminal access, or countering of crime prevention products and services. As prompts rather than instructions, they are not intended to describe exactly how to commit a specific crime, but suggested how a particular persona would more generically consider and develop offending opportunity. It was logical to conclude that, although offenders might differ in motivation and perspective from designers, there was still evidence of creative and critical thinking processes being employed (as noted by Brower, 1999).

An additional point of concern has since been that if the prompts are addressed as part of the project brief, as a set of considerations or a checklist, there is a danger that to some degree it becomes a tick-in-the-box exercise. The beauty of persona development and application is that things like creative prompt lists can be kept alive, being added to, in response to the new experience and observations of the users. It would be inappropriate to develop a persona like a snapshot, unresponsive to change. Engaging with change, looking for new opportunities, enables further development of competitive edge, in this case possibly forecasting the next form of crime before it becomes a reality. For instance, as new technologies are reviewed in the press, there is opportunity to use C4 to think ahead of the 'competition'.

Ex-offenders' experiences might be used for product/service development, as is the case in some security related firms to test systems and services. However, it is an effective alternative or addition if designers can be enabled to switch between defensive and offensive perspectives at will, especially at the concept development phase of a project.

This process was more recently applied by Hilton and Irons (2006) across the professions of Product Design and Computer Forensics, when the potential of C4 for improvement in quantity and quality of ideas generated with criminal persona brainstorming was investigated. A significant amount of secondary research was carried out in preparation, with reference to a range of texts including: Katz (1988), Ekblom (1997) and Gudjonsson and Sigurdsson (2004). This informed the creation of more

developed personas than had been used for the tamper evident packaging project. However, these more effectively researched personas were edited to provide only concise prompting to those individuals engaged in the brainstorm sessions. In review of that project, the evidence suggested that there was justification for further research, with a view to enabling primary research to inform more effectively 'developed' personas.

The following section describes the development process for C4 criminal personas.

Persona development process

Katherine Henderson, co-author of this paper, was initially given a selection of the prior research texts to review, including: Mawby (2001), Bartol and Barton (2005), Hilton and Irons (2006) and Pruitt and Adlin (2006).² She was then introduced to members of Newcastle's Community Safety Unit (CSU).

First priority for the project was to build a sense of reality by discussing what themes would be the most appropriate to investigate and present. It was proposed by the CSU that burglary from student accommodation and graffiti in Newcastle would be two major and contrasting themes. With the directional themes agreed, the second priority was to create a network of informed contacts who could describe and discuss the real issues and offender considerations, without direct association with the offenders. The choice not to base the primary research on direct interviewing of offenders and ex-offenders in this instance was down to the short timescale of the project and the anticipated time frame for the University ethical procedure. However, a future, longer-term project would aim to take this direct route to persona development if possible, following ethical approval. The network of contacts included representatives from:

- Community Safety,
- Crime Prevention,
- Prolific and other Priority Offenders Team,
- Probation,
- Mental Health, and
- Education.

Through these points of access the researcher was able to carry out a series of in-depth interviews, gaining 'real life', rich and detailed information, not considered accessible through secondary research.

It was noted that some of the sources interviewed carried conflicting perspectives. This important observation was also made in 2007, by

² Other texts could have been used as a starting point; however the aim was to give Henderson (a designer) an overview of the subject prior to more focused engagement.

members of the ThinkCrime Expert Panel, a separate project running in parallel to this one, managed by the Design Against Crime Solutions Centre³. The ThinkCrime project was a collaboration between the universities of Salford, Manchester Metropolitan, Central Lancashire, Huddersfield and Northumbria, supported by the Social Development Fund supported, and involving crime prevention practitioners from those regions in discussion and development of opportunities for more effective management of crime prevention. The reason the issue of conflicting perspectives is important, is that it supports the case for primary research to be conducted with offenders and ex-offenders, as a future research opportunity. However, even then it is anticipated that the sample would be skewed, in that it would be made up of offenders who had been caught, or who were open about their activities. It might be argued that the most useful personas would be of those creative enough not to be caught.

The interviewing of crime prevention practitioners in the North East also provided an understanding of interagency interactions, and informed how the crime prevention system functioned. The researcher carried out primary and secondary research in parallel, referring not just to the previous project reference list but carried out a new search using keywords from the two crime brief areas. Among others, these texts included: Budd (1999) for Burglary, and Macdonald (2001) for Graffiti, which the researcher found particularly useful in developing the contexts for designers.

An additional ethnographic approach was taken, where scenes of crime and potential sites for crime were visited and photographed, including vandalised alleyways and graffiti sites. The researcher also entered an Internet forum on graffiti under a pseudonym, and gathered information from a range of sources. A number of websites also provided useful information to support the interviews, including the sites of: Northumbria Police, Home Office, Crime Stoppers, Crime Reduction, and Vandal Squad. In the final stage of the development, the researcher returned to her designer role, sorting and formatting the most salient information into criminal persona cards. With peer review from the project network she was able to select the four most valuable personas from each of the ranges she had developed, for burglary and graffiti. Each of the card pairs, for 'Data' and 'Context', were then produced to the same format.

Figure 1a shows a persona data card for the opportunist burglar. The typical age, sex and history, enabled the designers to begin to visualise 'their' offender. This was aided by the description of character. However, the most important section on these cards, relating to the 'creative prompts', was how the offender operated. The designers were encouraged to add to these notes any further considerations which came out of their own experiences in investigating and using them. Figure 1b provides some contextual visual support material for typical scene of crime.

³ e.g. Andrew Wootton and Caroline Davey of the Design Against Crime Solution Centre, The University of Salford, and Mike Hodge of Greater Manchester Police

Figure 1a. Opportunist Burglar Persona Data Card

Opportunist	
The amateurs of the burglary world...	
<p>Age band 18+</p> <p>Sex Male</p> <p>History</p> <ul style="list-style-type: none">* Has been implicated in over 25 walk-in burglaries. <p>Character</p> <ul style="list-style-type: none">* He's a bit of a chancer!* He thinks that 'if people are stupid enough to leave doors open then they deserve to be burgled'.* He's easily led and influenced by peers.* Sees stealing as a quick and easy way of getting cash.* Gets a rush from doing it.* Doesn't think twice about taking your stuff ...he'll only get a police caution.* Little structure in his life...lives a day-to-day existence.* Takes recreational drugs.	<p>Tools of the trade</p> <ul style="list-style-type: none">* Alert to an opportunity. <p>How he operates</p> <ul style="list-style-type: none">* Takes anything that will sell.* Looks for open doors or windows or poorly maintained properties.* He surveys properties looking for things left on display...computer on desk facing onto the street, etc.* Acts spontaneously...May burgle a property on his way home if an opportunity presents itself.* Is versatile in his approach to an opportunity.* Sells on goods to friends in the pub or keeps them for himself.* Will carry what he can but will also stash goods to collect later from a wheelie bin etc.* If he discovered a property that is favourable to a brake in he'll come back that night and burgle.* He may wait until students are away on summer semester and try and get into a house.* Operates fairly close to home.

Figure 1b. Opportunist Burglar Persona Context Card









Opportunist	
<p>The opportunist burglar was delivering leaflets and found the door was left on a chain...all it took for him to gain entry to the house was to reach his arm around the door and unfasten the chain.</p>     <p>Open ground floor window...</p>	 <p>A poorly maintained gardens can act as a screen to allow burglars to access property without detection</p>  <p>Ladders left out...</p>   <p>Open or damaged doors</p>

Figure 2a shows a persona data card for the prolific tagger. Again the character description helps each designer visualise their offender, helping them get into character; but the most important data are the

descriptions of how the offender operates. Figure 2b then provides example visual context for typical crime scenes.

Figure 2a. Prolific Tagger Persona Data Card

Prolific Tagger

A tag consists of the sprayers name in stylized letters that are gathered together in the form of a logo.

Age band 17-30
Sex Male
History
* No previous convictions.
Character
* *"I did it for the fame. That was about it basically"*
* His aim is to be the next INCH, the next graffiti 'King'.
* Has a fierce drive to earn his profile...get a reputation.
* His ambition is to go all city and get his 'name up' on the whole of the metro system.
* Wants fame... his 'claim to fame'.
* Wants respect and recognition from his peers.
* Uses graffiti to prove his masculinity.
* This is his chance to be autonomous and be somebody else.
* Likes to assert his adopted identity.
* Is committed to graf and wants to progress up the hierarchy.
* Finds it rewarding when he sees his name up everywhere-is proud.
* His tagging gives him a sense of achievement.
* Graffiti has become part of his lifestyle.
* Likes the rush he gets from doing it...Exciting.
* Likes the element of risk.


* Enjoys the whole experiences of graf spraying.
* Likes to mix with like-minded people, be part of the sub culture, be part of a collective.

Tools of the trade
* Spray cans.
* Bag to keep cans in.
* Dark clothing and something to hide face.
* Paper & pencil/pen.

How he operates
* *"...the more tags you have up the more respect you get."*
* Usually tags in spray paint.
* He has created his own identity and decided upon his tag name...AMOR or FIGGS.
* Designs and practices his tag design on paper.
* His underlying rule is just to 'get up', put your name everywhere, do as much as possible.
* Is devoted to graf and goes out to tag every night.
* Focused...considers where to tag to get the most exposure.
* Will go out alone at night or with a few mates to spray.
* Knows the scene and the crews.
* Tags for his peers and not the public.
* Is aware of CCTV cameras and security.
* Is aware of the implications of his actions.

Figure 2b. Prolific Tagger Persona Context Card

Prolific Tagger



Without the use of the personas and the C4 process the designers would likely fall back on what experience they had and a number of assumptions, which would only be countered if they sought experience from crime prevention officers, to better inform the design process. But even then some designers might not be as effective in testing and reviewing their proposals, instead forming 'favourites' earlier in the development process.

To support these cards, guidance was also provided for applying the personas and carrying out the C4 process. The guidance included some simple drama exercises to help team members get into their characters, and this was aided by a suggestion of props and sources of further contextual information.

This approach enabled designers to take on their given persona and apply that certain type of criminal thinking to each stage of the design process. The designer, having taken on the criminal persona would be more aware and able to ensure that their design proposal anticipated the potential for crime, maintaining user friendliness but simultaneously making designs 'abuser unfriendly'. This design strategy has sought to introduce design changes, making offending actions less attractive to the offender.

Personas were selected on the basis of maintaining an effective range of 'types', which could be readily engaged with and contribute to creative and critical thinking. It was found to be essential to the success of this project that adequate research time was dedicated at the development stage to ensure that the information gained was accurate, to avoid inappropriate typecasting.

Time planning was essential for the investigation, having to consider: the question phrasing for effective elicitation of knowledge and later analysis; identifying the right practitioners to interview; interview timing and travel; support photography; and some margin for new interview and development opportunities which could arise as the project progressed.

The process of creating the persona cards started with analysis of secondary data and then advanced to the acquisition of indirect primary data through the crime prevention practitioners. Varying research techniques were used to compile the intrinsic data required.

The information gained from in-depth interviewing, following the ongoing establishment of a project network, was invaluable in obtaining 'real life', rich detailed information. Face-to-face interviews offered the possibility of modifying ones' line of inquiry, following up interesting and unanticipated responses and investigating motives, providing a level of insight not found in the public reports or books referred to. The ethnographic data obtained when interviewing and when photographing environments helped to bring a sense of reality and substance to the development of the persona cards. Preconceptions and generalisations were replaced by actualisation. Beliefs, attitudes, experiences and motives were used to help define the persona 'types'.

It was found to be important to invest time in setting up face-to-face interviews as opposed to telephone interviews. There was a greater sense of trust between interviewer and interviewee when eye-to-eye contact was possible. The issue of 'trust' was also highlighted by ThinkCrime as a communications problem between practitioners that may influence effective crime prevention management. So, developing a rapport with key research respondents was vital to informing and developing criminal persona content. It was necessary to draw information from a number of parties linked to offending to enable varying viewpoints and alternative perspectives to be considered and analysed collectively to try and maintain a degree of objectivity.

On reflection the interviews proved to be an effective and powerful tool, the only drawback being the duration of time it then took to process the qualitative data, clarifying and illustrating the implications of the findings. However, the ethnographic research was a crucial information source used in the creation of the persona cards. The researcher carried out site visits to develop a greater understanding of context and this helped to redefine the way she saw things as a designer. It was proposed as a useful experience for designers involved in crime prevention.

It is important that the design practitioner, or academic, intending to use this criminal persona development methodology to inform the C4 process, should approach it with an open mind. They must jettison personal perceptions and values associated with offending, as this may lead to response biases of various kinds, which may counter the effectiveness of the creative and critical thinking. It is difficult to engage prejudice-free, which re-enforces the need to amass a wide range of information from different 'sides' of the debate.

Conclusion

The intent and approach (to describe by example the development of criminal personas, their cards and other support material for designers) has, on review, great potential for success. The research informed the development of clearly presented personas and user guidance enabling the design practitioner or academic to avoid applying stereotypical and standardized data within the design process, which would potentially result in ill-informed design outcomes.

Where some professions have already employed persona development to engage their creative processes more effectively with their market types and needs, C4 seeks to engage designers with their market's competition. The nature of critical intellectual attack carries motivational issues, yet we believe the role-play approach to persona ownership with C4 can overcome much of the reluctance to engage with such a proposition.

It is anticipated that users of the C4 process, especially those who engage with the active development and maintenance of the personas, will

experience a change in mind-set, enabling more effective development of 'competitive' crime prevention product/process/service solutions.

In conclusion of this stage of the project it was proposed that there should be benefit in direct primary research. Such an approach would avoid conflicts which may be noted through indirect primary research, because of different perspectives held by some crime prevention agencies. While it would seem preferable to conduct primary research with 'practising offenders', to build up an even greater understanding of offending behaviour, further investigation is needed to compare effectiveness of directly and indirectly researched personas to qualify this point.

Acknowledgement

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City Centre Crime

Cooling crime hotspots by design

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Abstract

City centres present particular challenges to the police. Crime prevention techniques that make the city centre safer would reduce the burden on the police. One such technique is Design Against Crime that uses effective design to prevent crime. The City Centre Crime project, initiated by the Manchester Crime and Disorder Reduction Partnership (CDRP), is a holistic, 'human-centred' investigation of the relationship between the urban environment and crime, with the aim to devise and implement practical design interventions to reduce crime and anti-social behaviour. An area of Manchester city centre was identified by the CDRP as containing a significant number of crime 'hot spots'. A design-led, top-down research approach was employed to understand the local context and to devise appropriate design interventions. This paper describes the research approach employed to generate targeted interventions to prevent crime, and discusses the advantages of this approach for place-based crime prevention analyses.

Key Words: design against crime, crime prevention, geography of crime, top-down research

Introduction

The recent economic regeneration of British city centres presents new challenges for police and urban managers. The multiple uses of retail, business, education, cultural and entertainment establishments result in a city centre that is a vibrant place twenty-four hours a day, seven days every a week. As a result, the population is variable and transient as people journey into and out of the city centre for these purposes. The high level of usage at certain times creates management issues for the police and local

authority. A staple in the regeneration of many British city centres, the late-night economy, ensures twenty-four use and economic viability of the city centre, but its concomitant crime and social issues are also of concern for the police and health services. The mix of uses and users means that the city centre is a consistent hotspot location for criminal activity.

Police authorities are increasingly interested in the role of location and its relation to crime incidence as a way to prevent crime. Crime mapping analysis - the ability to investigate the geographical location of crime occurrence - is now an important tool for strategic and tactical policing operations, crime prevention programmes and crime detection (McLaughlin, 2006; Chainey and Thompson, 2008). Analyses of crime maps reveal crime hotspots - locations with the greatest occurrence of specific crime types - identifying places with the greatest need for crime prevention and reduction. Crime mapping analysis is so important that the ten local authorities in Greater Manchester have pooled all their crime and disorder data together into one large geographic database, called Greater Manchester Against Crime (GMAC), to enable crime mapping analyses of incidents and to improve the prevention and reduction of crime in the metropolitan area.

Design Against Crime

One way to prevent crime in city centres is to alter the environment in which it occurs - to 'design out' crime. Through initiatives such as Design Against Crime (DAC), European designers, manufacturers and developers are being encouraged to address crime, anti-social behaviour and related social issues within development projects. DAC emphasises the contribution of architecture, product, interior, graphic and other design disciplines to crime prevention. DAC seeks to broaden the thinking and practice of all design professionals to address crime issues (Design Council, 2003), and uses examples of good practice in crime prevention from both the private and public sectors. DAC holds that designers have an important role to play in place-based crime prevention, and that they have particular skills of value. Ken Pease (2001:27), a UK criminologist, has observed that:

Designers are trained to anticipate many things: the needs and desires of users, environmental impacts, ergonomics and so on. It is they who are best placed to anticipate the crime consequences of products and services, and to gain the upper hand in the technological race against crime.

The DAC literature argues that designers must consider the potential for their designs to be misused or abused. So they need to consider not only the user, but also the potential abuser or misuser. To achieve this, designers need to learn to 'think thief' - to anticipate potential offenders' actions, understand the tools, knowledge and skills they employ, and incorporate attack testing into the design process (Ekblom and Tilley, 2000; Design Council, 2003; Town et al., 2004). The aim is to out-think the

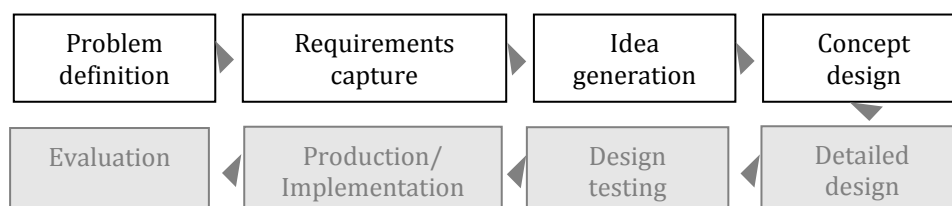
thief and develop design solutions that ‘short-circuit’ potential offenders’ behaviour. Importantly, however, this must be achieved without reducing the design’s value to legitimate users, increasing fear of crime, creating social problems, or causing the seriousness of the crime to escalate.

Of course, it’s not just about thinking ‘thief’, but about considering all types of criminal activity (Ekblom and Tilley, 2000; Design Council, 2003; Town et al., 2004). The Design Policy Partnership, UK Design Council and Home Office have published guides and case studies that demonstrate to designers that their design solutions can be both user-friendly and secure (Pease, 2001; Davey et al., 2002; Design Council, 2003). In addition, the joint Home Office and ODPM publication *Safer Places* (2004) describes ways in which the design and planning of the built environment can prevent crime and fear of crime, and contribute to the creation of safe and sustainable communities. The Architectural Liaison service, managed by the Association of Chief Police Officers (ACPO), provides best practice advice to architects, developers and local authority planners on ‘designing out crime’ during the planning (development control) process. Such advice is based on the ACPO Secured By Design accreditation scheme (ACPO, 1999).

Design-led crime prevention

The Design Against Crime Solution Centre at the University of Salford (where the authors work) concentrates on design-led crime prevention — measures to prevent crime and fear of crime that employ the design of products, places, or systems. From this perspective, design refers to the process by which ‘designs’ are brought into being. There has been much written on the process of design (e.g. Cooper, 1979; Lawson, 1983; Cooper and Kleinschmidt, 1991; Cooper, 1994), but it can be practically conceptualised as a number of iterative activities, sometimes termed ‘stages’ (Cooper, 1994). To some extent the processes employed by designers will vary between individuals and their domains (Lawson, 1983). This paper employs a model of the design process from the field of three-dimensional design (i.e. product design, interior design, architecture, etc.). This consists of a number of generic stages, including: problem definition; requirements capture; idea generation; concept design; testing and validation; production/implementation; and evaluation. The City Centre Crime project focuses on the first four of these stages - from ‘problem definition’ to ‘concept design’ (see Figure 1).

Figure 1. Generic design process highlighting activities undertaken by City Centre Crime project



The design process seeks to meet user needs and requirements within project constraints (e.g. time and budget) through an understanding of human behaviour, attitudes, and emotions in relation to a particular design objective. Identifying and understanding project constraints, defining the problem domain and capturing stakeholder requirements are key to early (sometimes called 'front-end') stages of the design process. Good design is evidence-based, and research conducted in the field of new product development since the 1960s shows that effective front-end design activities are a key success factor (Cooper and Kleinschmidt, 1988).

DAC promotes a 'human-centred' approach to preventing crime and feelings of insecurity. Human-centred design focuses on the roles, requirements, abilities and perceptions of all the humans in the problem domain. The emphasis is on human agency in any design system, with the objective being to enhance human abilities, overcome human limitations and foster user acceptance (Rouse, 1991).

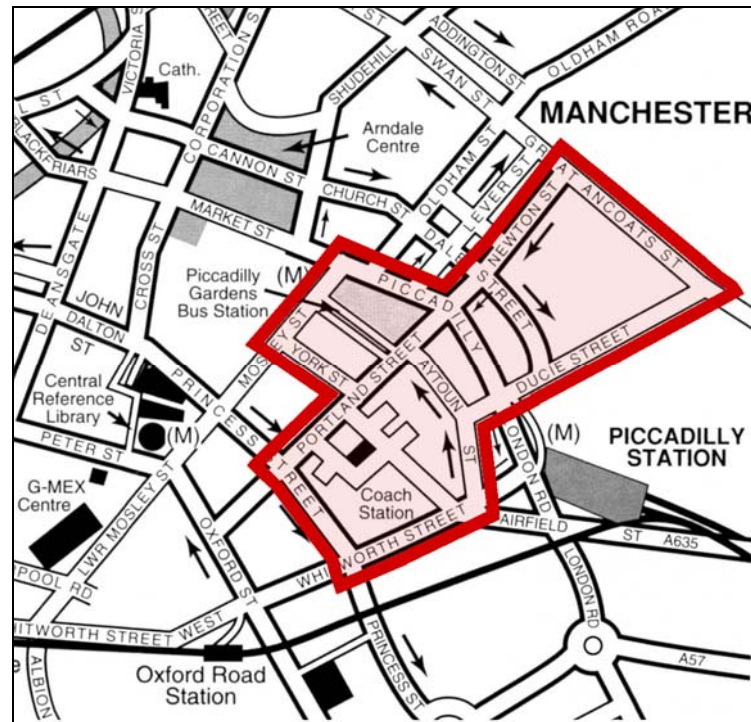
Good DAC solutions are tailored to their specific context and often address crime problems in innovative or subtle ways. The involvement of design expertise enables a move away from the simple retrofitting of security devices, such as locks, high fences, CCTV and alarms, to design solutions. DAC encourages a more empathetic and holistic approach that considers not only the potential misuse and abuse of products and environments, but aesthetics and human sensory experience (Town et al., 2004).

The City Centre Crime project

The City Centre Crime project was initiated by the Manchester Crime and Disorder Reduction Partnership (CDRP) and the Design Against Crime Solution Centre to investigate the relationship between the design and use of the urban environment and crime. From this, the goal was to devise practical design interventions to reduce crime and anti-social behaviour that might be implemented by the CDRP. An area of Manchester city centre was selected by the CDRP (see Figure 2) as it contained a significant number of crime 'hotspots'. According to the CDRP, while crime in the area was constant and without discernable pattern, the environmental design and use of the area was thought to contribute to crime occurrence.

This paper describes the design-led approach to crime prevention employed by the City Centre Crime project to holistically understand the relationship between crime and place, and details how this led to the creation of design interventions to reduce crime occurrence in Manchester city centre. Details of the design interventions themselves are not presented here, but will be published at a future date.

Figure 2. Map of Manchester city centre, showing area of study



Research methodology

Research structure – Summary

A top-down research structure was used to investigate the relationship between crime and place. The sample area of the city centre selected by the CDRP was considered by the researchers too large an area in which to investigate the micro-level interactions between the physical environment, use, and crime. In order to develop contextually-specific design interventions for the city centre, the researchers would need to identify ‘focus areas’ within the overall project area. This research approach would allow the researchers the ability to closely engage with the dataset to understand the links between the urban environment and crime in order to develop potential design interventions.

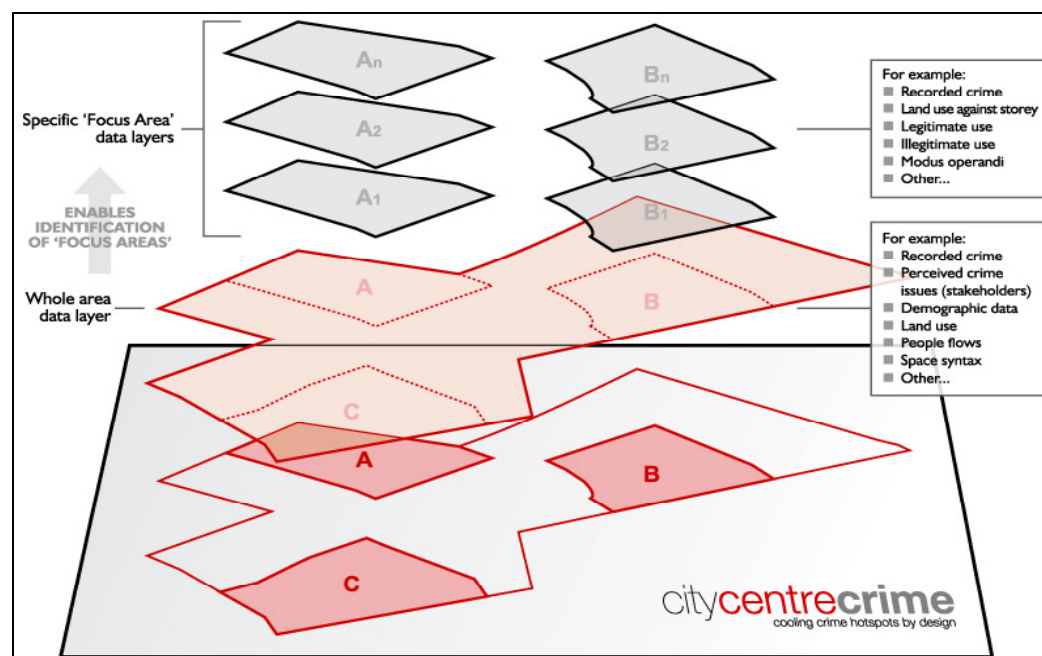
The physical design of the specific research area, its use, and the systems operating in the vicinity, were the main focus of the investigation. For this reason, comparisons across datasets with other regions in Manchester were not conducted. Instead, a case study methodology was adopted for the investigation of crime incidents in their specific location - or ‘crime in place’. The case study was selected as the most appropriate research approach for this study as it involves a holistic, in-depth exploration of a specific unit of analysis (Willig, 2001).

The research structure of the City Centre Crime project (see Figure 3) was implemented in two phases. A case study approach was used in both phases. In Phase One, the entire Manchester city centre study area, as

selected by the CDRP, was investigated (shown outlined in red in Figure 2). Data were gathered and analysed to learn as much as possible about this specific area of the city centre in its entirety. This led to the identification of three focus areas within the sample. In Phase Two, the project research focused on the three identified focus areas. Case study methodology was utilised for each focus area. Various methods were used to investigate the contextual factors of crime and place, resulting in several layers of data for each focus area (see Figure 3). Analysis across the various data layers provided a holistic understanding of how specific crimes related to their locations.

The following sections discuss the research undertaken in each of the phases of the project and the design-led approach in more detail.

Figure 3. City Centre Crime research structure



[Note: The focus areas on the map do not represent the areas eventually selected for detailed study.]

Research structure – Phase 1

Top-down analysis of criminal activity, physical environment and its use began with an investigation of the whole Manchester city centre sample area. Semi-structured qualitative interviews were conducted with nineteen interviewees from the public and private sector. Their local knowledge of crime, its location, and how the use and design of the environment influenced these, were collected to better understand the relevant crime issues in context. Interviewees were drawn from four groups:

1. Those who determine the physical environment – City planners

2. Those who monitor/patrol, maintain, and secure the physical environment – Fire and Rescue Service, Homeless and Begging Unit, parking attendants, street cleansing operatives, and street wardens.
3. Those who use and are a regularly present in the physical environment and are socially or economically involved – City centre residents, users and businesses
4. Those who have the latest information on crime and anti-social behaviour in the physical environment – Greater Manchester Police, the CDRP and GMAC.

All interviewees gave their consent to participate in the study, and interviews were recorded and transcribed. Thematic analysis of the transcripts identified the predominant crime and anti-social behaviour issues in the city centre study area. From the analysis, it became apparent that the sample area was comprised of four separate and distinct neighbourhoods: Piccadilly Gardens, the Gay Village, the Northern Quarter and the Rochdale Canal towpath. Each neighbourhood had distinct functional uses, types of users, physical environment and related crime and anti-social behaviour issues.

Crime mapping analysis was used to validate stakeholders' perceptions. Police recorded crime and incident data were collated for one full year from August 2006 to July 2007. Recorded crime classifications determined by the Home Office were used to analyse different crime types¹ (Nicholas et al., 2007, *Appendix 2*). Hotspot maps for each crime type were created using MapInfo Professional® software. Comparison of the individual hotspot maps identified specific regions within the sample area with a high occurrence of various crime types. Two consistent crime hotspots in the sample area were the Piccadilly and the Gay Village neighbourhoods.

The 'agreement' between stakeholder identified neighbourhoods and the results from the crime mapping analysis led to the selection of three focus areas: the Piccadilly area, the Gay Village and the Northern Quarter. These focus areas are shown in Figure 4. The surrounding buildings were included within the boundaries of each focus area to ensure that the design and use of buildings were considered in conjunction with the crime occurring in the area.

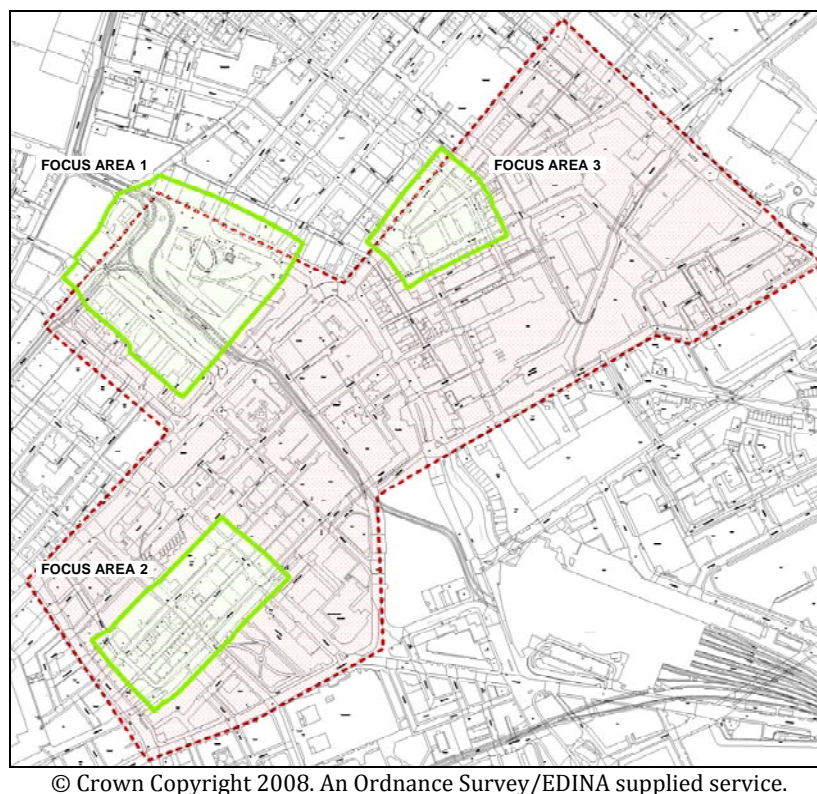
The Piccadilly focus region (Focus Area 1 in Figure 4) includes Piccadilly Gardens (a large public open space), retail shops, offices, a bus station and tram stop. The footfall in this area is estimated to be 30 million pedestrian trips per annum (FootFall, 2005). Vehicular traffic in this area is restricted to public transportation only.

¹ Exceptions to the British Crime Survey classifications are vehicle and theft offences. Theft from motor vehicle and theft of motor vehicle crimes were analysed separately. Theft from person and miscellaneous theft were the only theft offences analysed in the City Centre Crime project, both of which are analysed separately.

The Gay Village focus area (Focus Area 2 in Figure 4) has a high concentration of late night economy establishments - bars, restaurants, clubs, takeaways and minicab companies - that bring an estimated 10,000 people into the area each weekend. There is plentiful car parking in the Village, with surface car parks, on-street parking spaces and a multi-storey car park. Residential dwellings in the area are above ground floor level.

The Northern Quarter focus area (Focus Area 3 in Figure 4) is predominately offices and retail shops with plentiful on-street car parking. As the Northern Quarter area will undergo major redevelopment in the next five years, it was decided to select an area that was already established and unlikely to be redeveloped, thus maximising the longevity of any design interventions developed by the project.

Figure 4. City Centre Crime focus areas (in green) within the entire research study area (in red)



To ensure that chosen focus areas captured a representative number of crimes and crime types, frequency analysis of crime occurrence was conducted for each focus area. The three focus areas encapsulated 53% of all recorded crimes in the sample area and 60% of all incidents of 'rowdy and inconsiderate behaviour'.

Research structure – Phase 2

As noted, a case study approach was used for each focus area. Criminal offences were investigated within their place of occurrence (i.e. focus area)

in order to holistically understand any relationships between crime, use, and the design of the urban environment. The crime types targeted for investigation in each focus area were selected as a result of integrating two data sources: stakeholder interviews and police recorded crime data. For each focus area, qualitative analysis of stakeholder interviews revealed priority crime issues, while frequency analyses of police recorded crime data revealed the crimes with the highest frequency of occurrence. Therefore, the crime types selected for investigation were:

1. Those identified in stakeholder interviews as issues of concern
2. Those with a high frequency of occurrence according to police recorded crime data, and not already identified from analysis of stakeholder interviews.

This was done to maximise the potential benefits of any design interventions developed by the City Centre Crime project. A total of 17 crime types were investigated (see Table 1).

Table 1. Recorded crime categories investigated in each focus area

	FOCUS AREA 1	FOCUS AREA 2	FOCUS AREA 3
CRIME TYPE	Piccadilly	The Gay Village	Northern Quarter
Burglary		✓	✓
Criminal damage	✓		✓
Drug dealing	✓		
Miscellaneous thefts	✓	✓	
Robbery	✓	✓	
Theft from motor vehicle		✓	✓
Theft from person	✓	✓	
Theft of motor vehicle		✓	
Violence against the person	✓	✓	
Water incidents*		✓	

* Water incidents are incidents that occur in water that require attention of the Fire and Rescue Service and can result in serious injury or death. They are not a criminal offence.

Crime data analysis

Recorded crime in the focus areas was analysed in several ways to understand the context of the crime and the behaviour and strategies of the offender. Temporal analysis was conducted to understand variation in crime occurrence over time. The hours of the day were divided into two twelve-hour periods: the first period covering daytime working hours (between 07:00 until 18:59) and the second period covering the night time/early morning hours (between 19:00 and 06:59). To ensure temporal analysis of crime was consistent with the usage of the city, it was decided to define the daytime and night time hours in the same way as previous research into the use of Manchester (GMTU, 2006). Days of the week were

classified as being either a weekday or the weekend. The weekday is defined as occurring between 07:00 on a Monday morning to 18:59 on a Friday, and the weekend from 19:00 on a Friday to 06:59 on a Monday morning. (This designation is consistent with the Home Office definition of the weekend time period (Smith, 2003).)

Demographic information frequencies for the victims and suspected offenders for each crime type were analysed from police recorded crime data. Demographic information of victims included age, gender, occupation, ethnicity, and residence. For suspected offenders, demographic information on age, gender, birthplace, ethnicity and residence were analysed. Information on suspects' occupation was not supplied. Home Office age categorizations (Smith, 2003) were used to analyse the ages of both suspects and victims.

The modus operandi (MO) employed by offenders was investigated to identify the ways offenders exploit the design of the urban space, items within it and victim behaviour to engage in crime.

A 'Multiple card sort methodology' (Canter, Brown and Groat, 1985) was implemented to classify illegitimate behaviours of crimes in each focus area. A card was made for every recorded crime of the type being analysed in each focus area. Data on the card included the crime reference number, the description of the crime (e.g. theft from motor vehicle), the MO, time, day, date and location of occurrence (see Figure 5). The Q-sort technique was used, whereby the researchers sorted crimes into pre-determined categories. Each crime type within a focus area was first sorted temporally by day of the week and time of day (as described above), and then sorted by MO, items stolen, means of access, and location of occurrence. Analysis was organised, when applicable and possible, into categories identified in previous crime research. The MO approach types (of the offender to the victim) were based upon Home Office categories (Smith, 2003). Items stolen were organized using the categories used by Clarke (1999). In other cases, crimes were classified based on the information provided within the dataset.

Figure 5. Example data card used in Multiple Card Sort

REF: CR123456U/00	CRIME NO.: 49	DESCRIPTION: Misc. Thefts	
MODUS OPERANDI (First 250 characters): OFFENDER(S) UNKNOWN APPROACH FRONT OFFICE DOOR USE CODE TO ENTER STEAL COMPUTER FROM TABLE EXIT AS ENTRY MAKE OFF NO ONE SEEN			
TIME: 13:59:59	DAY: Wednesday	DATE: 07/02/2007	LOCATION: Piccadilly Plaza Office

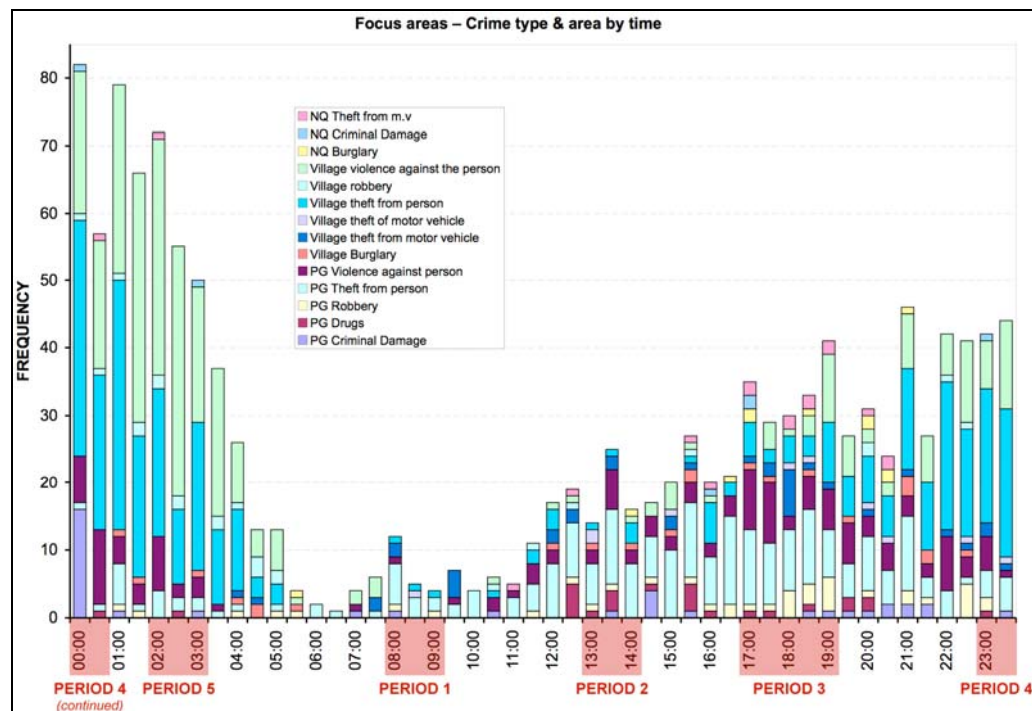
Use of urban space

The flow of people has a significant influence on crime patterns. The presence or absence of individuals can be a causal or preventative factor, depending on the crime type and specific context (Ekblom and Tilley,

2000). To determine how legitimate users negotiate the urban environment of the three focus areas, non-participatory observational methods were employed. Time-lapse public realm surveillance footage, obtained from Manchester City Council's CCTV control room, was used for the observational study. Public surveillance footage is a useful and accurate way to identify the ways in which legitimate users traverse and use the public realm, as it is unobtrusive and can be analysed multiple times (Zeisel, 2005).

CCTV surveillance footage of the public realm for an entire 24-hour period on a Wednesday and Saturday in February 2008 was analysed. The sample days were chosen to allow comparisons with a previously conducted footfall study of the Piccadilly Gardens area (Footfall, 2005). Time periods for observing the CCTV footage were selected by analysing the high frequency times of crime occurrence in the three focus areas (see Figure 6). This was done to ensure that the observational study of legitimate user behaviour could be understood in relation to criminal activities. Five time periods were selected for the collection of real-time surveillance footage on both the Wednesday and the Saturday (these are shown in Figure 6).

Figure 6. Crime frequency in each focus area by time



Time-sampling observations were made every 15 minutes for each hour of the identified time period (Ittelson et al., 1976), resulting in five sample observations per selected hour. For example, for Period 1 observations were taken at 08:00, 08:15, 08:30, 08:45 and 09:00.

Behaviour was observed at each sample time for a two-minute duration (i.e. from 08:00 to 08:02; Walmsley and Lewis, 1989).

Behavioural mapping was used to capture the observational data. Behavioural mapping is a structured observational technique in which observed behaviours and use of a physical space are recorded in location on a map. This technique allows for the documentation of behaviour from a large number of people in a given space, traversed routes through that space (Hill, 1984; Gehl and Gemzoe, 2004), and the change of behaviour over time (Bell et al., 2001; PPS, 2005). Ordnance Survey (OS) maps of the public realm was used as the recording tool. Viewing the CCTV footage, the number of pedestrians, vehicles, cyclists, and representatives of city systems (e.g. street wardens, police, refuse collectors), along with behaviours such as standing, sitting and pedestrian routes, were recorded on the OS maps.

Analysis of the data was conducted to obtain pedestrian footfall numbers throughout the day. A multiplication factor was applied to the observed numbers of pedestrians to obtain footfall numbers for an entire hour (Gehl and Gemoze, 2004). The four, two-minute time-sample observations for one entire hour were added together and multiplied by 7.5 to obtain the footfall number for the entire hour. The formula for footfall in an observed hour is $(w + x + y + z) \times 7.5$. The fifth time sample, at the end of the time period (e.g. 9:00 to 09:02), was multiplied by 30 to generate an estimated footfall for the hour following the time period (e.g. 9:00 to 10:00). The formula for this 'follow-on' hour is therefore $e \times 30$.

Graphs illustrating the estimated pedestrian footfall for an entire Wednesday and Saturday for one street in the Gay Village with a CCTV camera were produced (see Figure 7 and Figure 8). The observed footfall numbers obtained during the five sample time periods are plotted in black. Estimates of pedestrian footfall between the observed time periods were indicated by 'connecting the dots' between observations; these are shown as dotted red lines in the graphs.

Pedestrian footfall data in the Gay Village focus area illustrates how an understanding of the use of an environment can contribute to an understanding of crime occurrence. For example, while pedestrian traffic in The Village during the weekday is low (see Figure 7), use of the area is greatly increased on a weekend night (see Figure 8). The number of pedestrians per hour does not go over 1,000 for the entire day on a Wednesday, whereas footfall between the late night economy hours of 23:00 to 04:00 on a Saturday is comparable to the footfall for the entire Wednesday.

Figure 7. Wednesday pedestrian footfall on Sackville Street

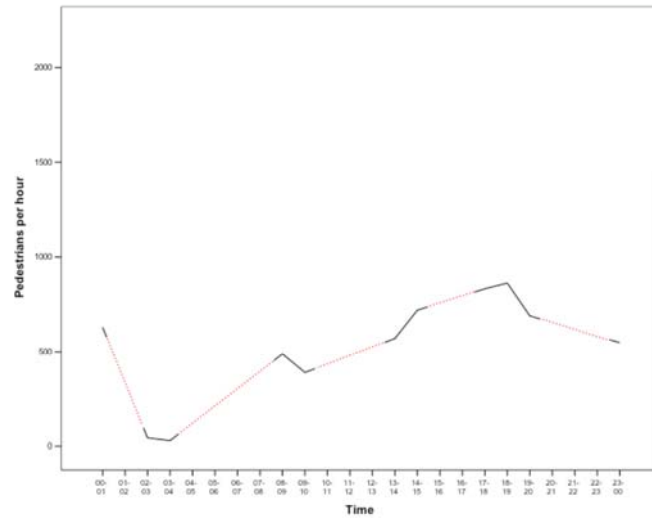
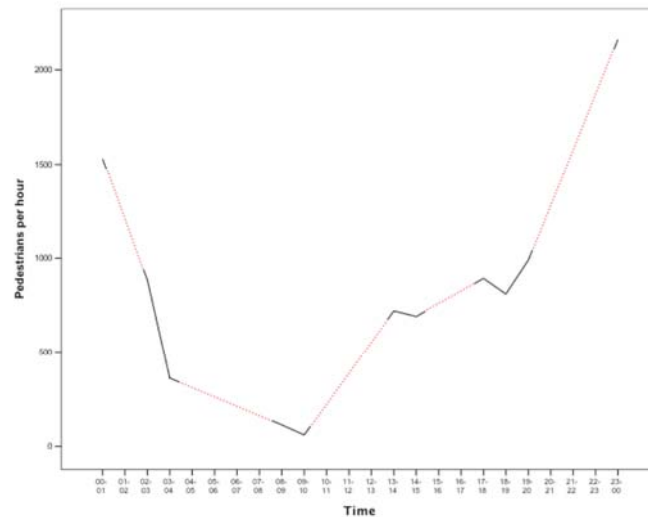


Figure 8. Saturday pedestrian footfall on Sackville Street



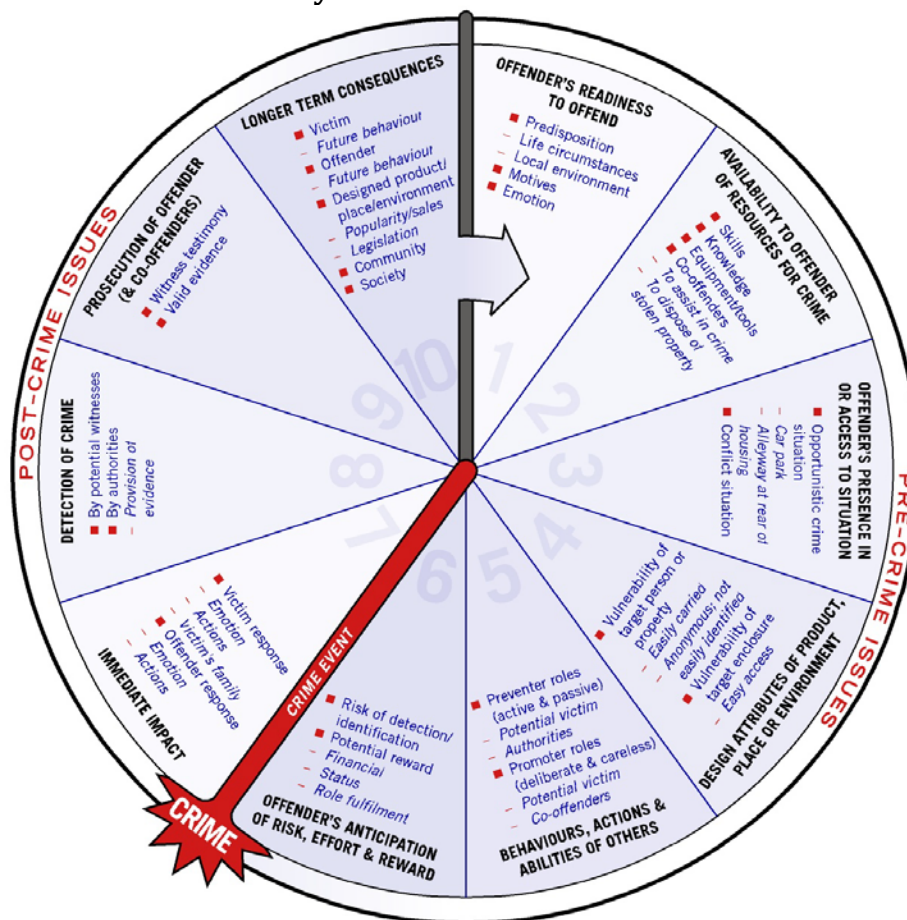
Problem profiles

All statistical and place-based contextual data for each specific crime were collated into documents developed to communicate detailed information to designers on crime, legitimate use and location factors. These documents are termed Problem Profiles.

The structure of the Problem Profile draws on the Crime Lifecycle Model (Wootton and Davey, 2003), which identifies the various casual factors that result in the occurrence of crime. The Crime Lifecycle is derived from the causal framework developed by Paul Ekblom at the UK Home Office (Ekblom, 2001). Ekblom's framework has been adapted and extended to create the DAC Crime Lifecycle Model, intended for use by

designers during concept design development. The Model is comprised of six pre-crime issues that are a prerequisite to crime occurrence, and four post-crime issues that relate to the period after a crime has taken place (see Figure 9). Developed as an aid for design professionals, the Crime Lifecycle Model suggests that all six pre-crime issues (Phases 1 to 6) are prerequisite to a crime event occurring. Therefore, by comprehensively addressing any one of these issues, the crime event can effectively be prevented from occurring. Designers do not have to tackle all of the pre-crime issues, but can choose to concentrate on the ones that they can most effectively address.

Figure 9. The Crime Lifecycle Model



Source: Wootton and Davey (2003)

Structuring the Problem Profiles around the Crime Lifecycle Model allowed each of the documents to be used as a form of design brief. The information in the Problem Profiles was used to encourage creative thinking and facilitate design innovation and concept generation activities to 'design against crime'.

Problem Profiles were developed for each specific crime type relating to a specific environmental context. In response, design

intervention concepts aimed at reducing the occurrence and impact of crime were then developed for each crime type. These intervention concepts vary in complexity and scale, from product designs to broader concepts for the modification of city systems and stakeholder work practices.

To date, eighteen design intervention ideas have been developed. These have been validated and refined through workshop activities with key stakeholders. The prototyping, implementation and evaluation of the interventions are being discussed with Manchester CDRP and relevant city agencies and stakeholders. The researchers will publish details of the interventions in the near future, as they are developed, implemented and evaluated.

Discussion and conclusions

The City Centre Crime project has developed and tested a design-led research methodology for the development of targeted interventions to tackle crime in Manchester city centre. The relatively small geographic scale of this project allowed researchers to engage intimately with the dataset, to focus down on specific components relating to particular crimes, and to investigate the relationships between crime, the built environment, urban systems and the behaviour of victims and other users. This research approach enabled the development of design interventions that are tailored to the specific crime and context. Design interventions that are grounded in evidence identifying the relationship between a crime type, the local context and use of an environment will be more successful in preventing crime (ODPM, 2004). Furthermore, an evidence-based human-centred design is less likely to cause problems for legitimate users of the city centre. The outcomes of the City Centre Crime project have implications for urban managers and partnership working between local authority and city management agencies and the police. The footfall data on the use of the city centre shows how intelligence regarding how the city is being used is of vital importance in understanding where and when to allocate resources. Currently, the focus of Manchester city centre appears to be the daytime, retail shopping hours. Indeed, too often the city is envisaged as simply a retail and commercial environment. As an example, a footfall study undertaken in Piccadilly Gardens (Footfall, 2005) only investigated the use of the area between the hours of seven in the morning to nine at night. In addition, automatic footfall counters of the city centre are currently only located on the main pedestrianised retail streets. This economic tunnel vision provides a one-sided view of the city centre and may result in biased urban management policies that fail to consider the late night economy use of the city - and the potential crime and disorder issues that flow from this. The design-led approach of the City Centre Crime project, and consequent user- and human-centred focus, highlighted key gaps in management understanding about how the city is actually used - and how this changes

throughout the day, the week and the year. The project focus on understanding the user and use of the urban environment revealed the paucity of information available on this.

Analysis undertaken by the City Centre Crime project revealed that the predominate use of certain areas of the city centre is during the late night economy hours on a weekend, and that the footfall for a weekend night out was greater than at any time during the entire weekday. To improve the safety of British city centres, CDRPs should seek evidence and understanding of the twenty-four hour weekday and weekend use of the city centre, and relate this usage to the allocation of city management systems (e.g. police, CCTV, street cleaners) in order to identify the areas of over-saturation and of understaffing. The research suggests that an evidence-based and city user-focused approach to the management of city centres would lead to better performance management of the city twenty-four hours a day, seven days a week.

Future DAC research would be to investigate another city centre in Britain and discern if the City Centre Crime methodology and the interventions generated in Manchester might be adapted and applied in this new environment. Currently, the design interventions developed by the City Centre Crime project are context and crime specific. A comparison study in another urban environment would establish whether the interventions are transferable, and if so, might develop some best-practice principles for designing out crime in British city centres.

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On Treating the Symptoms and not the Cause

Reflections on the Dangerous Dogs Act

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Abstract

The experience of saving a dog that later turned out to be a Pit Bull and therefore banned under the Dangerous Dogs Act 1991, made me investigate the Act and its implications. The Act is not built on evidence and by compiling results from different studies on dog bites and breed-specific legislation in different countries the conclusion is that there is not much empirical support for breed bans either. 'Dangerous breeds' do not bite more frequently than German Shepherds and directing legislation towards certain breeds deemed as 'dangerous' cannot therefore be seen as justified. The strength of the label 'dangerous dog' seems to rule out policies that follow the facts and there is more treating of symptoms than causes.

Key Words: dangerous dogs, breed-specific legislation

Introduction

Sometimes your research interests move in unexpected directions. In my case, the pivotal point was rescuing a dog that later turned out to be a Pit Bull Terrier, and consequently banned under the Dangerous Dogs Act 1991 s.1 (hereafter DDA or 'the Act'). The experience of getting an Exemption Order and registering the dog on the Dangerous Dogs Register highlighted some problematic areas of the Act in particular, and breed-specific legislation in general. Firstly, on what facts and evidence was the Act based? Secondly, is the singling out of certain breeds justified, or is it merely stigmatising those breeds, thereby treating the symptoms -

aggressive or dangerous dogs - rather than the causes - irresponsible owners?

This paper will try to answer these questions by looking at how the DDA was implemented, utilising research on dog bites in general and research into the effects of breed-specific legislation. Despite the reporting in media of serious cases of dog attacks (e.g. the aptly named dog 'Asbo', who ran amok and bit four people, one of which was a one-year-old boy, in Mitcham October 2008 (reported in *The London News*, 9 October, and by Sturcke, *The Guardian*, 2008)) there is generally not much debate of the law. The media, as Chibnall (1977:26) points out, is 'focusing public attention on the symptoms rather than the causes of 'social problems''. I would like to argue that, in the case of dangerous dogs, so does the legislation.

Method and material

This paper is mainly based on secondary data. The information available on dogs in general was in the form of research on dog bites, research on dog behaviour, specifically aggression, media reports, 'grey' literature such as pro-Pit Bull literature - where reliability and eventual bias or polemics need to be assessed carefully - and personal experience. It is generally difficult to get information regarding the owners of Pit Bulls, so I will draw from my experience of meeting other Pit Bulls and their owners in South East London. Utilising the 'ice breaking effect' (McNicholas and Collis, 2000) of having a Pit Bull on a convenience sample (Bryman, 2004) - meaning data gathered from a sample that is too good to miss - some additional information was extracted. Interestingly, McNicholas and Collis (2000) found that the 'scariness' of the owner had a stronger effect, than the 'scariness' of the dog. By not looking as a stereotypical Pit Bull owner (what a typical owner looks like we do not really know) I am often approached by people who have no idea my dog is a Pit Bull or by those who are impressed I walk a 'red nose pit'.

When it comes to dog bite research, only information on serious cases of aggressive dog behaviour, i.e. bites, is available. Either these are studies carried out in hospital (of people seeking medical assistance for dog bites), or dog owners seeking veterinary assistance for dogs or other animals bitten by dogs. This latter category is often not directly relevant to breed-specific legislation as dogs biting other dogs does not constitute dangerous behaviour, even though a dog that has killed another dog is classified as 'vicious' or 'dangerous' in some studies (e.g. Barnes et al., 2006) where the label 'dangerous' is in focus.

Studies show that very few of medically attended dog bites are reported to the police and usually it is in cases where an unknown dog was the offender (Klaassen et al., 1996; Kahn et al., 2003; De Keuster et al., 2006). This can be compared to rape, where female victims are more likely to report stranger rapes, even if intimate and date rapes are the more

common, making up for 75 per cent of all rapes (Gavey, 2005). In dog bite studies, known dogs made up for just over half of the cases in Scotland (Klaassen et al., 1995) and 71 per cent of cases where children were bitten in Belgium (De Keuster et al., 2006).

When dog bites are the result of working dogs, e.g. police or guard dogs, these bites are not included in bite statistics and, worryingly as regards reliability and validity, in some studies, unclassifiable breeds (crosses or breed unknown) are excluded, as breed is the decisive factor to control for (Delise, no date b). When it comes to medically attended bites, however, all cases of dog bites are included.

Another problem with many studies cited below is that 'breed' is based often on accounts of the people involved in incidents and research has shown that it is not always easy in a traumatic situation to establish whether you were attacked by a Pit Bull or something else (Buckley and Kleiner, 2002; Deffenbacher et al., 2004). As about half the cases involve unknown dogs, the margin for error is potentially large. There might also be reason to believe that someone attacked by a dog might assume erroneously that the dog was a Pit Bull as we are led to believe this is the most likely breed to be attacked by. This links to why newspaper accounts are not always reliable as dogs are commonly called Pit Bulls, whether they are or not (Cohen and Richardson, 2002; Delise, 2008a). Several researchers also point out that cases involving Pit Bulls are more likely to be reported (Cohen and Richardson, 2002; Labonté, 2005b; Collier, 2006) and therefore over-represented in the news.

What all these sources have in common is a bias towards medically attended bites or fatal bites that does not provide an 'actual' dog bite picture (Collier, 2006). What this means is that there is no information available regarding the whole spectrum of dog aggression from growling, baring teeth and 'scary behaviour' to actual attack, bites and, in some cases, death. We know of the serious end, fatalities and actual bites being serious enough to need medical attention, but not of the lower end and of cases of bites not requiring medical attention.

All studies are slightly different in focus and approach, but the data and results have been presented in as similar a way as possible to enable comparisons and generalisations. All countries in which dog bite research has been carried out have been treated as essentially the same and differences in legislation and dog population have not been discussed. The purpose here is to study general effects of breed-specific legislation, not individual differences.

The Making of the Act

The 1991 Dangerous Dogs Act is in many ways a controversial piece of legislation. It has been hailed as example of poor legislation, 'hasty' and 'ill-conceived' and the result of a moral panic (Jones, 2006:93); and it is questioned on what evidence it was actually based. Wring in *The Guardian*,

Hollingshead (2005) claims that the DDA has been 'widely criticised as an archetypal piece of knee-jerk nonsense' and is referred to 'as a classic example of what not to do'. The RSPCA calls the act 'a sledgehammer to crack a nut' (BBC News, 2007).

In 1990 and 1991 there were sensationalist tabloid newspaper reports on Rottweilers and Pit Bull Terriers that mauled and killed children (Hollingshead, 2005). Goode and Ben-Yehuda (1994) illustrate how a moral panic starts with a concern over certain behaviours; in this case Pit Bull attacks on humans and media demands that something must be done. The then Home Secretary Kenneth Baker tells us in his memoirs that the

... worst of these attacks were by the notorious pit bull terrier, and the menace of these particular dogs was compounded by increasing evidence that they were being bred quite specifically for their power and viciousness (Baker, 1993:433).

This illustrates Goode and Ben-Yehuda's (1994) second criterion of moral panic is hostility, meaning there is an increased level of hostility towards the group causing concern. Baker mentions three pivotal cases of Pit Bull attacks from 1991 - none of which was fatal - and states that the 'pit bull issue was now up and running' (1993:434). Goode and Ben-Yehuda (1994) claim that there must also be a substantial or widespread consensus - that Pit Bulls pose a real and serious threat; and the way the media reported these cases ensured this by branding Pit Bulls 'devil dogs' (Gillan, 2007). Baker felt that the media outcry required emergency legislation that imposed penal restrictions (i.e. destruction) of dogs of the same breed as the attacking ones (Hattersley, 2005). Goode and Ben-Yehuda's (1994) fourth criterion is disproportionality. They state how there is a sense on the part of many members of the society that a more sizeable number are engaged in the behaviour causing concern than actually are, in this case that there were more Pit Bulls roaming around than was the case. The threat, danger, or damage caused by the behaviour, is also exaggerated so the threat these dogs posed was portrayed as larger than it actually was. This illusion of greater danger than is the case is achieved by using exaggerated figures, fabricated figures and a concentration on one particular harm - Pit Bulls - over others that might be greater - German Shepherds/Alsatis. Baker is demonstrating some awareness of this disproportionality when he openly admits he is specifically targeting the Pit Bull. He states:

The issue was made more complicated by the fact that the largest number of reported dog bitings was caused by Alsatis and other domestic breeds whose owners would never have regarded their pets as dangerous. But I considered that Pit Bulls represented a quite different scale of menace and caused far worse injuries than other dogs (Baker, 1993:434, emphasis added).

As Lodge and Hood (2002:5) point out, the dog attacks and the moral panic alone might not have been the only reasons behind Baker's actions. Baker was in trouble after a major riot at Strangeways prison in 1990 and he needed to restore his political fortunes ahead of the summer Cabinet-reshuffle. Baker initially responded to the media by stressing the difficulty in dealing with the dog attack problem via legislation (Baker, 1993). The media criticised him heavily, also putting pressure on John Major, the Prime Minister. The government was in trouble, they had lost in by-elections and they had to hold a general election in 1992, which it was not sure it would win (Lodge and Hood, 2002). By quickly responding to the moral panic on dog bites Baker could restore the precarious situation and demonstrate he was a 'man of action'. It also goes in line with the fifth criterion for a moral panic proposed by Goode and Ben-Yehuda (1994), namely volatility. Moral panics are volatile as they erupt suddenly and subside nearly as suddenly. Baker rushed through the DDA in record time and, once that was done, his and the general public's major concern shifted to joy-riders in the autumn of 1991 (Baker, 1993).

There was also what can be seen as a 'canine class issue' (Lodge and Hood, 2002) at stake here. When forced to act, Baker (1993:435) admitted:

There was a danger of over-reaction, with demands to have all dogs muzzled and to put Rottweilers, Dobermans and Alsations in the same category as Pit Bulls. This would have infuriated the 'green welly' brigade.

He also states that: 'I was not in the business of legislating to control chihuahuas when I wanted to rid the country of Pit Bulls' (Baker, 1993:435). This can be interpreted in terms of conflict theory – that those in power were not worried about their own dogs, but of those of the 'dangerous' classes (e.g. Chambliss, 1974, *cited in* Lilly et al., 1989). The UK Kennel Club and breed associations did not - and still do not - recognise the American Pit Bull terrier as a breed, but recognised its close relative the Staffordshire Bull Terrier. Class bias is clear, as the fierce dogs favoured by the affluent and landed classes - the Rottweilers and Dobermans - are recognised and well represented by breed associations and among people with financial and political power (Lodge and Hood, 2002), as well as in biting incident statistics (see Tables 1-10). There was never much lobbying to include them in any legislation, apart from Labour who wanted Rottweilers and German Shepherds to be muzzled as well (Baker, 1993). As Chambliss (1975:152, *cited in* Lilly et al., 1989:163) states: '[A]cts are defined as criminal' - or breeds of dogs in this case - 'because it is in the interest of the ruling class to so define them'. Pit Bulls were seen as fighting dogs that had no place in society and were thought to be owned by drug dealers who used them as legal weapons (Baker, 1993).

As Baker states himself that the Pit Bulls did not cause the majority of dog bites, on what other evidence did he base his concentration on Pit Bulls? Lodge and Hood (2002:6) claim that there 'is no evidence that the act

was based on learning from other countries to any extent'. Apart from newspaper reports, Baker mentions that one - unnamed - dog expert assured him:

... that 'All Pit Bulls go mad'. Unlike other recognised breeds they were unpredictable and could not be reliably trained' (Baker 1993:435).¹

According to the 1991 Dangerous Dogs Act in its final form (s. 1), it is illegal to own, breed, sell or give away any dogs, or crosses, of Pit Bull type ('type' since it is not recognised as a breed), Japanese Tosa, Dogo Argentino or Fila Brasileiros. Dogs that appear to be bred for fighting or have the characteristics of a type bred for that purpose are also banned. Anyone who owns a dog of this type must have it neutered, micro chipped, tattooed, insured and muzzled and on lead in public places. This is the controversial, breed-specific part of the law.

Section 3 of the Act deals with dogs classified as being 'dangerously out of control in a public place'. Such a dog, no matter the breed, can be destroyed and the owner can be fined and imprisoned for up to six months. If the dog injures someone, the owner can be imprisoned for up to two years. This part of the law is less controversial, but has not been without its problems - for example that the police cannot act on dogs that are 'dangerously out of control' in private places (BBC News, 2007). The main difference from the 1871 Dogs Act was that the older piece did not impose criminal penalties on owners with dangerous dogs, but they were treated as civil matters (Lodge and Hood, 2002).

In 1997 The Dangerous Dogs (Amendment) Act was passed that removed the obligation on courts to impose destruction orders of banned dogs and gave magistrates more discretion whether to order the destruction of a dog (Lodge and Hood, 2002; Jones, 2006). Both the police and the courts had always been reluctant to kill a non-aggressive dog that had responsible owners (Police Dog Handler Ian Morrison, personal communication, June 2008).

Baker claims the 1991 Act 'saved many children and adults from vicious attacks of Pit Bulls' (Baker, 1993:436). In a piece in the Guardian in January 2007 he states:

There is no doubt that the act has been a success in that the number of attacks by Pit Bulls declined dramatically - there was only one last year and it was not fatal - and so Britain has been a safer place as a result of the Dangerous Dogs Act (Baker, 2007).

¹ Interestingly, and opposite to what Baker argues, Collier (2006) points out that even if Pit Bulls have been bred for their dog fighting traits, they have also been bred because of their stability and tractability with people. See also Diane Jessup's webpage regarding how she trains Pit Bulls to work as, for example, bomb sniffer dogs, www.workingpitbull.com.

However, he also mourned the ‘watering-down’ of the act in 1997 ‘when the argument was put that it was the owners and not their dogs that were at fault - so dogs were given a second chance. This was a mistake’ (Baker, 2007). It is also obvious that Baker still has it in for Pit Bulls as he claims that ‘there is no place in the dog-loving community of our country for Pit Bulls’ (Baker, 2007). Baker always saw the eradication of Pit Bulls as the measure that would treat or cure the problem with dangerous dogs.

Law enforcement of the Act

Initially, there was vigorous enforcement of the 1991 DDA by the police. In London, especially, the police used the law as part of a crackdown on drug dealers. After about a year or so, the Act ceased to be actively enforced by the Metropolitan Police and was placed low on the priority list. By 1994, it had gone back to the traditional ‘one free bite’ approach to dangerous dogs (Lodge and Hood, 2002). In October 1991 the first Pit Bull was destroyed and by the time the amendment Act removed the mandatory destruction in 1997, 900 dogs had been killed (Gillan, 2007a). In September 2006, 1,067 Pit Bull terriers and three American Staffordshire bull terriers were on the exempted dogs register (Doward, 2007a). In 2007, the Metropolitan Police recorded 943 reports of dogs being out of control (Meikle, 2008).

One of the main problems with the act is the difficulty of establishing what a ‘Pit Bull type’ dog actually is (Hollingshead, 2005). Many arguments have been conducted in court when owners try to prove their dogs are not Pit Bulls and it has been difficult to establish a dog is a Pit Bull in court (Doward, 2007a). Baker (1993:436) foresaw these problems, but thought ‘it better to risk those difficulties, because having realized the danger of these dogs it would have been irresponsible to have done nothing.’ The Kennel Club finds the law flawed as it targets specific dogs and not their owners and uses the mantra: ‘Blame the deed, not the breed’ (Gillan, 2007a) which is another way that the concentration should be on the causes, not on the symptoms. Roll and Unshelm (1997) and Barnes et al. (2006) wonder if it is not more fruitful to talk in terms of high risk owners, rather than high risk breeds. In February 2008 the Liberal Democrats called for a review of the Act to make the owners more responsible (Meikle, 2008) in line with Kennel Club, Dogs Trust and RSPCA criticisms (Doward, 2007a; Satchell, 2008), but so far nothing has come out of it.

Impact of the Act

What impact has the Dangerous Dogs Act made - and can it thereby be justified? Is Britain a safer place today regarding dogs as Baker claims? Three questions are considered:

1. Which breeds bite the most?
2. Do ‘dangerous breeds’ bite at rates justifying breed-specific legislation?

3. What has been the effect in countries that have implemented breed-specific legislation?

Before attempting to answer these questions, it is necessary to provide some general information on dog bites. In 2007, nearly 3,800 persons needed emergency hospital treatment in the UK after being attacked by a dog, which is an increase from previous years (Meikle, 2008). Dog biting affects children more than adults (Morgan and Palmer, 2007) and younger children more than older ones (De Munnynck and Van de Voorde, 2002). Also, young children run a higher risk of being bitten more severely, mostly due to their size (i.e. a child's head is at dog's biting height) and because of the skeleton not being fully developed (Morgan and Palmer, 2007). The majority of dog bites in children occur in the home with dogs familiar to the children while doing everyday activities (De Keuster et al., 2006). More dog bites at home take place during the weekends, during the summer holidays and more boys than girls are bitten (Kahn et al., 2003). When it comes to fatal dog attacks, victims are under the age of twelve in 85% of the cases and in 70% of the cases the family dog was involved. Stray dogs are usually involved in less serious incidents (De Munnynck and Van de Voorde, 2002). Most accidents happen when a child is unsupervised (Kahn et al., 2003).

The relative risk of dog bites was studied by Kahn et al. (2003) and they found that the frequency of dog bites equated to about 25% of all road traffic casualties and about 33% of burns at home. The dog bites of children in their study made up 0.24% of all children brought to the emergency department.

Most dog attacks appear unprovoked on the surface, but when considering the circumstances the dogs are not always to blame. Dogs do not like being disturbed when sleeping or eating and can feel threatened or jealous (Kahn et al., 2003; Morgan and Palmer, 2007). The owner's failure to control the dog is also crucial as when people are bitten in public places the majority of the biting dogs are not on a lead (Roll and Unshelm, 1997; Kahn et al., 2003). Male dogs, especially non-neutered, bite more than female dogs and younger dogs bite more than older ones (Netto and Planta, 1997; De Munnynck and Van de Voorde, 2002).

Killings by dogs are rare. Between 1999 and 2004 an average of 2.3 persons were killed each year in the UK (O'Neill, 2007) (compare to two women per week being killed by a partner or ex-partner (Women's Aid, no date)). The number of fatalities can be compared with the 63 people who suffocated from plastic bags in 1999, or the 20 people that died as a result of being thrown off horses or other animals in 2003 (O'Neill, 2007).

In studies of dog bites, which breeds bite the most?

De Munnynck and Van de Voorde (2002) claim that of dog bite fatalities, Pit Bull Terriers, German Shepherds and Rottweilers are the breeds most commonly involved, but 70% were still committed by a pet dog in, or in the vicinity of, the dog's home. In a number of studies of dog bite fatalities in

different countries, German Shepherds made up on average 17%, Rottweilers on average 8% and Pit Bulls on average 13% (De Munnynck and Van de Voorde, 2002:297).

So called ‘dangerous breeds’ are not the ones that bite the most. However, when they bite, the bites are more serious (see Table 1). In different studies in different countries the German Shepherd is the most commonly biting breed (Roll and Unshelm, 1997) (see Tables 2-6). The number of bites also co-varies with the popularity of the breed - and German Shepherds are very popular across the world (Delise, no date a). Interestingly, German Shepherd is the only breed that is positively associated with causing an incident. This is not the case for ‘dangerous’ or other breeds (De Keuster et al., 2006; Rosado et al., 2007). One has to bear in mind, though, that German Shepherds are commonly used as police, military and guard dogs, where biting is part of ‘their job’ (see Dorriety, 2005). Kahn et al. (2003) found that German Shepherds represented 29% of the dog population in Belgium, but accounted for 52% of the bites. For Rottweilers, the frequency of bites corresponded proportionately to the number of dogs, while Labradors made up a percentage much smaller than their proportion of the dog population. There was no information given for Pit Bulls.

The answer to the question which dogs bite the most is the German Shepherd. As a consequence, different ‘dangerous dogs’ are not the ones biting the most, especially when taking into account that guard and police dogs are not always included in bite statistics (Delise, no date b).

Table 1. Frequency of serious and lethal injuries of all injuries caused by each breed, Germany

	<i>Lethal</i>	<i>Serious</i>
Most common breeds (%)		
German Shepherd + crosses (n=88)	2	20
Bull Terrier breeds* (n=15)	27	46
Dangerous breeds (%)		
Rottweiler (n=7)	14	28
Pit Bull Terrier (n=5)	20	40

* Bull Terrier, Staffordshire Bull Terrier and American Staffordshire Terrier.

Source: Roll and Unshelm (1997, Table 6)

Table 2. Reported Dog Injuries in Adelaide, Australia, 1990 and 1996

	<i>%</i>
Most common breeds*	
German Shepherd	25
Bull Terrier	14
Cattle dogs	14
‘Dangerous’ breeds*	
Doberman	12
Rottweiler	9

* Breeds were identified by the people involved in the attacks

Source: Collier (2006:20)

Table 3. Reported Dog Attacks in Public Places in Victoria, Australia, 1997-1999

	<i>%</i>
Most common breeds	
German Shepherd	31
Cattle dogs	22
'Dangerous' breeds	
Rottweiler + Doberman	24
Pitt Bull Terrier	5

Source: Collier (2006:20)

Table 4. Reported Dog Attacks in New South Wales, Australia, 2001-2003

No. dog bites reported = 547	<i>%</i>
Most common breeds	
Crossbreeds	33
German Shepherd	10
Cattle dogs	8
'Dangerous' breeds	
Rottweiler	7
Pitt Bull Terrier	4

Source: Collier (2006:19)

Table 5. Breed distribution of aggressors and victims of dog fights in Frankfurt am Main, Germany, 1996

No. of dog-on-dog bites reported = 206	<i>Aggressors</i>	<i>Victims</i>
Most common breeds (%)		
German Shepherd	35	7
Crossbreeds	6	24
Dachshund	-	8
Poodle	2	7
Dangerous breeds (%)		
Rottweiler + Doberman	7	5
Pit Bull Terrier	2	-

Source: Roll and Unshelm (1997, Table 1)

Table 6. Frequency of occurrence of the breeds as aggressors, Germany

	<i>Roll and Unshelm's study</i>	<i>All of Germany</i>
Most common breeds (%)		
German Shepherd + crosses	43	29
Bull Terrier breeds*	6	1
Dangerous breeds (%)		
Rottweiler + Doberman	5	4
Pit Bull Terrier	2	-

* Bull Terrier, Staffordshire Bull Terrier and American Staffordshire Terrier

Source: Roll and Unshelm (1997, Table 2)

Do 'dangerous breeds' bite at rates justifying breed-specific legislation?

'Dangerousness' with regards to dogs usually refers to aggression. This 'aggressiveness' can be established either on grounds of breed or on grounds of previous history of aggressive displays, most commonly biting. However, in breed-specific legislation, as the name indicates, the breed is used as the classifier, not the actual behaviour and is based as much on the symbolic value (Reiner, 2007) of certain breeds (Barnes et al., 2006) as on facts (Collier, 2006). The problem is that different countries - and sometimes different parts within one country - have different breeds included in the 'dangerous' group (see Tables 1-10). In the studies referred to here, Pit Bulls are always included, quite often Rottweilers, sometimes also Doberman Pinschers and Staffordshire Bull Terriers, but never German Shepherds.

Breed is not a very good indicator for aggression, as the variation between individuals within the breed vary widely. Usually, a breed has a certain genetic aggression (Netto and Planta, 1997) - like different bull terrier breeds are bred to be aggressive to other dogs (Fogle, 2000) - but just as much is about learned aggression (Netto and Planta, 1997; De Munynck and Van de Voorde, 2002). Aggression in Pit Bulls (and other breeds) is therefore a human problem, not a breed problem (Roll and Unshelm, 1997; Labonté, 2005a).

Breeds bred for aggression, such as Pit Bulls and other bull terrier breeds, are usually not human aggressive, but animal aggressive, and are more likely to attack other animals than they are people (Fogle, 2000; Collier, 2006). Even dogs bred and used for fighting are not human aggressive, as in a fighting pit the handler of each dog and a referee are present, and you cannot risk being attacked yourself and you have to be able to break up the fight once it has ended (Evans et al., 1998; Cohen and Richardson, 2002). One problem when discussing 'dangerous' breeds, especially in the media, is that human and animal aggression is not separated (Cohen and Richardson, 2002). Only human aggressive dogs are 'dangerous' in the sense the Dangerous Dogs Act defines it.

Breed-specific legislation is more commonly based on the belief that certain breeds have the potential to be dangerous because of their physical characteristics and functional history, rather than the fact that the breeds in question have records of bite frequency supporting a view of them as aggressive towards humans (Collier, 2006). Once the character of being dangerous becomes the breed's master status (Lilly et al., 1989), with the consequence that most individuals of the particular breed are, in Becker's terms (1963, cited in Lilly et al., 1989) falsely accused as most dogs never attack humans, it is all but impossible to change the view of the public and media (Fennell, 2004; Collier, 2006). This is clear regarding the Pit Bull because of the strength of its 'dangerous' label. Again, Becker (1963) discusses how deviant labels are attached with different strength to working and middle class boys, or to white and Black people. In this sense, a Pit Bull could be compared to a Black working class boy as reports often connect the 'underclass' with owning dangerous dogs (Hansen, 2006;

O'Neill, 2007). One effect of breed-specific legislation is the labelling and the dramatisation of evil (Tannenbaum, 1938, *cited in* Lilly et al., 1989) that takes place. One evil act of a Pit Bull turns all Pit Bulls into evil dogs. As Garfinkel pointed out, the aggressive act of one dog labels all dogs of that breed as aggressive (Lilly et al., 1989).

The bad reputation and the labelling and stigmatisation of Pit Bulls and their owners is clear when considering how the media portrays them. Chibnall's (1977) and Reiner's (2007) analysis of crime news reporting applies well to the media's portrayals of Pit Bulls and their owners. Pit Bulls are described as commonly having irresponsible owners: macho men that do not treat the dogs properly and therefore make the dogs aggressive, even human aggressive (Barnes et al., 2006). The stereotypical Pit Bull owner - often in media reports joined up with the Staffordshire Bull Terrier owner - is portrayed as male, big build, tattooed, living in a housing scheme and wanting to show himself off (SNP member quoted in Beckett, 2008). The Pit Bull's standing as a macho status symbol for young men is also seen as the reason behind many attacks (Barnes et al., 2006; BBC News, 2007); and there are several news reports forwarding this image (Hankins, 2002; Gillan, 2007b; Gillan and Allison, 2007). The Staffordshire Bull Terrier has similar status (Doward, 2007b) but is legal and therefore easier to obtain and is owned for similar reasons, which is causing the Kennel Club problems as the breed is being 'tarnished' with its close link to Pit Bulls (Wickham and Winterman, 2008). Another issue is that Pit Bulls are portrayed as connected to gangs and drug dealers (e.g. BBC News, 2006; Beckett, 2008) and as being used as weapons (*The Guardian*, 2001; Beckett, 2008). As Cohen and Richardson (2002:297) point out: 'drug lords and street gangs are hard to control, but their alleged mascots, Pit Bulls, may be easier to control, through legislation'. However, it is difficult to ascertain whether this view of the stereotypical Pit Bull owner is corresponding with the typical owner as little such research has been carried out (Evans et al.'s 1998 study of dog fighting is an exception -even if far from all Pit Bull owners are fighting their dogs). Utilising the convenience sample of Pit Bull owners encountered when exercising my own Pit Bull, two types of owners were identified: ones that walk their dogs in public and in daylight, and another that either do not exercise their dogs or do so late at night. The 'daylight' group consists mainly of male, white, middle aged and working class owners. The 'night-time' owners are also working class but are younger and more often Black.

Breed-specific legislation has a tendency not only to merely treat the symptoms - Pit Bulls and other 'dangerous' breeds - rather than the causes - dog owners - but also to ignore other symptoms of this problem in the shape of all other dogs that bite. Delise (2007) points out how the eradication of the Pit Bull is portrayed as the cure of serious dog attacks. Instead of owners taking responsibility of controlling their dogs, the Pit Bull is made the scapegoat for the sins of its owners. Delise (2007) calls this 'the Pit Bull placebo'. It is easier for politicians to direct 'quick fix' legislation towards certain breeds, than tackling the underlying causes of

dog attacks, i.e. the attitudes and responsibilities of the owners. Breed-specific legislation usually does little to address the source of the dog problem and Ferguson (2005) calls such legislation a 'band aid' solution as it, in practice, offers little protection for the public from dangerous dogs. Ultimately, the aim of breed-specific legislation is to eliminate the banned breed (Baker, 1993; Collier, 2006) and without Pit Bulls, many believe, everything would be safe on the dog front. People opposing breed-specific legislation crudely call it 'doggy genocide' (Labonté, 2005a).

Doggy genocide or not, the DDA has not managed to rid the UK of Pit Bulls as was Baker's intention. In 1991 there was an estimated 10,000 Pit Bulls in the UK. Baker initially wanted the destruction of all Pit Bulls, but had to settle for extinction of the breed by stopping procreation, therefore the demand that all Pit Bulls are neutered (Baker, 1993). This has not been the result. Even if there are no exact figures of how many Pit Bulls live in the UK, a very crude estimate can be arrived at, based again on the convenience sample of Pit Bulls regularly encountered in one area of South East London. I regularly meet about 15 Pit Bulls and Pit Bull crosses (belonging to the 'daylight' group above) and know of about five further (belonging to the 'night-time' group). This means there are at least 20 Pit Bulls living in this area and, of those, my dog is the only one on the Dangerous Dogs Register, a percentage of five. If about 1,000 dogs are on that register each year (Doward, 2007a) and we assume they make up for five per cent of all Pit Bulls, then there can be as many as 20,000 around, meaning the figure has doubled since 1991. This crude estimate - or guess - is very problematic, but we can at least be sure there are still quite a few Pit Bulls around after 17 years, when they should have all died out by now.

There is also an extreme belief in the powers of breed-specific legislation. This belief in the powers of an Act can be compared to the Swedish belief in the powers of their prostitution law that prohibited the purchase of sexual services (Gould, 2001). As Delise (2008c) points out: will humans who have dogs as an extension of their own aggression suddenly become law-abiding citizens due to legislation? If owners are already criminal, will they be deterred? They are rather those that Mathiesen (1990) refers to as being too involved in a law breaking lifestyle to be deterred by such legislation.

Breed-specific legislation can also be used politically for ulterior motives such as re-election (Lodge and Hood, 2002; Labonté, 2005a), and has been introduced, or lobbied for, by sometimes dubious methods – such as selectivity of data used and tweaking the interpretation of these data. Although both pro-Pit Bull, Matt Ferguson and Karen Delise provide useful examples of doubtfully conducted campaigns to introduce breed-specific legislation in Lakewood, Ohio and Denver, Colorado (Delise, 2008b) and Ontario (Ferguson, 2005).

Breed-specific legislation banning the American Pit Bull terrier was exported from the UK to Australia in 1991 without any record of Pit Bull attacks, but based on the Pit Bull's reputation of being a 'dangerous' breed (Collier, 2006). Nineteen deaths were caused by dog bites in Australia

between 1985 and 2005, but none of these was caused by a Pit Bull (Collier, 2006). The data from Australia (Tables 2-4 above, and Table 7 below) suggest a relatively small number of breeds contribute to a large proportion of the attacks - and the Pit Bull is not one of these breeds. Collier (2006) questions whether this is a viable strategy if the aim is to reduce the number of dog attacks.

On the other hand, the breeds that bite the most are also among the most common, so the proportion of the breed that poses a risk is small. Collier (2006) provides data from Australia regarding the percentages of breeds that are reported to have attacked. According to his data, 0.2 percent of German Shepherds and Rottweilers have attacked, 0.1 per cent of Staffordshire Bull Terriers and 1 per cent of Pit Bull Terriers. One has to bear in mind, however, that this is a percentage of the number of registered dogs, and more Pit Bulls than dogs of other breeds are not registered (Barnes et al., 2006; Collier, 2006), so it might be that Pit Bulls do not attack at any rate higher than other commonly attacking breeds (Hinkle, no date). Collier (2006) claims that the better approach would be to declare dangerous individuals of certain breeds, i.e. concentrate on the deed and not the breed.

Table 7. Dogs registered as dangerous in Brisbane, Australia, 1995

No. of dogs registered = 751	%
Most common breeds	
Cattle dogs	27
German Shepherd	25
Bull Terrier	10
Kelpies	6
'Dangerous' breeds	
Rottweiler	9
Pit Bull Terrier	0.3

Source: Collier (2006:20)

Table 8. Child victims of dog bites in A&E Departments, Belgium, 2001

No. of child victims participating = 100	%
Patient under 15	
Bitten by family/known dog	71 (94% in home, 29% in public)
Bitten at home	65
Most common breeds	
German Shepherd	28
Labrador	9
'Dangerous' breeds	
Rottweiler	11

* Breeds were identified by the people involved in the attacks

Source: De Keuster et al. (2006:483)

Regarding child victims of dog bites, in Belgium Kahn et al. (2003) and De Keuster et al. (2006) (Table 8) found that 'dangerous dogs' such as Pit Bulls and Rottweilers were not the most frequent biters of children. Controlling one or a few breeds in breed-specific legislation ignores the

true scope of the problem and causes a false sense of accomplishment. Labelling breeds as 'dangerous' and banning them does not entail a responsible approach to protecting the community and its citizens (De Keuster et al., 2006).

The answer to the question whether 'dangerous breeds' bite at a rate justifying singling out for breed-specific legislation is therefore 'no.' 'Dangerous breeds' do not bite at significantly higher rates and their singling out for bans is therefore not justified. Instead, there are adverse effects of breed-specific legislation as it gives the illusion of tackling a problem, when it in practice only addresses a limited number of symptoms. It also has a labelling and stigmatising effect and there are speculations - and some research (Barnes et al., 2006) - indicating that one result of banning Pit Bulls has been that they have become even more attractive to the 'wrong' people (Labonté, 2005b; Barnes et al., 2006). Responsible behaviour is not encouraged by banning certain breeds - rather the opposite.

What has been the effect in countries that have implemented breed-specific legislation?

Generally, comparative studies conducted before and after the introduction of breed-specific legislation in different countries are notably scarce. However, Klaassen et al. (1996) conducted a limited questionnaire study in the Accident and Emergency department of a hospital before and after the implementation of the DDA in the UK (Table 9). Klaassen et al. (1996) found that the act seemed to do little to protect the public from dog bites and found no reduction in bites by Pit Bulls. They therefore concluded that the Act singled out certain breeds as 'dangerous' without any substantive data to support it.

So-called 'dangerous breeds' contribute only to a few of the incidents of dog bites in Spain (Table 10), and thereby discredit breed-specific legislation (Rosado et al., 2007). In the same study, a behaviour test did not show any major differences in aggressive behaviour between 'dangerous breeds' and Golden Retrievers (Rosado et al., 2007). A slight increase in 'dangerous' breeds was noted in Spain after the passing of their Dangerous Animals Act, but it is likely that a heightened awareness meant an increased propensity to include breed information when reporting an incident (Rosado et al., 2007). Rosado et al. find breed-specific legislation discriminatory as it assumes all dogs of 'dangerous breeds' are aggressive by nature. Even if some breeds have tendencies to behave more aggressively than others, there is still a wide variation within the breeds. This means 'breed' is a less reliable predictor of aggression than is environment, learning, physical and mental health (Rosado et al., 2007). The Spanish Dangerous Animals Act was not effective in protecting people from dog bites. The main biting breeds were not included in the 'dangerous breeds' list, but were the same before and after the Act (Rosado et al., 2007).

Table 9: Dog bites treated in Dundee Royal Infirmary, Scotland, 1991 and 1993/4

<i>Number of dog bites treated</i>	<i>Before the Act (1991)</i>	<i>After the Act (1993/4)</i>
	<i>N=99</i>	<i>N=99</i>
	%	%
Patient under 15	30	38
Bitten by family/known dog	54	51
Most common breeds		
German Shepherd	24	17
Crossbreeds	18	31
'Dangerous' breeds		
Rottweiler + Doberman	3	6
Pit Bull Terrier	3	5

Source: Klaassen et al. (1996:89-90)

Table 10: Dog bite incidents reported in Aragón, Spain, 1995-9 and 2000-4

<i>Number of dog bites reported (c. 50% of all cases)</i>	<i>Before the Act* (1995-9)</i>	<i>After the Act* (2000-4)</i>
	<i>N=915</i>	<i>N=1,203</i>
	%	%
Most common breeds		
German Shepherd + crosses	30	24
Crossbreeds	19	21
'Dangerous' breeds**	2.4	3.5
Rottweiler	2	2
Pit Bull Terrier	0.4	0.6

* Spanish Dangerous Animals Act 1999

** Dangerous Breeds = American Pit Bull Terrier, Staffordshire Bull Terrier, American Staffordshire Terrier, Rottweiler, Dogo Argentino, Filo Brasileiro, Tosa Inu and Akita Inu

Source: Rosado et al. (2007:168-170)

Breed-specific legislation is often influenced by biases in the media and moral panics following fatal dog attacks (Rosado et al., 2007). In studies, breed-specific legislation has not been proven to effectively diminish either the number of dog bite injuries or the number of fatal attacks (Rosado et al., 2007). Collier (2006:21) asks if 'laws to extirpate a breed can be justified when, by the worst case data, 90% of its individuals are not recorded to attack a person or animal over their life span'?

On 9 June 2008 the Dutch government lifted their 25 year ban on Pit Bulls because it had not led to any decreases in the number of bite incidents (Delise, 2008b). So far, there has been no debate or indications that any other country is to follow.

Conclusions: What do we need?

The purpose of the DDA was to rid the country of Pit Bulls. As this has not happened the effectiveness of the Act can be questioned. This paper has also demonstrated that there is no research to support that breeds labelled 'dangerous' are those that attack the most. The Act, therefore, needs to be

reviewed to cover dangerous dogs based on actual behaviour, rather than breed (i.e. deed not breed).

Attention should be on treating the causes of aggressive dogs rather than the symptoms by directing the focus to the owners of potentially dangerous dogs and they, in turn, need to be made fully responsible for their dogs' actions (Doward, 2007a; Meikle, 2008). By abolishing breed bans the attraction of Pit Bulls for the 'wrong' kind of owners will diminish, rather than increasing it as the outlawing of certain breeds does.

Educational intervention is important in preventing dog bites (Kahn et al., 2003; Morgan and Palmer, 2007). Children need to be taught how to behave with dogs as most dog bites, with both children and adults, seem attributable to human misunderstanding of their behaviour (Roll and Unshelm, 1997). For instance, De Keuster et al. (2006) found that 67% of accidents might not have happened had the children and parents had adequate education on safe conduct towards dogs. The most important message is that a child should never be left alone with a dog (De Munnynck and Van de Voorde, 2002).

Finally, there are a lot of stereotypes regarding owners of Pit Bulls and other dogs that can be 'dangerous', but there is little knowledge of the typical owner. Research needs to be carried out on these people, because only by knowing who they are and why they own 'dangerous' dogs can we establish what needs to be done to encourage responsible ownership. If we are lucky, the current popularity of Pit Bulls and Staffordshire Bull Terriers is merely a trend. As more and more young males get them, there will be saturation and the attraction of owning them will diminish. As Beckett (2008:31) concludes: 'Tough dogs seem less tough when everyone you know has one.'

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