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Papers from the British Criminology Conference

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2015 Conference, (30 June-3 July)
Criminology: Voyages of Critical Discovery.
Hosted by Plymouth University

Editorial Board

Charlotte Harris
Peter Squires
Helen Jones

With grateful thanks to all our anonymous reviewers

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Papers from the British Criminology Conference ***An Online Journal by the British Society of Criminology***

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Contents

Editorial <i>Charlotte Harris</i>	4
Time for an encore: exploring the symbiotic links between music, forming meaningful relationships and desistance <i>Jo Cursley</i>	7
Reflections on criminal (in)justice in cases of rape <i>Marianne Hester</i>	26
Perspectives on organised crime between policy and research: a criminological analysis of the new offences of participation in organised crime activities in England and Wales. <i>Dr Anna Sergi</i>	43
An ASBO for violent gangsters or just continuing criminalisation of young people? – Thinking about the value of “Gangbo” <i>James Treadwell and Kate Gooch</i>	60
To what extent there is scope for a common EU policy of firearms controls? <i>Sarah Watson</i>	77
Criminal Armourers and Illegal Firearm Supply in England and Wales <i>Helen Williamson</i>	93
Conference 2016	116

Editorial

Charlotte Harris

In 2015 the British Society of Criminology Conference was hosted by the University of Plymouth. Held from 30 June to 3 July, the conference team channeled the city's maritime heritage by choosing a theme focused around 'Voyages of critical discovery'. Keynote speakers Rowland Atkinson, Mary Bosworth, Ben Bowling, Elliott Currie, Kathleen Daly, Kieran McEvoy and Sharon Pickering entered into debate and dialogue in some lively plenary sessions with question and answer and interview formats. There was a wide array of papers presented from within and outwith academia, from practitioners and independent researchers as well as those employed by universities, from those just starting their criminological careers to well-established criminologists. There was a particularly strong postgraduate conference and here the plenary speaker, Joe Sim, was effusive in his praise of the papers, many of which he found even more exciting than those in the main conference! We pondered the reasons for this. Perhaps part of the reason is that postgraduate funding, being not as REF-focused, allows for more blue-sky, exploratory work?

The papers included in this volume reflect the spirit of the conference. Fifteen papers were submitted, with six being accepted for publication. As always the journal has a rigorous peer-review process but (hopefully) a sympathetic approach to authors - especially early career and postgraduate authors - with helpful feedback and advice, even if a paper is rejected. There is a tight timetable in order to publish the same year as the conference and so we are hugely indebted to the reviewers and the authors for

turning things around so promptly. Many interesting papers were rejected purely because tight deadlines did not allow enough polishing time.

Demonstrating the strength of the postgraduate conference we have two papers from the first day of the event. Sarah Watson presents an overview of a research project that explores comparative firearm control within the EU and the barriers to consensus in firearm law in “To what extent there is scope for a common EU policy of firearms controls?” while Helen Williamson examines the methodological challenges of investigating those involved in the modification and supply of illegal weapons including the emerging method of crime script analysis in her paper entitled “Criminal Armourers And Illegal Firearm Supply In England And Wales”.

The range of delegates to, and papers at, the BSC conference are amply demonstrated by the other four accepted papers. Independent researcher Jo Cursley opens the volume on a hopeful note with a persuasive argument for the role of group music performance in the desistance process looking particularly at the work of the charity Changing Tunes in “Time for an encore: exploring the symbiotic links between music, forming meaningful relationships and desistance”. Professor Marianne Hester provides an authoritative look on what a victim-focused criminal justice process might look like for the range of different rape victim needs in her article “Reflections on criminal (in)justice in cases of rape”. Early career criminologist Anna Sergi explores the provenance of the new organised crime offence categories in Section 45 of this year’s Serious Crime Act suggesting that they were informed more by political narratives on organised crime than by variations in the criminal panorama in “Perspectives on organised crime between policy and research: A criminological analysis of the new offences of participation in organised crime activities in England and Wales”. And finally conference regular James Treadwell and colleague Kate Gooch discuss the origins, rise and potential negative consequences of the ‘civil gang injunction’ (CGI) in England and Wales in “An ASBO for violent gangsters or just continuing criminalisation of young people? – Thinking about the value of “Gangbo”.

Next year’s British Society of Criminology Conference takes place at the impressive Nottingham Conference Centre and will be organised directly by the British Society of Criminology Conference Committee. ‘Inequalities in a diverse world’ keynote speakers already lined up are Kelly Hannah-Moffatt from the University of Toronto and

Will Hutton from Oxford University. The dates for your diary are 6-8 July 2016. We look forward to seeing many of you there.

We have been standing in as an editorial board in the absence of a Publications Committee chair this year. Following a recent election, Lizzie Seal from Sussex University will be taking on this role next year and we will pass the mantle of next year's publications into her capable hands.

Hopefully you will all find something of interest in this year's journal and we wish everyone a happy Christmas and a peaceful New Year.

Dr Charlotte Harris, Executive Director, British Society of Criminology

Professor Peter Squires, President of the British Society of Criminology

Dr Helen Jones, Membership and Communications advisor, British Society of Criminology

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Panel Paper

Time for an encore: exploring the symbiotic links between music, forming meaningful relationships and desistance

Jo Cursley, *Independent Researcher, South West UK*

Abstract

The importance of meaningful relationships both between offenders and workers and also with those significant others is widely acknowledged as an essential component of desistance. In order to change entrenched patterns of criminal behaviour, it is argued that the quality of these relationships serves to support and validate a pro-social sense of identity. In this paper I develop this thesis further. I explore the impact on participants' relationships where the process of a music prison project is continued outside prison. Drawing on evidence from the offender and ex-offender based charity Changing Tunes, I argue that the process of making music and performing provides a needed expressive and creative space. Participants discover that being part of this creative and mentoring team, both in and out of prison, enables them to develop an understanding of how to develop and maintain meaningful relationships, thus playing a substantial role in their progress towards permanent desistance.

Key words: desistance, relationships, music, through the gate, offender, ex-offender

Introduction

McNeill (2009) argued that desistance can only be understood in terms of relationships:

Desistance can only be understood within the context of human relationships; not just relationships between workers and offenders (though these matter a great deal) but also between offenders and those who matter to them (McNeill, 2009: 28)

The most important relationships to offenders and ex-offenders are usually those based within the family (see for example, Abrahams, Rowland, & Kohler, 2012; Dick, 2011; HM Inspectorate of Prisons, HM Inspectorate of Probation, & Ofsted, 2014). Halsey and Deegan (2015) argued that the way in which the term 'prisoner's family' is used suggested that the family surrounding the prisoner has an accepted support role. The idea of family support for offenders and ex-offenders can be paradoxical within an often dysfunctional family background (HM Inspectorate of Prisons, et al., 2014). The challenge is therefore to create whole regimes which enhance offenders' capacity to develop relationships (Anderson, 2014; Silber, 2005). This development needs to continue outside prison in order for desistance and successful rehabilitation to be achieved (Halsey & Deegan, 2015; HM Inspectorate of Prisons, et al., 2014; McNeill, et al., 2011). Individuals need to be supported both socially and culturally so that they can develop a propensity to improve their relationships. This can emerge by recognising and developing their potential through new cultural and social networks (Anderson, et al., 2011).

Evidence revealed that opportunities to work creatively through the arts supported offenders' social and cultural development (see for example, Cox & Gelsthorpe, 2008; Hughes, 2005; Sparks & Anderson, 2014). The creative process has similarities to the journey towards desistance. Both are challenging in that an individual can be in constant flux with the flare of hope from progress and also despair along with regression (Anderson, et al., 2011; Peters, 2009). Development in creative skills and the desistance journey involves individual reflection on success and learning from individual weaknesses (Anderson, et al., 2011; Cursley, 2012; Maruna, 2001; McKean, 2006). The validation that emerges from success and encouragement can help an individual to keep faith that life could improve (Anderson, et al., 2011; Baker & Homan, 2007; Bilby, Caulfield, & Ridley, 2013; Cursley, 2012; Maruna, 2001; Moller, 2003), the importance of fostering hope being a key component of the desistance journey (Cox & Gelsthorpe, 2008; Cursley, 2012; Maruna, 2011; McNeill, et al., 2011).

Music has been shown to cultivate the capacity to make relationships through teamwork (see for example, Abrahams, et al., 2012; Anderson, et al., 2011; Bilby, et al., 2013; Cox & Gelsthorpe, 2008; Silber, 2005; Wilson, Atherton, & Caulfield, 2009). Anderson (2014) argued that further work was needed to investigate the role that music can play in developing the capacity for significant relationships in offenders, so that individuals could more easily walk the road towards desistance. However, there are too often obstacles preventing continued progress from occurring, one being the short length of many arts projects. The positive impacts are recorded, but the participants are left feeling “gutted” when the project ends (Anderson, et al., 2011: 44). Further fragmentation is seen in the disjunction between the offers to prisoners and ex-offenders. Outside prison, it can be difficult to find any continuity with those arts tutors who have encouraged and validated their progress (HM Inspectorate of Prisons, et al., 2014). Yet, as Murray (2014) argued:

We know that the biggest protective factors in both preventing offending and reducing reoffending are in our own homes and neighbourhoods, schools and community centres, colleges and workplaces. This is where both ‘community justice’, and ‘community arts’, have their heart (Murray, 2014: 21)

Using music to journey towards desistance: a case study

The work of Changing Tunes provided an excellent opportunity for a case study revealing a continuity of approach from within to outside prison. A detailed examination of the impact of involvement in music-making on the participants can be found in the report of that research (Cursley & Maruna, 2015) and data for this paper stem from that collected for that report. Data was collected from observation of sessions, concerts, and analysis of 33 lyrics written by Changing Tunes participants and interviews with 15 participants, ex-offenders, Chaplains, Prison Officers, Managers, Changing Tunes staff and three focus groups of 30 participants across three prisons. This paper is focused on the way the involvement in Changing Tunes played its part in developing participants’ capacity to form meaningful relationships and the importance this played in their journey towards desistance.

Research context and approach

Changing Tunes is a registered charity which not only runs long term projects through music in prisons throughout the whole year, but gives former offender participants the opportunity to continue their music sessions with Changing Tunes outside prison and also to receive mentoring and support.

Changing Tunes leaders had clear ideas about their aims and rationale for working with participants:

...my aim is to see the person I am working with differently from how others have seen them... to see something that I believe is true about them. Regardless of what they have done, each is a worthwhile person.
(A Changing Tunes leader)

Another Changing Tunes leader, argued that the official purpose was to rehabilitate offenders, 'to modify behaviour'.

But it is the relationships formed through Changing Tunes which are important in helping to transform people's lives and which are integral to the success of their work.

At the heart of the work of Changing Tunes is the use of music to reach out to participants both during and after prison. Changing Tunes uses music teaching, rehearsing, recording, performance, improvisation and composition to create a sense of family which supports desistance from crime. Based for a decade and a half in more than a dozen prisons in the South West of England, there are now plans to expand across the UK more widely with the South East franchise already up and running since 2014.

Sessions in prisons were tailored to the needs of the offender participants and the prisons and as such varied accordingly, but usually the sessions were organised weekly, with a duration of between two and two and a half hours. Out of prison the sessions were held regionally about once a month, supplemented by one to one sessions and rehearsals for concerts where many of the groups came together.

Selection into Changing Tunes sessions

The rationale for membership of a Changing Tunes group was determined by each prison. Groups were kept at a maximum of 12, except in an Open Prison, where posters on the wings enabled anyone to join the flexible Changing Tunes leader in the group each week. Regular attendees took up specific roles and were the mainstay of the group. In a local prison, responses to posters in the wings were analysed by the Chaplain and Security in consideration of applicants' motivation, attitude and security risk. In a Women's Prison, the Chaplain and the Governor suggested attendance to the most vulnerable prisoners. Outside prison, ex-offenders who had previously attended Changing Tunes sessions could join the group nearest to their home.

Difficulties in forming relationships

Our interview process gave us a snapshot of the participants' challenges in making and maintaining meaningful relationships. This was a difficult but rewarding journey of discovery for many, which often started from a base of poor experiences. These fell into several groups: isolation as a child; chaotic, sometimes abusive parenting; parents splitting up; difficulties at school; drink and drugs. This often was continued into adulthood with dysfunctional relationships with their partners and children.

'Isolation' was a term used by five interviewees to describe how they felt as a child. One described having just one friend which was the only kind relationship amongst 'negative adult influences'. Chaotic parenting, involving parental separation and difficulties with a parental relationship, were common. Jack¹ explained the relief when his abusive father went to prison for 11 years as "luckily for me I didn't have to spend that time with him". However, often there was pain in any physical or emotional dislocation from their parents. Tom described the upset to his mother when he would escape from his "residential school" and return home. He felt he was trying to escape a situation and at the same time attempting to gain a measure of power, but was not sure how to succeed, or exactly what he was trying to escape from.

¹ All offenders and ex-offenders' names are pseudonyms

Lyrics written by Changing Tunes participants often revealed an expression of pain from disintegrating relationships. Becky, a Changing Tunes participant, referred to lyrics written by a female prisoner who was sentenced for nine years:

There was one song on one of the CDs that I sung which was from a young girl who got nine years in prison for something that she did with her boyfriend. I can't remember what the charge was; it's irrelevant really. But, anyway, she was very frightened and scared and she'd fallen out with all of her family. [The lyrics] were fairly much about that, how ... she was feeling about that and there was reference to her family, her mother in particular and how frightened she was. (Becky)

Some interviewees reported that difficulties in relating to their peers began at school. One analysed that this was connected with his disengagement with the school syllabus:

But I wasn't kind of physically violent to people. I wasn't aggressive... much. But I just didn't engage and I think I got bored very quickly and just decided that I could entertain myself far more than the school could or the people that are trying to help me could at the time, you know. (Jay)

Early difficulties with forming relationships were often followed by problematic relationships as adults: men coping with young teenagers; individuals having to cope with aggression; a man having to cope with his girlfriend's infidelity. Harry explained how his children's mother did not want to marry him and entered into an abusive relationship with someone else which meant that not only he but also she lost custody of his child to her grandmother.

I wanted to stay because I loved her. I wanted to stay because I want to be there for my son to protect him, you know. So, I made decisions based on good reasons but also bad reasons because emotionally, I allowed myself to be controlled. (Harry)

Interviewees were self-critical and unforgiving of their younger selves' inability to make stable relationships. Jim, analysing his nineteen-year-old self, reflected that his inability to form a proper relationship with either the girl or her family meant that he "never grew up". Sometimes the breakdown of relationships with partners led to the

individual “kind of hating myself”. Problems at a period of immaturity could sometimes escalate into aggressive behaviour through the complexities of their partners’ extended family.

The influence of drink and drugs had negative effects on participants’ relationships. Sometimes the addictions were the cause of the breakdown; sometimes as a result of it. Lee described his violence after drink creating fear in those around him. It also had an adverse effect on his health leading to blackouts. Mike reported how drink replaced his failure to have a relationship with a woman. His lack of a clear sense of identity inhibited him further and so he turned to prostitutes. Vince explained how drug dependency took “a higher priority than [his] relationship and [his] partner”. The poor quality of the relationship with their children’s mother determined the dysfunctional nature of his relationship with their children.

This then is a snapshot of the experience of participants’ relationships when they came into their first Changing Tunes sessions in prison: dysfunctional relationships, a sense of failure, close relationships going wrong because formed at a state of immaturity, complex living arrangements and in some cases a use of drugs and drink. The lack of hope suggested by these states would seem to suggest a likelihood of reoffending on release, according to research (Green Paper, 2005; Hughes, 2005; McNeill, 2009; Williams et al., 2012). It seems therefore that a lack of hope can be engendered by lack of stability in close relationships which in turn can be a catalyst towards re-offending. The importance of supporting ex-offenders in their maintenance of meaningful and positive relationships seems therefore vital in the path towards desistance.

Discovering their musical potential

The correspondence between interviewees’ accounts, and the passion, great sensitivity and musicality shown by them in the concerts we observed, gave us validation of their opinions of their relationships with Changing Tunes members of staff. It quickly became apparent that the music sessions and concerts encouraged a burgeoning potential in singing and playing.

The first recognition they had some musical talent had sometimes occurred as a child:

My first experience was singing in a cupboard that was quite small, in a children's home in Wilmslow. And I thought everybody's gone. And I locked myself in this cubicle because the Elvis echo made your voice deeper and wicked. I started to singing "Love Me Tender" ... And this kid goes "God, come and listen to Joe," and he is serious, "You sound just like Elvis". So that then, was when I was - one isolated moment and then nothing more. (Joe)

It was not then until Joe came into a Changing Tunes session that he reignited his enthusiasm and began to sing more seriously. On the other end of the scale an offender in one prison had been helping in the library and listening to Changing Tunes until one day he was invited to the session and invited to try with the drums. He discovered he had a natural rhythm which then gave him a whole new lease of life:

I'm walking around going 'Boom de boom de boom', doing the beats to myself. But I mean it's good because I can be sat in my cell feeling absolutely low whatever and I just put the music on and just get into a beat with my fingers on the table and it's a little escape from reality. But the reality is it's music so it is real. (Zak)

The poignancy of Joe's account revealed a lack of any support and recognition as a child to take his talent further. It seemed that the validation gained in these music sessions helped to ignite hope and gave some structure to their lives. Furthermore, with the initial attraction of engaging in music in prison, relationships within the group began to form and influence their attitudes.

Making music: forging relationships in Prison

It was when participants came into the Changing Tunes sessions that they began their journey of discovery both of their musical abilities and also their gradual sense of security and trust within the sessions. The relationship with Changing Tunes staff without exception was not only reported as being very positive, but also observed and validated by us during concert preparations and workshops. The network of contacts it gave participants acted as both a safety net and a support group which helped in a variety of ways, such as a network with their Church, AA group, mentor or sponsor.

Changing Tunes staff presence in prisons was welcomed by participants as providing a safe place to be during the sessions, the leaders seen to be talented, encouraging, reliable and caring. If a session was cancelled, Changing Tunes leaders either came to the rooms or sent participants a personal letter. Adrian explained how participating in Changing Tunes in prison “totally changed the prison experience”. David revealed the impact of being called by his name instead of a surname: “Suddenly you feel like a person again and that is really important”. Close relationships sometimes formed in prison as a result of their sessions:

You know the atmosphere was great and I think you see people's confidence build as well and it's nice to boost for my confidence. Also well I think it's useful for guys to be able to look around more especially guys that have come from a very basic standard and come to be quite a decent standard in the amount of time available. ... And you got people coming up to you in the days afterwards saying, 'That was really good. And you should keep doing stuff then'. So that kind of positive reinforcement really I think is really good. (Bill)

Out of prison

The lack of continuity in support networks when offenders come through the gate was softened for Changing Tunes participants:

I think the thing is, you are in prison and that is your life there and you come out of prison and that is your life there. It seems to be a big shutter that comes slamming down between the two of them and to actually find a bridge between that side actually felt really nice (Vance).

Members of Changing Tunes staff were sensitive in working out the appropriate opportunity to contact participants leaving prison. This was appreciated by one interviewee in particular:

If they had contacted us right away, I think that would have been too soon because you want to have time with your family. And I think they obviously considered that - that there's things you want to do and get sorted when you come out. If it had been too long, then I would have felt that maybe those ties would have

broken down or I would have thought they had forgotten me. So I think a month or six weeks was quite a nice time. And it was a really pleasant surprise. (Chris)

There was skill shown in knowing the time to offer help and the time to withdraw, with the realisation by members of staff that participants “had to take the lessons ...and apply them in real life”. Another member of Changing Tunes staff explained how one member of his group had gone back on drugs:

I mean there's one chap who is a recovering addict and he's gone a bit AWOL at the moment. I'm not going to keep chasing him. He knows my number, he knows where I am. He knows that helps there, so it's not callous in a way.

Sometimes, one to one meetings were held over a long period until the other person was ready to move forward. Participants appreciated the care given to them when a leader may make “special trips just to work with me”.

The care the Changing Tunes mentors showed the participants also extended to their response to regression. A relapse could be apparent from non-attendance at a music session or through mentoring. Jack's admission to his mentor that he had started drinking again was indication that his life was in turmoil. Staying with a mentee when in crisis required considerable patience and could cause a Changing Tunes staff mentor to wonder, “Am I wasting the money of the donators?” The reward for this mentor was final success. “But I stuck with him and gradually he managed to find his way out of the pit he was in”. Jack credited part of his motivation to become sober to “the pleasure, the change of music and the relationship I had with [my Changing Tunes mentor]”.

Another Changing Tunes leader argued that building up trust was considered essential to ensure that “barriers are all broken down to a large extent”. Interviewees also argued that the forming of ‘trust’ was fundamental to enable relationships to form and to encourage self-development. Dave's analysis developed the argument further: “To achieve our potential in a group context, we've got to have trust, we've got...we've got to communicate. We've got to accept our limitations and we've got to accept critical analysis, self-awareness”.

In order for trust to develop between participants they needed to feel safe, as a member of Changing Tunes staff explained:

From their point of view, the fact that there is somebody who they have developed a relationship with inside the prison that's now continued to outside and this is somebody who actually cares about me and my life, and how I'm doing basically.

Another member of staff reflected:

I think it's possibly not earth shattering what happens in that one hour but over the course of several one hour sessions and the fact that I am still around and I'm dependable and they know that they can trust me.

The sense of trust extended outside the sessions once participants had left prison:

Now she may not have her work phone on, but the moment she gets that message, she will send me a text back. (Becky)

This helped participants feel they could be open because, as Becky explained, "you can never have a disagreement with him. He will agree with everything that you want to know, talk about".

Staff focus on individual development engendered a sense of self-worth. David, for example, reported that the experience in the session made him feel "human again". The "sense of positive interaction" created a warm community where the focus was on music rather than their history and motivated participants to join sessions. Validation through praise developed changing senses of identity, as Julie revealed: "He says, 'This is fine. Now you know you are a good singer'".

It was, though, the sense of community through rehearsal and performance which drew everyone together, as Tony, previously an isolate, analysed, "it kind of brings the emotional contact". Gill described how gathering with a few members of staff and other participants before the performance helped to provide them with a sense of identity and confidence:

And they're there it's you know, it's going to be a laugh, we're going to have a giggle, we're all there together, and we're all laughing. (Gill)

Present Family relationships

Family connections were shown to be of primary importance to participants' sense of stability and self-esteem. One participant explained how she had had difficulties with various partners of her mother's. The responsibility of now being a parent had helped her to stay focussed even when she became depressed and wanted to quit. Becky explained how the love of her nephews helped her to keep suicidal tendencies away.

Freddy also analysed his improved family relationships: "This is a proper relationship now. We've got a proper family network going on now". He described how they got together with neighbours for barbeques at the weekend and so he now felt part of a community. Darren considered how re-joining his childhood family had provided him with the stability he needed as opposed to a constant feeling of threat: "Yeah, this is home again. I'm with the people who say 'Hi' instead of, 'Where's my money?'".

A stabilising influence could be found if participants were lucky to have a relationship with someone who turned out to be very loyal even after conviction. Darren described how he always gave his partner the option of leaving him but she never took it. He explained how this solidified their relationship and now they were getting married.

Sometimes a new ability to form relationships had arrived out of changing self-perceptions. Adam defined the reasons for his change as being based on the fact he was no longer "ego driven". Tony evaluated the impact of his changed self-perception. Seeing himself not as a victim but looking at himself honestly was very "liberating" and helped him to consider how he reacted with other people. Lee explained how he had begun to form a close relationship with a woman and spent a lot of time living with her, "and we've never had any major arguments".

Changing Tunes sessions and its alliance to a pathway to desistance process

The desistance pathway from criminal to a positive member of society is fraught with difficulties and is a route which needs assistance and encouragement, because without this change in self-identity any possibility of change on leaving prison is blighted (McKendy, 2006). One of the ways of changing self-identity is by the appropriation of new roles unlinked to offending, a course strongly linked to desistance (Berson, 2008; Cursley, 2012; Maruna, 2001; Maruna & Farrall, 2004; McLean, 2008). Before this can

occur, however, a process needs to be in place which will enable the offenders and then ex-offenders to see themselves as having positive qualities, re-forming their self-perceptions so that they could see themselves as having a positive role in society (Maruna, 2001).

Many Changing Tunes participants eventually started to take on positive roles as exemplified through Changing Tunes leaders and became peer mentors. Some of the roles they adopted were paternalistic with their being the expert and the other participant being the student. Gaining a sense of self-respect by helping others themselves seemed to be transformational. Simon's and Hugo's comments showed their individual change journeys:

Instead of thinking about myself all the time I started thinking about others. So, I started extended myself out without reward just to help other people in the same way that Changing Tunes had helped me. (Simon)

It made me better, made me a much more fully integrated individual. It gave me a choice and a way out of the cross of self-pity. (Hugo)

Reaching out to others prevented a sense of victimhood and presented opportunity for self-analysis. Vince analysed the impact of the self-reflection demanded by mentoring: "It was a pain at first but I quite like it now because you have presented opportunity for looking at yourself and how you react at work with colleagues and clients". Simon mentioned seeking training with the Samaritans; Dave with working with a charity which helped drug addicts. One of the reasons given for this change was that Changing Tunes "gave me so much joy and pleasure that I'd be keen to... I'd feel guilty if I didn't actually attempt to try and give something back right now".

Putting in place interventions both in and out of prison to enable the desistance journey is multi-faceted, the aim being to lead to the permanence of secondary desistance, rather than the shorter lived primary desistance (Maruna & Farrall, 2004). The often dysfunctional relationships of the participants prior to taking part in Changing Tunes meant that they were often beginning from an unstable state. Their experience in Changing Tunes showed that the symbiotic relationship between music and forming

positive relationships helped participants to have a sense of belonging to the group, a group which put on successful concerts leading to their pro-social validation.

However, while good relationships are the foundation of desistance (McNeill, 2009), the practicalities of housing and employment are also essential components (Department for Education and Skills, 2005; Maruna, 2011; Pritchard & Williams, 2009). We did not have access to data from the whole Changing Tunes project so can only comment on the fifteen we interviewed. All of them were living either on their own or with partners. Besides an improved capacity to make positive relationships, there was evidence of pro-social occupations outside Changing Tunes sessions. Out of these 15 ex-offenders, seven were employed; three were in voluntary work, one was self-employed, one was retired and three were unemployed, two of these having mental health problems. All of these fifteen had been out of prison for up to three years.

Concluding remarks: Music was the hook but he was the guy (Darren)

The Changing Tunes community provided feelings of acceptance, belonging and with that a notion of responsibility (Cursley & Maruna, 2015). Bill encapsulated the views of many interviewees who had experienced troubled relationships at home: “Changing Tunes, that is your family, [CT leader] is your brother if you like”. Their basic need to form family seemed to be a vital part of the relationship in the music making they engaged in. Becky articulated the resolution of this deep need for acceptance and recognition: “My relationship with my Changing Tunes mentor – it’s like you find yourself to each other”. There were instances of progress towards the desistance pathway in developing social interaction in the home:

When I get back home and my partner said to me, ‘You speak so differently when come home.... Why is it? You are not effing blinding and everything that you’re polite. You’re better [to] stay [there]’. (Ella)

with officialdom:

My attitude to probation and my MAPPA (multi agency public protection arrangements) officers has completely changed. In

court they said my life has changed and how different I'm taking the approach towards the criminal justice system. (Julie)

in court:

I got to court and the barrister said, 'Look ... he's gone from someone that caused and looked for trouble. He used to drink every day, in and out of silly relationships with silly girls. And now he has found a woman, his own, homemade family if you like'. (John)

The positive contribution of Changing Tunes towards those attributes needed for desistance could be found in the commitment by individuals to make a positive contribution to their family or community and a seeking for a positive future (Maruna, 2001; McNeill, 2009). Cheliotis and Jordanoska (2015) argued that for the impact of arts programmes to make abstinence from crime more likely the provision needed to be sustained in the community. The capacity for Changing Tunes to engage town populations through ex-offenders' Changing Tunes concerts helped them gain acceptance and aided a re-building of their lives (Cursley & Maruna, 2015). The validation given through the Changing Tunes sessions, the pro-social activity and agency it demanded from the participants and the rituals provided by the concerts themselves are all building blocks of desistance (Anderson, et al., 2011; Cohen, 2012; Maruna, 2011).

The focus on the work of Changing Tunes revealed the participants' developing pro-social and meaningful relationships. More research is needed to widen the scope of this research into other music interventions which work both inside and outside prison, though these are scarce as in 2015. Building relationships through music participation in and outside prison through Changing Tunes enabled a slow journey towards self-respect and companionship, often a foundation towards participants' building of family relationships, and their continued journey in desistance. The concept of group loyalty and responsibility to Changing Tunes acted as a catalyst for participants to view social inclusion as increasingly important, as they sought voluntary and paid employment, desisting from crime.

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All offenders and ex-offenders' names are pseudonyms

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Reflections on criminal (in)justice in cases of rape

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Abstract

There has in recent years been much discussion of, and concern with, attrition in sexual offences cases and attempts to increase victim participation. None the less, many questions remain regarding the (in)justice faced by victims/survivors where cases are taken up by the criminal justice system, as well as what a more 'victim focused approach' might look like. The article examines these issues by a detailed analysis of the progression of 87 rape cases (from reporting to police to conviction) going through the criminal justice system in three separate police force areas across the North East of England. The article explores the need to consider the vulnerabilities of victims/survivors, the different trajectories involved in 'acquaintance rape', 'intimate partner violence rape' and 'historical rape', as well as the interplay between the CJS and other services, if we are to see victim focused criminal justice experiences and outcomes.

Key words: rape, criminal justice system, victim focus

Introduction

The article is based on research examining the progression of rape cases through the criminal justice system, from reporting to conviction, across three police force areas in the North East of England. The study came about due to concerns within the criminal justice sector in the region that little is known about the detailed pattern of progression, attrition or related criminal justice system practice in rape cases. Only a few studies have previously examined progression of individual cases: one was prior to implementation of the Sexual Offences Act 2003 (Kelly et al., 2005), and none were concerned with the North

East (Metropolitan Police, 2007; McMillan, 2010)². The current research thus provides a unique picture of the nature of rape cases reported to the police in the North East of England and adds considerably to our understanding of the progression of individual cases through the criminal justice system. During the same period another study in the North East included women's perceptions about accessing the criminal justice system in cases of rape (Westmarland and Brown, 2012). Also, a study for the Sentencing Council during the same period, included victim/survivors' views on conviction and sentencing of sexual offenders (McNaughton, Nicholls et al., 2012).

The 2003 *Sexual Offences Act* defines rape as a gendered offence involving intentional penetration of the vagina, mouth or anus of another person by a man with his penis; where that person does not consent to the penetration; and where the alleged perpetrator does not reasonably believe that the person consented. The notion of consent is important, defined as where 'a person consents if he agrees by choice, and has the freedom and capacity to consent'. Absence of consent can be assumed in certain situations such as violence or threat of violence, where the victim is unconscious (for instance, through being drunk), or has a disability that limits capacity to consent. For guilt to be proven the alleged perpetrator must have been found to have committed an act that meets the legal definition of rape, and must not have reasonably believed that the victim/survivor consented.

Policy context and background

The research is situated in an ongoing process of review, policy and debate regarding criminal justice approaches to sexual offences and sentencing taking place both nationally and regionally. Since the 1980s feminists, academics, government committees and agencies have all highlighted problems in criminal justice approaches to rape and sexual assault, and indicated that there is a 'justice gap' for victims (e.g. Chambers and Millar, 1983; HMIC/HMPCSI, 2012; Kelly et al., 2005). It has been questioned whether the criminal justice system can in any case deal with gendered crimes such as rape and points to unintended consequences of pursuing such an approach (Walklate, 2008). A series of

² The Northumbria force area was, however, included in a rape thematic inspection that led to *Without Consent* (HMIC/HMPCSI 2007).

government reports and reviews have highlighted the large attrition ('drop-out') in rape cases, and there have been attempts by the police, the Crown Prosecution Service (CPS) and the courts to improve their responses to the investigation, prosecution and conviction of rape offences through training, better recording and provision of information, support and anonymity for victims, and monitoring of files. A Victims' Code of Practice was issued in relation to the *Domestic Violence, Crime and Victims Act 2004* in 2006, and there have been attempts to improve victim treatment via Sexual Assault Referral Centres (SARCs) and Independent Sexual Violence Advisors (ISVAs) to support victims through the criminal justice process. This has included ISVAs based in a number of voluntary sector organisations and attached to Sexual Assault Referral Centres in the three police force areas within the current research (Hester and Lilley, 2015).

Home Office figures have, since 2003, shown an increase nationally in the number of rapes recorded as crimes, and an increase in the actual number of convictions. In the three years to the beginning of 2012 there was a 26% increase in the number of rapes recorded by the police (HMIC/ HMPCSI, 2012). 58% of rape prosecutions in 2008 and 2009 resulted in a conviction for rape or another offence (Stern 2010), increasing to 63% in 2012-2013 (CPS communication). None the less, there has been a continual decrease in the overall proportion of such crimes reported to the police resulting in conviction, leading a succession of inspections, including *Without Consent* (HMIC/HMPCSI, 2007) and *Forging the Links* (HMIC/HMPCSI, 2012), to conclude that the justice gap for victims of rape has been widening. While policy has generally been viewed as positive and adequate, the justice gap and high attrition rate have been seen to result from failures "in the implementation", with possible shortcomings in the working of police and Crown Prosecution Service (Stern, 2010: 9). Even improvements in implementation may not, however, overcome the social and gendered context for implementation (Walklate, 2008).

The issue of false allegation has also been an ongoing concern. The Stern Review (2010) highlighted that perceptions that women often make false allegations of rape are strongly held by sections of the public, and may affect the way rape complaints are dealt with by police, prosecutors and juries. Sexual offences, and rape in particular, are often perceived in terms of 'myths' linked to ideas about appropriate female behaviour, drinking and clothing. This includes the myth that 'real rape' is carried out by a stranger, involves force and active resistance. Following a small number of controversial cases,

where victims of rape were prosecuted after withdrawal of allegations (in particular in contexts of domestic violence), the CPS (2011) issued guidance on how prosecutors might deal with cases that appear to be 'false allegations' of rape. Moreover, a report to the Director of Public Prosecution (Levitt and CPSEDU, 2013), covering a 17-month period where all CPS areas were required to refer relevant cases, indicates that of 5,651 prosecutions for rape only 38 (less than 1%) were for making false allegations of rape or rape and domestic violence.

Method

The research is what Daly and Bouhours (2009) describe as a 'flow' study, that is looking at individual cases from report to police through prosecution and trial, rather than merely a 'snapshot' at a particular time. The research involved accessing criminal justice data held on the police and CPS databases to track a set of rape cases initially reported to the police during May or November 2010 in three police force areas. For ethical reasons the research looked only at closed cases, although as the research progressed it was possible to include cases where outcomes had initially been pending. Only cases where the victim was 16 or over at the time of reporting were accessed, thus excluding by default a number of teen rapes and child sexual abuse cases. Individual cases took up to 23 months to progress through the criminal justice system, and were tracked over that period of time (i.e. between 2010 and 2012).

Data on rape cases reported to the police during the months of May and November 2010 were accessed in the three police headquarters, and anonymised by removing all names and other identifiers. In two of the police force areas, access was provided to the police database, working alongside a police staff member, and it was possible to examine all cases from when they were recorded on the initial police log, through crime reports and information on outcomes held on the police national computer. In the third area only police summaries of cases were made available; some were not readily available and it was deemed too costly by the police for the files to be recalled, although a member of staff was available to answer more detailed questions about cases. Where cases had proceeded to prosecution, the CPS nationally gave permission for case files to be accessed. CPS files were made available in the CPS headquarters in the North East, and anonymised data was compiled. This resulted in

police data on 87 rape cases (involving 98 victims and 97 alleged perpetrators), and CPS and court-related data on a further 17 cases that proceeded to court. While court observation was not carried out in the current study, some court-related information was available in the CPS files for relevant cases (see also Smith and Skinner, 2012). The tracking methods and analysis of the data built on those previously developed by the author (Hester, 2006; 2013). Where possible, logistic regressions were carried out to test associations.

To provide further context for the progression of cases, interviews were carried out with a range of 16 professionals from criminal justice and non-criminal justice agencies (3 police officers, 1 CPS prosecutor, 4 ISVAs, 1 ISVA manager, 3 rape crisis counsellors, and 4 other sexual violence support staff). They were asked about the rape cases and range of victims worked with, victim/survivor expectations and experiences of the criminal justice system, attrition points, and what they considered to work well/or not so well. Interviews were transcribed and analysed thematically.

The research was given ethical approval from the University of Bristol Ethics Committee and CPS nationally. The research was funded by the Northern Rock Foundation, grant number 201104.

FINDINGS

Who was involved – the alleged victims and perpetrators

In the 87 cases of rape reported to the police all but four of the 98 victims were female. As would be expected in rape cases, all of the 97 alleged perpetrators were male, although one grandmother was seen as colluding in historical child sexual abuse. The ages of victims at the time of reporting to the police ranged from 16 to 57 and for perpetrators at the time of reporting from 17 to 85. Some of the historical cases, involving child sexual abuse, took place more than 30 years ago and this is reflected in the wide age range for the perpetrators.

While information available regarding ethnicity was incomplete, none of the victims were described as anything other than white British. The perpetrators also appeared to be largely white and probably British, with only two cases where the

perpetrators were described in police records as a group of 'Asian men', or involved perpetrators described as black French and Nigerian.

Echoing the national data on serious sexual offences (MoJ et al., 2013), the perpetrators were nearly all known to the victims in some way. Most were partners or ex-partners (27, 31% of cases), or were people who had known the victim for more than 24 hours, often via friends and family (25, 28.7% of cases), or were family or step family (21, 24.1% of cases). A small number had known the victim/survivor less than 24 hours (12, 13.8% of cases), perhaps meeting in a bar or at a party, but few could be classified as absolute 'strangers'. At least 15 (17%) of the perpetrators had previously been arrested or possibly convicted for criminal offences, although not necessarily for sexual offences, including at least 4 of the 10 who were convicted (see Metropolitan Police, 2007 for similar figures).

Rape case progression and attrition

Once reported to the police, cases may progress through the criminal justice system across three stages:

- Police involvement and investigation;
- CPS involvement – advice, charging decisions and preparing the case to go to court;
- Court - crown court with a jury trial and sentencing if found guilty.

Cases may 'drop-out' (result in attrition) at any point during these stages. Kelly et al. (2005) suggest that institutional rules, previous and predicted experience and gendered expectations of behaviour interact to provide the contexts for such attrition. In the current research operational issues and decisions within the criminal justice system about different types of cases, as well as decisions by victims to withdraw, meant that cases were not deemed to be crimes or did not result in arrest, or failed to progress from arrest through charges and to conviction. Gendered expectations played a part to different extents in these decisions, and were evident in victim and perpetrator accounts. The cases that progressed furthest through the criminal justice system were likely to be those McMillan (2010) calls 'good cases', characterised by a combination of particular

victim features, suggesting a well-functioning and rational woman (e.g. mental health, articulation, compliance) and incident features (supporting evidence, socio-sexual/alcohol consuming situation, injury consistent with account, even if no injury). The experiences of the small number of male victims were minimised, thus also feeding into a gendered approach. There was less onus on perceptions of stereotypical 'real rape' (stranger, assault, public places, resistance, force), although the latter may have played a more important role in the court stage.

Four main groups of cases, with different victim and incident features could be identified with seemingly different trajectories and patterns of progression through the criminal justice system:

1. Acquaintance – this constituted the biggest group, and was where the perpetrator was known to the victim longer than 24 hours, or less than 24 hours, but was not a partner or family member. It included the two 'stranger rapes'. (N=32, 36.8%).
2. Historical – where the rape took place in the past. The term 'historic' may sometimes be used by the police for cases reported seven or more days after the incident. In the current research it made sense for analytical purposes to categorise cases that took place further in the past, usually more than one year ago, as historical. Most involved child sexual abuse although there were also two historical domestic violence cases. (N =28, 32.2%).
3. Domestic violence – where perpetrators were current partners or ex-partners. (N=25, 28.7%).
4. In addition, two cases involved recent rapes by perpetrators who were family members (cousin and brother).

Since the late 1990s there has been increasing reporting of acquaintance rape seemingly as emphasis on 'stranger rape' as real rape has decreased (Flowe et al., 2009). In the current research acquaintance rapes were not only the largest category reported to the police, but there were only a couple of rapes by actual strangers reported – one of which the police decided was a fabrication, and another which resulted in conviction.

The general pattern of progression of the 87 rape was as follows: half (44/87, 50.6%) of the cases reported to the police were deemed to be crimes, and resulted in arrest. (One further case resulted in arrest, where the police decided to 'leave open' the option of criming). The perpetrators in domestic violence rape cases were more likely to

be arrested, and those in historical cases least so. However, cases involving rape as part of domestic violence were also the most likely to be withdrawn in the early stages due to fear and threats faced by the victims. Just over half the cases deemed to be crimes (23/44, 52.3%) were referred to the CPS for charging. Three quarters of the cases thus dropped out at the police stage. This is a larger drop out at the police stage than identified in other UK or international comparative research; for instance, McMillan (2010) and Daly & Bouhours (2009) found that 65% of cases dropped out at the policing stage. However this may be the result of the sample omitting current under 16s as cases involving under 16s are more likely to proceed to prosecution (Temkin and Krahé, 2008). More than a third of cases deemed to be crimes resulted in CPS charges and proceeded to court (17/87, 38.6%), and a little over half of these resulted in conviction of any sexual or other offence (10/17, 58.8%) – similar to the conviction rate from charge across five countries as found by Daly & Bouhours (2009).

Historical cases were most likely to result in conviction, and tended to have supporting evidence via more than one victim and multiple disclosures. The rate from charge to conviction is the same as the national figures reported in the Stern Review (2010), and higher than the three-year average reported by the Ministry of Justice et al. (2013), although none the national studies reflected individual case progression.

Mental health and learning disabilities

Previous studies have shown that cases involving victims with mental health problems or learning disabilities rarely result in prosecution of the offender (Harris and Grace, 1999; Kelly et al., 2005; Lea et al., 2003). This pattern was repeated in the current research. Kelly et al. (2005) also point out that, “This is especially concerning given the accumulation of data that women in these groups are targeted for sexual assault”. In the current study police records similarly describe the particular vulnerability of such women, with further instances of abuse by parents, siblings, partners and/or others recorded.

In a fifth of cases victims were recorded as having a mental health problem (17/87, 19.5%), mostly historical child abuse cases where the abuse probably contributed to the mental health problems. Only about a third (35.2%) of these cases

resulted in arrest, compared to half of the cases where no such problems were recorded (54.9%), and they were significantly less likely to result in conviction ($p<.05$).

In cases where victims had mental health problems someone other than the victim, often a mental health or other social care professional, often reported the rape to the police, sometimes without the victim's agreement. One social worker felt she was obliged to report her client's disclosure of historical child abuse to the police although her client did not want police involvement and the worker would have preferred some other report mechanism. Some victims with mental health problems were described as difficult to understand, confused or even delusional. The police saw their stories as inconsistent and did not take the cases further.

Five victims were reported to have learning difficulties. One case resulted in arrest, where the victim told the police that she had had sex with a neighbour "but did not like it", but no further action was consequently taken. None of the cases where victims had learning disabilities were referred on to the CPS for charge or advice, and none resulted in conviction.

Alcohol

Alcohol was a feature in at least a third of cases, and victims were recorded as drunk in about one in five cases (19/87, 21%). The police talked in interviews about major changes in their approach where victims had been drinking following changes to the notion of consent since the 2003 *Sexual Offences Act*. In particular, a victim who is so drunk that they are unaware of what has happened cannot have consented to the sexual activity. This approach appeared to be echoed by the research data. Most cases involving a drunk victim were initially recorded by the police as crimes (13/19, 68.4%), although three of these were later changed to 'no crime'. Cases with a drunk victim were highly likely to result in arrest or charges ($p<.05$). However, while four of the 16 cases that proceeded to trial had a victim who was very drunk at the time of the rape, only one of these resulted in conviction, indicating the difficulties in getting juries to provide guilty verdicts in such cases.

Three-quarters of instances with a drunk victim were acquaintance cases (14/19, 73.7%). Half were with perpetrators known less than 24 hours and these were slightly less likely to be seen as a crime although more were initially arrested. The police

appeared careful to investigate (via CCTV, forensics, interviews) whether an incident where the victim was too drunk to know what had taken place had actually been consensual.

Police involvement

Echoing developments nationally, police forces in the North East of England had installed Police Rape Champions and police officers trained in sexual offence investigation techniques (see Westmarland et al, 2012). The CPS (see CPS 2012) set a standard for the role of rape specialist prosecutor as well as enhancing the role of Area Rape Coordinators (now with wider remit regarding domestic and sexual violence) to monitor case files for quality. Greater co-ordination was developed between criminal justice and other agencies, for instance, a Sexual Violence Strategy Group in one of the areas. Interviews with both police and CPS highlighted these shifts as positive in enhancing the criminal justice approach in rape cases.

Analysis of police records and interviews indicated that the police were to varying degrees adopting the 'victim-focused' approach recommended in the *Rape Experience Review* (Payne 2009), with an emphasis on believing victims from when they report and supporting them to remain in the criminal justice system. One force area in particular had made a considerable effort to adopt such an approach, alongside a concerted effort to develop multi-agency links (with SARC, specialist sexual violence services, and health sector), and also had the highest proportion of cases proceeding through to charges, more cases going to court and a significantly higher rate of convictions ($p < .05$).

From report to crime

Two aspects (potentially contradictory but often intertwined) appeared to underpin decisions by the police as to whether a case could be seen as a crime: the victim-focused approach, where a report would automatically be deemed a crime until investigation showed otherwise; and that a crime would require a 'rational victim' with a consistent story. Cases deemed not to be crimes tended to be those:

- where someone other than the victim reported the incident;
- where the victim had mental health problems or learning disabilities, or was in the care of social services;
- where the victim had reported previous incidents to the police that did not progress;
- where the incident appeared to have been fabricated for a variety of reasons including fear of reprisal from partners or parents;
- where individuals (victim/survivors and others) appeared to be contacting the police for advice and to 'talk' and did not expect, or did not want, cases to proceed.

Echoing the national picture (MoJ et al. 2013), the largest proportion of cases not considered to be crimes were where individuals other than the victim/survivor had reported the rape allegation to the police. Less than a third of cases (13/44, 29.5%) where the parent, partner, other family, friends, perpetrator, or professionals had contacted the police in the first instance were deemed crimes. In one instance the victim's mother reported that her daughter had been raped by a male acquaintance at their house. The police decided as a result of their investigation that this incident was not a rape and that "consensual sexual activity appears to have taken place". The daughter appeared to be trying to hide a relationship between her and the male acquaintance from her mother. 'On the balance of probabilities' the police deemed that no offences had been disclosed and no crime had been committed. In another instance a friend had contacted the police after a woman said a man had followed and attacked her. After discussion with the police the woman agreed that she had not been raped, but was angry that the alleged perpetrator had asked her if she wanted sex as it made her look, and get a name of being, 'easy'. She made a retraction statement to this effect. In different ways these cases indicate how women may be negotiating gendered sexual norms and expectations (as 'good daughter' and 'not easy') and consequently end up engaging with the criminal justice system to accommodate those expectations.

In one case, recorded as a 'false allegation', two young women said that six Asian men had taken them to a flat and that they had been raped. The police began their investigation, obtained medical evidence from both women and interviews. However, the women had placed information on Facebook and in emails that indicated that the sex had

been consensual and no crime had occurred. As the case involved very young women (aged 17) and sex with multiple partners, questions may perhaps be asked as to whether the women were subject to a wider context of exploitation and sexual grooming. Following the current research, the police carried out further checks to ensure that the case was indeed a fabrication.

In some cases the police took into consideration previous criminal justice system involvement, as indication both of vulnerability and of potential credibility as a witness if the case was to proceed. For instance, in a domestic violence case the victim had reported a number of rapes, and also by an ex-partner where she had withdrawn her complaint. The police discussed the case with the CPS 'due to history of victim' and the fact that she was vulnerable to further abuse. The case was not recorded as a crime.

From crime to 'no crime'

Getting on for two thirds of the cases recorded by the police (53/87, 60.9%) were initially deemed to be crimes. However, following further investigation by the police, nine of these cases were reclassified as 'no crime' (9/53, 17%). Three were changed to 'no crime' following retraction of the complaint by the victim, and, following the pattern outlined earlier, in four cases someone other than the victim/survivor (a parent, other family member, friend or professional) reported the case to the police.

This group of cases included the only other acquaintance case labelled specifically by the police as a false allegation. This involved a report of 'classic' attempted rape, where a woman says she has been approached from behind and a stranger pulls her into an alley, tries to force open her legs, and she struggles at which the attacker ran off. The woman was taken by the police to the SARC for interview and examination, and the police arrested the alleged perpetrator. When told that an arrest had been made "she broke down and confirmed that she had not been attacked and that she was drunk and when trying to tell her partner about what really happened the whole thing was taken out of context resulting in the Police being notified and a rape allegation being made". The police, showing awareness of the dynamics of gender based violence, were concerned that she might be frightened of her boyfriend and checked if she was in a domestically abusive relationship.

The HMIC/HMCPSP (2012) outline the 'no crime' rates for rape as 11.8% for 2010/11, and 10.8% for 2011/12. The figure from the current research, that nearly one in five cases was reclassified as 'no crime' thus appears high. The reason can possibly be attributed to the victim-focused approach of the police, and the force area that placed most emphasis on this approach also had a high rate of 'no crime' cases.

From police involvement to prosecution

'Victim-focus' and 'focus on victims'

As indicated earlier, the police were developing an increasingly 'victim-focused' approach that aims to support and believe victims. In contrast, analysis of CPS files indicated that the CPS could be characterised as having a 'focus on victims', where what matters and is deemed central to decisions about taking a case forward is: the credibility of the victim (consistency of account and with other witnesses, i.e. victim believable); supporting evidence (through other witnesses, other victims or forensic evidence); seriousness of offence (fits legal definition of penetration); and that it is in the public interest that the perpetrator is convicted (behaviour is part of a pattern). Thus, in the CPS 'focus on victims' approach, belief in the victim's account is central and is at issue. What prosecutors assume juries will accept is also important, and there was some evidence that prosecutors were questioning whether juries would necessarily take a 'stereotypical' view of rape cases. The 'victim focused' and 'focus on victim' approaches are none the less quite different and potentially contradictory where the victim/survivor's experience of the criminal justice system is concerned, with the former more positive and the latter more negative.

Prosecution

The police considered that 23 cases should be referred to the CPS for charging decisions. The CPS consequently decided to apply charges in three-quarters of these cases (17/23, 73.9%). Whereas most cases reported to the police had involved acquaintance rape, many of these dropped out by this stage, and only 12% of acquaintance cases resulted in charges. Many of the domestic violence rape cases had been deemed crimes and resulted

in arrest due to the very serious nature of the incidents. However, often due to withdrawals by the victims, only 20% of domestic violence cases resulted in charges. Historical cases were most likely to result in charges (25% of all historical cases), often because there was more than one victim, because victims had disclosed similar accounts to a variety of people at different times, and because medical or social services records provided supporting evidence.

It was apparent from case files that the police did not always agree with the CPS decisions. In one instance, where a male victim reported child sexual abuse the CPS said that there was not enough evidence to proceed. However, the police queried this decision and the file was resubmitted. None the less the case resulted in no further action and the police subsequently recorded that it was undetected.

Only four cases involving mental health problems were referred by the police to the CPS for charges, and of these only one resulted in CPS charges. Another was left on file as a rape that was undetected. In one case resulting in no further action, an acquaintance was reported to have raped a woman when she was asleep. The CPS highlighted the large amount of psychiatric intervention that the victim had had over time and that she was very vulnerable, but also emphasised that cases involving people with psychiatric problems are always very difficult to take forward.

Trial

In all of the 16 cases proceeding to trial, the perpetrators initially denied and pleaded not guilty to carrying out any sexual or other offence, and most continued to deny that they had done anything wrong. Ten cases resulted in conviction. One further case, involving historical domestic violence rape, appeared to drop out at the pre-trial stage when a victim said she did not want to attend court.

In two instances perpetrators inadvertently admitted during statements to the police that they had raped the victim, although they did not see this as expression of guilt. One of the men appeared not to understand the legal meaning of penetration. He said his penis did enter the woman's vagina, but was not inserted all the way in, he just moved it a little bit but not in the manner of 'having sex'. The CPS decided that within the legal definition he thus did penetrate the woman. In the other case, the perpetrator argued that the woman had consented. He described the sexual activity that had taken place,

including penetration, to highlight the woman's consent and that she was 'up for it', despite her being extremely drunk and probably asleep and thus incapable of making decisions. The CPS wanted analysis of forensic samples to determine whether the rape was vaginal and/or anal, however the file records that in the interests of saving public money this was not carried out. The jury appeared to accept that the victim consented because she seemed to make assenting noises despite being asleep, possibly because she thought that it was her boyfriend in the bed rather than the perpetrator. Neither case resulted in conviction.

In five cases the jury decided the perpetrator was not guilty. Of these, the judge ordered that an acquaintance rape should 'lie on file', and applied a restraining order 'for life' on a domestic violence perpetrator.

The cases resulting in conviction were, perhaps unsurprisingly, where there was possibility of supporting evidence via other witnesses, strong forensic evidence such as DNA (in two cases), and the victim was not drunk or unduly under the influence of alcohol. In total, ten cases resulted in conviction, of which most (6/10) were historical, two involved an acquaintance (one a stranger) and two were in the context of domestic violence. Two of the cases had two or more victims who provided similar accounts. One of the acquaintance cases involved a stranger at a party and his DNA was found in the victim's clothes. Another acquaintance rape was corroborated by a friend who was present and also DNA evidence. The historical cases also tended to have evidence in medical, social services or personal records that supported the victims' accounts.

Conclusions

Cases involving the most vulnerable victims were least likely to progress to any extent through the criminal justice system. For those with a mental health problem or learning disability in particular, it may still be argued that the justice gap is a chasm (Kelly et al., 2005), which will not be bridged unless specific attention is devoted to developing prosecution strategies that provide redress for extremely vulnerable victims. While victim vulnerability is identified as an aggravating factor in the 2003 *Sexual Offences Act*, in practice vulnerability is deemed to undermine victim credibility. Three quarters of the cases dropped out at the police stage, and many involved very vulnerable victims. Further research is required to look at these issues regarding vulnerable victims in greater depth

and with larger samples. Gendered expectations were in different ways woven through the criminal justice processes, from decisions of victims to report a rape, through police and court approaches. The research provided some evidence that a victim-focused approach, coupled with wide ranging multi-agency links, may lead to more cases proceeding through the criminal justice system, potentially more justice and a better experience for victim/survivors.

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Panel Paper

Perspectives on organised crime between policy and research: a criminological analysis of the new offences of participation in organised crime activities in England and Wales.

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Abstract

Section 45 of the Serious Crime Act 2015 contains new offences for participation in organised crime groups' activities. This section mentions for the first time 'organised criminal groups and activities' in the law in England and Wales. This paper will interpret and critically analyse the new offences for organised crime from a criminological perspective in light of evidence found in research. It will argue that this legal change is informed by political narratives on organised crime rather than by variations in the criminal panorama. The paper will then identify three perspectives for concern: the narrative perspective, which reflects on the overlapping of meanings of the words 'organised crime'; the evolution perspective, which reflects on the origins of the new participation offences with reference to both national and international pressures; and the management perspective, which reflects on some of the immediate effects of the new offences of organised crime on the criminal justice system.

Keywords: Organised crime; policy construction; security threats; participation in organised crime; national security.

Introduction and Background

When we talk about organised crime, inevitably we encounter the old dilemma of what organised crime is, how we define it and most of all why we need to define it. Such a dilemma is based upon the controversial nature of the concept itself that cannot at once encompass both national manifestations of the phenomena of organised crime and internationally harmonised legal constructs. Definitely, the difference between the criminological and sociological dimensions of organised crime and its political conceptualisations is a very problematic topic (Van Dijck, 2007).

Arguably, while sociological and criminological researchers on manifestations of organised crime can use their own interpretation of the concept according to what the research is about - in terms of empirical data and fieldwork - the political discourse of organised crime is often bound to assume a certain degree of universality in its terminology. However, how the narrative of organised crime is developed at the political level affects both the perceptions of organised crime phenomena at the social level (Woodiwiss and Hobbs, 2009) and also the response of law enforcement to what become pre-agreed threats as found in acts and regulations (Sergi, 2015a).

As a criminological/sociological field of research, organised crime has known an unprecedented escalation in interest and outputs of research projects in England. Whereas British organised crime until the 1990s was a highly local, neighbourhood-based type of gangsterism, after the 1990s professional criminals moved towards an “entrepreneurial trading culture driven by highly localized interpretations of global markets” (Hobbs, 1995:115). The implications of globalised new markets with changing perceptions of ‘glocal’ perspectives (Hobbs, 1998) still characterised organised crime in Britain as a local phenomenon. Moreover, in 1994 a Home Affairs report approached organised crime in the country formally, thus formulating institutional responses and observations about the phenomenon, *de facto* introducing the term ‘organised crime’ into public and political debates (Home Affairs Committee, 1994).

By the 2000s organised crime in the UK had become a “high profile policy concern” (Hobbs and Hobbs, 2012: 251), although a concern that was not necessarily well-evidenced by reliable data and innovative research (Gregory, 2003). The difficulties in researching this phenomenon can be linked to the fact that British organised crime often harbours a nostalgia for “those traditional forms of organised crime that were so reliant

upon [...] traditional family structures" (Hobbs, 1988: 409), which were often co-operatives of crime with no leadership and no long-lasting commitments (Hobbs, 2013).

Research in England in recent years ranges from investigations on different criminal activities - grouped under a very controversial label of 'serious organised crime' for policing purposes (Sergi, 2015a), to investigations focussed upon on networks of offenders. Evidence from the latest research shows how "it is a scenario in which relatively sophisticated, highly networked organised crime groups run small-scale, high-frequency operations across a diverse set of criminal and legitimate activities" (Edwards and Jeffray, 2014:xi). On the other side in the past organised crime has become a policy label in the UK (Sergi, 2014a; 2015a), in the form of a peculiar national security issue (Home Office, 2010; Home Office, 2013; Woodiwiss and Hobbs, 2009), characterised by both a focus on local criminal networks, and strategies to counter serious crimes at a national level (Campbell, 2014; Home Office, 2013; Sergi, 2015a). Shepticki's (2003) observations still seem valid: organised crime in the UK has historically developed both a denotative and a connotative dimension. At the denotative level, organised crime is the 'illicit economy' and specifically the field for illegal trade and trafficking that intuitively ought to be 'organised' in crimes such as drugs or trafficking in human beings or money laundering. Organised crime in the UK, in research, is still described within the denotative dimension. At the connotative level organised crime is, instead, understood as a unique monolithic, often alien, threat (Hobbs and Antonopolous, 2013), and therefore should not apply to the UK where criminal networks fluidly, and often with low profiles, run illegal trades. At the policy level, however, the connotative dimension has prevailed in past years, with a notion of organised crime (singular, not plural) associated with very different threats, costs and harms, without proper evidence to back up the claims (Hobbs, 2013).

This paper will primarily discuss the narrative of organised crime in criminal law and justice in England and Wales at the dawn of the changes within the Serious Crime Act 2015 (hereinafter 'the Act'). Among other things, the Act introduces a new offence of participation in criminal activities of organised crime. In particular, it criminalises both direct and indirect participation in criminal activities of an organised crime group. For the purposes of these offences, the Act also defines organised crime groups and their criminal activities. The aim of this paper is twofold. First, the paper will interpret and critically analyse the new offence and the evidence from research on the topic. It will do

so by presenting the law and its immediate criticisms. Second, following the commentary on the new offences for organised crime participation in the new Act, the paper will assess three perspectives which are directly linked to the implementation of the new law and its preliminary criticisms:

1. The *narrative perspective*, which reflects on the overlapping of meanings of the words 'organised crime';
2. The *evolution perspective*, which reflects on the origins of the new participation offences with reference to both national and international pressures;
3. The *management perspective*, which reflects on some of the immediate effects of the new offences of organised crime on the criminal justice system.

Organised Crime in English Criminal Law

Before the Serious Crime Act in England and Wales organised crime had never been a criminal category - neither in the form of illegal enterprise nor in the form of unlawful association - rather it was only a concept of criminal policy (Hobbs, 2013; Sergi, 2014a; 2015a). This was in line with the framework of the UN Palermo Convention 2000, which notices how common law countries tend to target organised crime through the use of conspiracy and the focus on serious crimes (UNODC, 2004; 2012). Common law countries are often found to have a distrustful attitude towards 'guilt by association' offences (Boister, 2012; Walker, 2013), and will more readily accept offences with individual, rather than collective, liability in criminal law. The Serious Crime Act, however, now uses the language of international provisions when criminalising participation in organised crime activities.

Hitherto, conspiracy has been the chosen charge in organised crime cases in England and Wales, as confirmed by the Attorney's General Office (2012). In this case, organised crime is serious crime, which is organised (Campbell, 2013). Crimes that fall under the umbrella of organised crime are (serious) crimes as indicated both in the Serious Crime Act 2007 Schedule 1 and in the Proceeds of Crime Act 2002 Schedule 2 and involve crimes such as drug trafficking, arms trafficking, money laundering, terrorism, people trafficking, child exploitation, fraud, corruption, bribery and so on. This, again, is

coherent with a focus on (the seriousness of) the activities of organised crime rather the structure of the criminal partnership (Sergi, 2014a).

On two occasions changes to the offence of conspiracy in favour of an offence of participation in organised crime activities or membership of an organised crime group have been turned down by policy makers: first by the Home Affairs Committee in 1994 on the occasion of a report on Organised Crime and second by the Home Office in 2004 on the occasion of the new Serious Organised Crime and Police Act 2005. Offences of membership in organised crime were rejected on the basis that conspiracy and serious crimes were adequate charges to prosecute criminal networks engaging in illegal trades (Campbell, 2013; Sergi, 2014a; 2015a). Nevertheless, in the latest Serious and Organised Crime Strategy (Home Office, 2013: 37), the Government announced that a proposal for a new offence would be brought forward to “better tackle people who actively support, and benefit from, participating in organised crime, learning from legislation that is already being used elsewhere in the world”. Reference was made to the offences proposed by the UN Convention and by the Council of Europe as above and also to legislation in the United States of America, the RICO Act 1970 and other countries, such as Italy for example, or Germany. The Serious and Organised Crime Strategy (Home Office, 2013), amongst other things, also introduced a national security policing model for organised crime, by presenting the 4-Ps (Prevent, Protect, Pursue, Prepare), borrowed from counter-terrorism, as a viable policing strategy for the National Crime Agency and other law enforcement authorities when fighting organised crime. The national security dimension of organised crime policing on one side and the translation and transposition of concepts from other countries to tackle organised crime in English criminal law is changing the whole criminal justice system.

The New Offences against Organised Crime in the Serious Crime Act 2015: Immediate Criticisms.

The Serious Crime Act 2015 ('the Act') is a Government Act sponsored by the Home Office that was presented to the House of Lords in June 2014 and passed in March 2015. The Act includes, among other things, new provisions for involvement in organised crime groups. In particular, section 45 within Part 3 of the Act introduces the offence of participating in activities of an organised crime group. In order to introduce such an

offence, the Home Office also defined ‘organised crime group’ as generally as possible (section 45 Serious Crime Act 2015 (6)):

“Organised crime group” means a group that—

- (a) has as its purpose, or as one of its purposes, the carrying on of criminal activities, and
- (b) consists of three or more persons who act, or agree to act, together to further that purpose.

Section 45, on the basis of this broad definition of ‘organised crime group’, clearly adopts the UN Convention on Transnational Organised Crime definition and further postulates that:

(1) A person who participates in the criminal activities of an organised crime group commits an offence.

(2) For this purpose, a person participates in the criminal activities of an organised crime group if the person takes part in any activities that the person knows or *reasonably suspects*

- (a) are criminal activities of an organised crime group, or
- (b) will help an organised crime group to carry on criminal activities.

Criminal activities (section 45(3)) are “activities within subsection (4)¹ or (5)² that are carried on with a view to obtaining (directly or indirectly) any gain or benefit”. Gain or benefit are intended as financial in nature, as specified in section 45(7)³.

The Explanatory Notes to the Act at section 142 (Home Office, 2014) state:

The new participation offence in England and Wales is intended to provide a new means by which the NCA, the police and prosecutors can tackle serious organised crime. The new offence can be used to target not only

¹ Section 45 (4) Serious Crime Act 2015: Activities are within this subsection if—

- (a) they are carried on in England or Wales, and
- (b) they constitute an offence in England and Wales punishable on conviction on indictment by imprisonment for a term of 7 years or more.

² Section 45 (5) Serious Crime Act 2015: Activities are within this subsection if—

- (a) they are carried out outside England and Wales,
- (b) they constitute an offence under the law in force of the country where they are carried out, and
- (c) they would constitute an offence in England and Wales of the kind mentioned in subsection (4)(b) if the activities were carried out in England and Wales.

³ Section 45 (7) Serious Crime Act 2015:

For a person to be guilty of an offence under this section it is not necessary—

- (a) for the person to know any of the persons who are members of the organised crime group,
- (b) for all of the acts or omissions comprising participation in the group’s criminal activities to take place in England and Wales (so long as at least one of them does), or
- (c) for the gain or benefit referred to in subsection (3) to be financial in nature.

those who head a criminal organisation and who plan, coordinate and manage, but do not always directly participate in the commission of the final criminal acts; but also the other members of the group and associates who participate in activities such as the provision of materials, services, infrastructure and information that contribute to the overall criminal capacity and capability of the organised crime group.

In other words, the offence targets both direct and (more controversially) indirect participation in criminal activities of an organised crime group. These activities are intended as serious and financially driven criminal activities. The spectrum of the wrongdoing is quite vast because the offence targets not only those who engage in criminal activities, but also enablers of crime - when they can be construed to 'reasonably suspect' that their actions will support criminal activities. Both the Law Society and the Institute of Chartered Accountants in England and Wales have advanced harsh critiques. In particular, the Law Society warned that there are other concerns with "the breadth of the offence; the overlap with existing criminal and money laundering offences; and the additional administrative burdens caused by a potential increase in due diligence measures". Similar concerns on the breadth and uncertainty of these provisions were raised by the Institute of Chartered Accountants of England and Wales (ICAEW), which went even further in their critique by declaring to *Economia* (Irvine, 2014) that the new offence:

[...] would have a number of serious unintended consequences, not only in potentially criminalising many innocent (if naïve) citizens but also reducing access to valuable intelligence currently unavailable to law enforcement authorities and unnecessarily burdening some businesses.

In practice, says the ICAEW, the new offence could make it more difficult for reformed criminals to receive legal and financial advice because professionals will be less comfortable in advising high-risk clients.

Direct and Indirect Participation in Organised Crime Activities: Assumptions and Implications.

Section 45 criminalises both direct and indirect participations in organised crime activities. Moreover, at a closer look, while criminalising two new conducts, the Act 'squeezes in' a conceptualisation of both organised crime groups and their criminal

activities. In the Act an organised crime group is seemingly unproblematically described as a group of three or more people who act together (substantial offence) or agree to act together (conspiracy offence) to commit criminal activities as the main purpose of their association. Moreover, these criminal activities shall be indictable offences in England and Wales, punishable with imprisonment for a term of 7 years or more: thus, serious offences for sentencing purposes. More importantly, the organised crime group carries out these criminal activities with a view to obtain (directly or indirectly) gain or benefit 'financial in nature' (section 45(7c)). This means that any serious criminal activities not committed for the purpose of financial gain or profit by a criminal group, would not be meeting the requirements of the offence. The law, therefore, assumes that serious criminal activities, which are committed by organised crime groups, will necessarily aim to achieve financial gain or profit, which might not be the reality of organised crime activities at all. As argued by some scholars (Broadhurst et al, 2014; Kleemans and de Poot, 2008; Kleemans and van de Bunt, 2008; Makarenko, 2004; Van Duyne, 2000), the motivation behind 'careers' in organised crimes (especially in trafficking activities and in organised cybercrime) can be most varied, involving quests for power, control, sexual gratification, desire for notoriety and political ideology. Most of all, organised crimes can include a variety of offences that can differ in seriousness (Edwards and Levi, 2008). Even though many outcomes of criminal activities can hypothetically fall within financial advantages, gains or profits, the terminology remains confused.

Digging even deeper, section 45 of the Act uses the adjective 'organised' superficially: if three or more people act or agree to act together they automatically fall into some degree of organisational structure. As observed in established literature on the subject, not all crimes perpetrated with a degree of organisation are crimes of organised crime groups, and likewise not all criminal associations commit crimes in an organised way (Maltz, 1990; Van Djick, 2007). Indeed, the paradigm of organised crime as 'disorganised crime' (Reuter, 1983; 1985) instead argues that the illegal provision of services and goods usually associated with organised crime groups (Paoli, 2002; White, 2006) is actually disorganised in the way the networks operate. Moreover, the adjective 'organised' has been proving inadequate when investigating new typologies of crimes, especially internet-enabled crimes or cyber-crimes, as well as some forms of drug trafficking or illegal trades in tobacco and alcohol. Some scholars (Broadhurst et al., 2014; Chang, 2012) have also argued for the possibility of one offender only committing

organised crimes in the virtual space. Most crimes have been changing in the past decades to take various forms and to include different types of criminal actors that can range from highly hierarchical gang-style or mafia-style groups to looser networks, from white-collar criminals to online adventurers (Edwards and Jaffrey, 2014; Lavorgna, 2014a; 2014b; Paoli, 2002). The legislation appears unwelcoming and non-inclusive of all the behaviours and conducts that it could embrace, while at the same time it risks unintended consequences. The concerns of professionals and the unpacking of the new offences with their assumptions and implications, raise various problems concerning the effectiveness and timeliness of this change in the law.

I identify three perspectives – one of narrative, one of (legal) evolution and one of management - which directly link the interpretation of the new offences in the Serious Crime Act 2015 with the conceptualisation of organised crime as a research category. These perspectives call for a deeper understanding of the nature of organised criminality itself, which is the object of this new law, in order to assess the reach and consequences of the new offences.

Three perspectives on organised crime between policy and research

The narrative perspective

There is a very sharp and visible difference between the narratives of organised crime for policy purposes and the reality of criminal associations, networks and activities in the country as presented by researchers. The former appears like a compact and multi-purpose policy category, while the latter still preserves its scattered and disorganised character. In policy, organised crime is a 'singular' policy category; when the phenomena linked to organised crime are researched in their various manifestations, they appear complex and different 'plural' crimes. Hence, the narrative dilemma: in a country where research suggests that: a) criminal networks/actors involved in illegal trades cannot be unified, b) do not appear 'formally organised' and c) even when there is a degree of organisation that is not their core connotation, can we still justify a unified narrative of 'organised crime' for legal purposes?

It can be argued that this represents an example of Hume's Law, an *is-ought* fallacy according to which the way organised crime should be (a compact and multi-purpose category of crime for policy purposes) becomes directly – and fallaciously - the way

organised crime is (in legal terms) (Sergi, 2015a). A narrative dilemma emerges from the differences between narratives of research findings and narratives of policy for the terminology of organised crime. If meaning is use - as argued by Wittgenstein (1968) - then only by using a word or sentence in a meaningful way for others can we demonstrate our understanding of that word or sentence. This use however, is necessarily dynamic and contingent. The meaning of organised crime, therefore - when measured against research and snapshots of reality - is functional, contingent and constantly changing through language practices. The meaning of the words 'organised crime' cannot be established *a priori* but is the result of on-going production of meanings at various levels, which functionally serve various discourses and also feed the dilemma of its narrative. In this view, if it does seem neither feasible nor desirable to agree upon a definition, we are left to think that the only proper meaning or sensible interpretation of words or sentences is essentially measured by the success in achieving good results in practice. The politically pragmatic success of the terminology of organised crime for policy purposes in the UK and especially in England, from this point of view, is undeniable. Evidence of this success is the language used, for example, by the media and/or the seemingly unproblematic use of the words 'organised crime' by politicians, lawyers, prosecutors and law enforcement officers. What we have in England is a conceptualisation borrowed from other countries, international policing and even literature and cinema, that well serves political purposes and national security agendas today more comfortable with single-named globalised threats (Bigo, 2012). When this conceptualisation migrates from policy discourses into the law, however, the contradictions between policy and research resurface and the narrative dilemma, therefore, persists.

The evolution perspective

Success in the modulation of the narrative of organised crime to the needs and requirements of politics and policy-making does not necessarily correspond to the success of legislation, like the Serious Crime Act 2015, that uses that successful - yet confused - narrative. The scepticism of commentators and the criticisms raised against the new participation offences - too broad, too general, too demanding - are not only relevant points from practitioners' perspectives, but also reminders that in truth the narrative of organised crime has changed only in the use of the language and not in the

reality of the phenomenon, as research shows. Hence the evolution dilemma: why has the law changed at this historical moment if the reality of the phenomenon does not seem to have changed? Why has the conspiracy offence, deemed to be enough until now, suddenly become insufficient?

On one side, research keeps confirming the extremely complex, extremely varied nature of groups and individuals engaging in serious (and) organised *crimes* (emphasis on the plural). On the other side, institutions adopt a very broad definition of organised *crime* (emphasis on the singular) in their latest strategies. As a first point, it seems obvious to conclude that organised crime as a concept in England and Wales is still torn between singularity and plurality. The former is justifiable because of policy needs and the latter is instead confirmed by research on illegal markets and trades. Without resolving this dichotomy, but rather complicating it, the legal 'restyling' proposed by the Home Office in the new provisions of the Serious Crime Act 2015 represents primarily an attempt to fill an existing gap between the mandate of intelligence agencies (the NCA fights 'organised crime', intended as a list of serious crimes) and the prosecution instead has to bring to trial cases of organised crimes (drug conspiracies, trafficking activities). Moreover, the introduction of the new offence is confirmation that the concept of organised crime – as a singular concept, threat to national security - is now established in policy-making (Bigo, 2012; Walker, 2013). It is not compatible with the too-generic offence of conspiracy that does not have a label and does not provide the stigma of 'unlawful association' (Sergi, 2015b). Despite their apparent innovative and revolutionary character, the new offences do not reflect any expressed concern from law enforcement in handling these crimes through single offences or conspiracy. The reason why this change in the law has happened now and not earlier or later is coherent with the acceptance of the narrative of the organised crime threat in policy-making. The international experience, alongside borrowed notions from other countries, has penetrated into the national narrative at the point of merging with it even while excluding actual evidence of the local manifestation of organised crimes in England and Wales. The result is the confirmation of the policy narrative into criminal law.

The management perspective

The management dilemma relates to the procedural administration of the new offences in the criminal justice system. Both experiences with membership offences in other

countries and provisions in counter terrorism – as another national security threat - can be used to question the management of the new offences. In fact, on one side, as previously argued, the new offences of participation are largely borrowed from international provisions and, on the other side, they will be used within a national strategy largely modelled upon the counter-terrorist strategy (Home Office, 2013). It is therefore justifiable to wonder if lessons from abroad as well as from national experiences with the law on terrorist organisations can be useful in this case.

Considering international experiences with offences of organised crime, the effects of these new offences on the criminal justice system can be substantial, as evidence from US and Italian experiences with RICO illegal enterprise offences suggests. The whole justice system needs to adjust to offences, like the new offence of participation in organised crime, which introduces collective criminal responsibility. In fact, even though criminal liability is still arguably individual in the new offences in the Serious Crime Act (a single person can be charged and convicted of participation in organised crime activities), these offences still require proof of the pre-existence of an organised crime group with a criminal plan. On one side, this opens up the possibility of joint charges and, like in Italy and in the US, the possibility of ‘mega trials’. On the other side, the associative dimension of organised crime groups has led other countries to provide special sentencing/prison regimes for (convicted) members of organised crime (to prevent further criminal association), or special rules for lifetime management of these offenders outside prison. Indeed, the new offences, once implemented, will eventually establish a new class of convicted offenders (organised criminals). The label of organised crime is a powerful one because of international discourses and popular narratives. It can be expected that this label will stigmatise convicted offenders, which will prove burdensome for the criminal justice system to absorb and for defence counsel to bear in daily business.

Managing offences of participation in organised crime activities can also prove burdensome from the point of view of prosecution and case building. In terms of evidence, for example, it is not clear how the ban on interceptions is going to work with a distrustful attitude towards ‘guilt by association’ offences in the English system. As happened for the offence of membership of a proscribed terrorist organisation⁴, the evidence requirements can become too onerous, which is the reason for very low

⁴ Terrorism Act 2000, sections 11-12

prosecution and conviction rates for membership in terrorist association (Cole, 2013; Gov.uk, 2014). The counter-terrorism legislation, in this case, also teaches that there is a risk of a net-widening effect of the offences (Walker, 2009; 2013).

Conclusion

This paper has discussed the new offences of participation in criminal activities of organised crime groups as included in the Serious Crime Act 2015. While presenting the novelties of the new offences and their immediate criticisms, this paper proposed a criminological critique of the conceptualisation of organised crime in the country between policy discourses and research evidence. In particular, section 45 of the Serious Crime Act defines organised crime groups and their criminal activities; this paper has questioned the suitability of such definitions when matched with the evidence related to the phenomenon of organised crime as provided in criminological research. In interpreting and critically analysing the new offences this paper has ultimately identified three dilemmas of organised crime in the new law, its preliminary criticisms and its interpretations against the complex reality of the phenomena.

The narrative dilemma suggests that there is a mismatch between the research narrative - which addresses organised crime as illicit trade and therefore as a plural phenomenon - and the policy narrative, which addresses organised crime as a single threat with various constituent elements. The new law, instead of resolving this dilemma, overlaps the two narratives and eventually creates even more confusion in terms of definition.

The evolution dilemma looks at the reasons why - notwithstanding the difficulties in understanding the phenomena linked to organised crime and the competing narratives - the law has changed now and not earlier. The evolution of the law is linked more to international sources and frameworks than to national needs. There seems to have been a transposition of international rhetoric within national policy not directly justified by law enforcement requirements.

Lastly, the management dilemma is linked to ancillary issues, which will originate from the new law once in force. These are procedural concerns related to prosecution powers and sentencing/punishment guidelines. In consideration of both the narrative

and the evolution dilemmas, there is a risk that the new offences will carry with themselves procedures coming from abroad and/or problems seen in other national security frameworks, such as counter-terrorism legislation and its proscribed association offences.

While the new provisions in the Serious Crime Act 2015 represent a step forward from the political point of view to 'take organised crime seriously', a thorough assessment of the effects and consequences of the law is needed to avoid waste of resources and confusion in the system.

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An ASBO for violent gangsters or just continuing criminalisation of young people? Thinking about the value of “Gangbo”

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Abstract

This paper offers a consideration of the origins and rise of the civil ‘gang injunction’ (CGI) in England and Wales (often dubbed the ‘Gangbo’ in the news media). In contrast with other disposals which blur civil and criminal process (such as the Antisocial Behaviour Order) the Gangbo has received very little scrutiny. In examining recent cases of gang related violence, this paper raises questions about the purpose and efficacy of such disposals as currently used. Specifically, it asks: if the CGI is targeted at criminal activity, then why is a civil order being used, and how useful and purposeful will it be as one element of a wider anti-gang strategy? Additionally, it questions the potential negative consequences associated with the expansion in use of CGIs, especially given that ‘youth’, ‘crime’ and ‘gangs’ are increasingly being connected in official political narrative and the burdens of evidence for a CGI are not made under the higher threshold of the criminal standard.

Keywords: Gang; Gangbo; Violence; Youth

Introduction

In the wake of the August 2011 urban English riots the Home Office launched its *Ending Gangs and Youth Violence* (EGYV) strategy as part of an ‘all-out war on gangs’ (Cameron, 2011). The characteristics and motivations of those involved in the riots has now been subject to some criminological discussion which has variously suggested that the ‘youthfulness’ of participants is unlikely to be a core defining feature of the disorder (See Ministry of Justice 2011; Treadwell et al., 2013). However, in the political realm such cautionary comment has not been heeded, and quickly the riots became inexorably connected with young people and gangs. After the riots Prime Minister David Cameron contended that ‘Stamping out gangs is a national priority’, and suggested specifically on the disorder of the riots that:

At the heart of all the violence sits the issue of the street gangs. Territorial, hierarchical and incredibly violent, they are mostly composed of young boys, mainly from dysfunctional homes. They earn money through crime, particularly drugs and are bound together by an imposed loyalty to an authoritarian gang leader. (Cameron cited in Hallsworth, 2013: 1).

It can certainly be argued that against a general backdrop of declining youth crime and falling rates of youth custody¹, there has been a growing concern about youth violence and the role and place of the urban street gang in it (e.g. see, Alderidge et al., 2010; Centre for Social Justice, 2009; Densley, 2011; 2013; Hallsworth, 2013). Perhaps in some ways this is understandable. During the last decade a number of serious, high profile, violent crimes across England have involved young people. One in particular - the 2007 murder of 11-year old schoolboy Rhys Jones in Liverpool - perhaps proved pivotal in shifting attention from antisocial behaviour to a more specific concern with violent youth gang crime, constituting Innes and Fielding's threshold for a 'signal crime' (Innes and Fielding, 2002).

Yet while disposals such as ASBOs have received considerable attention from academics, in contrast, there have been few academic studies that have sought to consider new powers granted to authorities to tackle gangs. This is undoubtedly true when it comes to the civil gang injunction (CGI) in England and Wales (a disposal that has often been dubbed the 'Gangbo' in the news media). While some works such as the previously mentioned Densley book 'How Gangs Work' (2013) and Cottrell-Boyce's article (2013), 'Ending Gang and Youth Violence: A Critique' have mentioned these new disposals, there is little work that provides a detailed examination of the application or use of such disposals. This paper then is an attempt to provide an early overview of the use of CGIs in England and Wales. We have been undertaking empirical work cases of gang injunction applications and have undertaken interviews with practitioners (including police officers and criminal advocates) and have had access to court documentation relating to the applications for CGIs, for several individuals. Here we have

¹ In December 2014 the Youth Justice Board announced unofficial figures revealing the number of under 18s in custody had fallen below 1,000 for the first time and fewer young First Time Entrance (FTEs) into the youth justice system (in 2014 the number was 20% lower than the previous year, and that is part of an ongoing trend) and there is much to be positive about when it comes to contemporary youth justice and youth crime.

been required to draw largely on media reports of cases which are in the public arena and therefore are not currently subject to restrictions or sub judice. In this article we used only empirical evidence that we have gathered which is publically available. At a future juncture, we intend to draw on empirical evidence to provide more detail of the CGI in praxis, however here we focus our concern on the background to the development of the CGI.

The Rhys Jones Murder and the Criminological Gang Explosion

The Jones case was in many ways exceptional in establishing an ongoing mood of political concern with regard to the violent, youthful street gangs. While violent gangs have been regarded as a concern in several large English metropolitan centres outside London (such as the Burger Bar Boys and the Johnson Crew in Birmingham who came to prominence after the New Year Eve murder of Charlene Ellis and Latisha Shakespeare in 2003), it was the murder of 11 year old Jones in Liverpool that proved a significant crime event which created the political imperative and drive to deal with gang involved young people by government, and saw serious youth violence and gangs superseding concern with antisocial behaviour generally.

Jones was killed as he made his way home from a football practice in daylight, crossing the car park of the Fir Tree pub on the Croxteth Park estate, Liverpool. A hooded youth (later identified as 15 year old Sean Mercer), approached the scene riding a silver mountain bike. He produced a handgun at arm's length from his jacket and fired three shots across the car park at another intended target. A stray bullet hit Jones in his back, just above his left shoulder blade, and exited his body from the front right side of his neck, fatally injuring him. In the aftermath of the shooting, residents in the Croxteth locality claimed that the estate had been plagued by antisocial behaviour committed by a small group of young men. In response, Merseyside Police used powers under the Antisocial Behaviour Act 2003 to declare the scene of the shooting a 'designated area', meaning that officers could disperse groups and move people away from that location.

Initially, while the police vehemently stressed in the early phases of their investigation that the murder was not 'gang-related', it became apparent that Sean Mercer was clearly an established member of a local gang. He and the others later convicted of involvement in Jones' murder alongside him, were known to be members of

the Croxteth Crew, a local criminal youth gang. In addition, Jones' murder occurred the day before the first anniversary of the killing of another young man, Liam Smith, an alleged member of a rival gang, (the Norris Green Strand Crew), who was thought to have been killed by members of Mercer's Croxteth Crew as he walked out of HMP Altcourse on 23 August 2006 (BBC, 2007).

What seems more certain is that the discussion of the Jones case brought into the public view the problems of territorial street allegiances and violent criminality in small cohorts of gang involved young people outside of London. While there was a growing concern about youth violence in the capital during the same period (see Pitts 2008), the Jones murder provided clear evidence that such problems were not restricted to London. Whilst there are no more than an estimated 100 people in Croxteth and Norris Green's population of 300,000 who are involved in youth gangs (Kelly, 2008), in the wake of the conviction of Mercer and associates, press reports were filled with headlines describing postcode tribalism and territorialism in Liverpool that had previously largely been the preserve of London gangs. In particular, national news media were quick to condemn these 'feral' youths, and readily highlighted that a traditionally little known working class area of Liverpool was now beholden to unpredictable, firearm possessing, young gang members (Kelly, 2008). It is doubtlessly significant then that the murder of Rhys Jones was the drive for the then Prime Minister, Tony Blair, to hold the first 'gang summit meeting' at Downing Street in February 2007. Since this (as we show here) there have been a raft of new policy measures and guidance aimed at addressing violent youth gangs in England and Wales (see Huff and Barrow, 2015). By the end of 2014 the Home Office had produced 38 gang and youth violence focused reports and guidance (Holland, 2014). Thus, in official discourse, there has been a steady amalgamation of youth crime and gang crime so that these once separate categories have increasingly become synonymous with one another in the political mind.

It is perhaps also unsurprising therefore that it was after this crime in 2007 that England and Wales witnessed a growth in empirical studies that sought to explore the notion of the 'youth street gang' and its connections with violence (see Aldridge and Medina, 2008; Alleyne and Wood, 2010; Densley, 2011; 2013; Hallsworth, 2011; 2013; Hallsworth and Young, 2008; Harding, 2014; Fraser and Atkinson, 2014; Pitts, 2008, 2011; 2012; Smithson et al., 2013). We are not suggesting that the murder of Jones alone was the sole driver for this, but it is clear that very few academic British criminological

accounts concerning gangs published predate the murder of Jones (those of Alexander, 2000; Bennett and Holloway, 2004; and Sharp et al., 2006 stand as notable exceptions). That said, it is important to stress at this juncture that the same period witnessed a quite real and alarming rise in serious inter-youth violence in several large urban inner city areas in England and Wales, and real rising anxiety about the nature and levels of violent crime involving young people.

From the Antisocial Behaviour Order (ASBO) to the Civil Gang Injunction (Gangbo)

The criminological research on gangs in England and Wales has been, and remains something of a controversial and divided research community. Some academic accounts suggest that gangs really do constitute a serious and significant part of the youth and violent crime problem (Pitts, 2008). Principle and foremost amongst those who take such a line (and doubtlessly the most significant academic contribution in terms of influencing national policy direction) has been John Pitts (2008) supplemented and supported by more recent ethnographic research from James Densley (2011; 2013) and Simon Harding (2012a; 2012b; 2014). The prominence afforded to Pitts' findings by the Home Office is salient, as atypically, his research presents a picture of highly structured gangs whose primary function coalesces around entrepreneurial drug dealing and not infrequent violence, particularly in and around London.

However, more broadly, the body of UK gang literature (including work from Scotland and Northern Ireland) paints a much more complex, nuanced and occasionally contradictory picture. There are a number of potential explanations for this, as the field of scholarship has both employed quite different methodological techniques and variously shunned the term 'gangs' in preferences for phrases such as 'delinquent youth groups', 'young teens' and 'troublesome youth groups' (see Bannister et al., 2010; Sharp et al., 2006; YJB, 2007). The result is that UK studies present a rather confusing, often polarised and contested picture as to the nature of the contemporary gang phenomena. Indeed, that perhaps explains why even during the mid-2000s, the Home Office seemed unwilling to overtly talk of 'gangs', preferring terms such as 'delinquent youth groups'.

As Shute et al., (2012) note, the Home Office recognised that defining youth group identity and violence is a complex task, leading to a historical political reluctance to employ gang terminology. Consequently, attempts to clampdown on problematic youth

became focused on the use of Antisocial Behaviour Orders (Millie, 2006; 2007; Squires, 2008; Squires et al., 2005). The murder of Rhys Jones was a critical turning point with the term 'gang' increasingly forming part of the national media attention and political crime related lexicon, finally emerging in official government discourse (see Huff and Barrow, 2015). In the wake of the murder, came the launch of the Tackling Gangs Action Plan (TGAP). The Youth Justice Board called for the government to replace the term gang with 'troublesome youth groups' (Youth Justice Board, 2007), this appeal has not been well heeded in England and Wales.

The Rise of the Civil Gang Injunction

The introduction of the CGI in England and Wales is part of an increasing trend towards the importation of a civil burden into the criminal justice arena which commenced under New Labour (Ashworth, 2011). As already suggested, an interesting feature of New Labour's approach to youth crime from their coming to power in 1997 was the centrality of the Antisocial Behaviour Order or ASBO (Ashworth, 2011; Millie, 2006; 2007; Squires, 2008; Squires and Stephen, 2005). The ASBO proved a controversial disposal. Introduced by the Labour Government under Prime Minister Tony Blair in 1998, they were initially mooted and designed to prevent the minor incidents of public nuisance that would not ordinarily warrant criminal prosecution but which it was claimed nevertheless blighted communities. In actuality, in the coming years the ASBO (disproportionately) became inexorably connected with a crusade to deal with youthful delinquency and problematic youth crime (Squires, 2008; Squires and Stephen, 2005).

While the ASBO was intended to challenge those minor and everyday incivilities that blighted communities, the motivations underpinning the CGI in England and Wales are seemingly quite different. Also, unlike the ASBO which was quickly targeted by the coalition Government in 2010, the CGI has continued to be championed by (firstly the coalition government, and subsequently the Conservative majority), who seemingly have arrived at the conclusion that:

the gang is a serious and growing problem, that the rise in lethal violence, as seen recently in inner cities such as London, Birmingham, Manchester and Liverpool, is connected to the proliferation of the gang, and that the solution to the problem of urban gang violence lies in its suppression. (Hallsworth and Young, 2008: 175)

While the ASBO was to become the most prominent in the public mind, the New Labour administrations blurring of the criminal and civil law was present in “around a dozen other civil preventive orders, including sexual offence prevention orders, drinking banning orders, serious crime prevention orders and others” (Ashworth, 2011: 22). Furthermore, this trend formed part of the underpinning ideological aim of rebalancing the criminal justice system in favour of the victim and the community (Criminal Justice System, 2002).

CGIs give police and local authorities new powers to deal with gang-related violence. They are court-issued orders prohibiting gang members from participating in certain activities such as being in a particular place or associating with particular people. The Policing and Crime Act 2009 (specifically s.34) allows a court to grant an ‘Injunction to Prevent Gang Violence’ (IPGV) where it is satisfied on the balance of probabilities that the respondent has engaged in, or encouraged or assisted, ‘gang-related violence’ and the court thinks the injunction is necessary to prevent the respondent from engaging in gang related violence, (or to protect the respondent therefrom). Provisions for gang injunctions for young people aged 14-17 were contained within the Crime and Security Act 2010 after the previously mentioned August riots.

Yet the arrival of the CGI into England and Wales is perhaps in no small part due to a long tradition of trans-Atlantic criminal justice policy transfer (Jones and Newburn, 2007) and arguably, it is the US model and experience which has provided the inspiration and template for the use of civil injunctions to address perceived gang violence in the UK. Yet one apparent difference is that the development of civil gang injunctions in the United States (US) was not driven by an underpinning concern with ‘violence’ per se, but with broader problematic and troublesome public and nuisance behaviour that could become associated with gangs. The first application for a CGI in the US was made in 1980 in Santa Ana, California, resulting in a temporary restraining order prohibiting named gang members from drinking and gathering at a known ‘gang hangout’ (Allan, 2004). This proved effective and appeared to eliminate the problem. Subsequently, the Los Angeles District Attorney’s Office obtained three separate injunctions in the period between 1981 and 1986, preventing named gang members from drinking, hosting boisterous parties, creating graffiti and vandalising property (ibid). In 1987 the first US CGI court order was made against 300 members of the Playboy Gangster Crips and covering a twenty-six block

neighbourhood (Yoo, 1994). The preliminary injunction prohibited a range of behaviours, including trespassing, vandalism, urinating and defecating in public, littering, harassment and intimidation (ibid: 218). Interestingly, on appeal, the injunction proved controversial and the restrictions were limited to acts that violated criminal law (Allan, 2004; Yoo, 1994).

From the outset, the American CGIs are largely restraining orders designed to address public nuisance rather than federal criminal offences. The focus of the US injunctions is, ostensibly at least, to prevent criminal activity (Hennigan and Sloane, 2013). CGIs in the U.S. are typically used to prohibit legal and illegal activities within a specific 'safety zone' rather than named individuals, and this is one reason that some criticisms have been made of them (Crawford, 2004; Maxson et al., 2005; Yoo, 1994). The number of gang members named in the CGI can vary, as can the size of the area and the nature of the prohibited activities (Maxson et al., 2005: 504). CGIs in the U.S. typically prohibit gang members associating, stipulate curfew restrictions and include restrictions such as the possession of firearms or the misuse or handling of drugs. However, what is clear is that CGIs were not conceived in the U.S. as a means of dealing with serious criminality and are not promoted as a means of challenging or preventing gang related violence. Thus, the use of CGIs to address public nuisance in the U.S. make them closer to the concern in England and Wales with 'antisocial behaviour' orders.

In contrast, one of the distinctive features of English and Welsh CGIs is that they are designed to address what would ordinarily be regarded as criminal behaviour. A CGI in England and Wales can only be granted if the court is satisfied that the respondent has, on the balance of probabilities, encouraged or engaged in gang-related violence or drug dealing activity. However, engaging in, or attempting, (non-fatal) violent or threatening behaviour can be prosecuted either under the common law or the Offences against the Person Act 1861, with fatal violence being prosecuted either as murder or manslaughter. The question, then, is whether civil measures are necessary if the criminal law is perfectly well equipped to deal with gang-related violence? Home Office guidance (2010) suggests that the purpose of CGIs is to prevent gang-related violence and protect those seeking to leave a gang, but seemingly in the majority of cases what CGIs really do is enable local authorities to impose restrictions on the liberty of gang members still in the community without the rigours of the criminal process.

The Devil is in the Detail

Section 34 of the Police and Crime Act 2009 sets up the definition of gang for the purposes of granting an injunction. To fall within this definition a group must: (a) consists of at least 3 people; (b) uses a name, emblem or colour or have any other characteristic that enables its members to be identified by others as a group; and (c) be associated with a particular area. This has now been amended by the Serious Crime Act, (2015) and as such the relatively static and territorial view of the gang is increasingly giving way to a more nuanced understanding of the complexity of organised criminality including that of organised street gangs (Pitts, 2008). Furthermore, such a narrow and stereotypical definition was perhaps always problematic in that it failed to capture the complex realities of the UK's organised crime gangs, the now broader definition and changes in the way in which gang violence is conceived at least means that there is the potential for the injunctions to increasingly be used against young people.

On 17 July 2014, Greater Manchester Police (GMP) submitted an application for a CGI against 22-year-old Scott Calder. Part of that application noted that after an attack Calder had been stopped by the police and found to be in possession of a Lucozade bottle containing 'industrial strength' ammonia, and he was arrested for possession of an offensive weapon, and was further arrested after a knife was found concealed in the vehicle (Spillett, 2014). Calder and associates clearly had strong links to criminality, a point stressed by the circuit judge in response to the GMP's application. Ultimately, the application was refused in the County Court on the basis that the familial group to which Calder was said to belong could not be identified by 'others' as a 'gang' within the meaning of s.34(5) of the legislation. At least in part, the County Court's reluctance to make him subject to CGI conditions related to the fact that while he was clearly linked to organised crime groups, the courts were not convinced that this could be adequately understood via the prism of the street gang (Hamilton, 2015; Spillett, 2014).

Calder, a 22-year-old bodybuilder and grime rapper from East Manchester who posted self-produced videos on the website You Tube under the street name 'Demon', came to be at the centre of media and political discussions about the CGIs in England and Wales after he first sought anonymity when the authorities pursued an application

against him. While Calder is not a youth in strict legal terms, he was certainly involved in youthful gang culture that immerses many younger people (Pitts, 2008). Furthermore, in pursuing him the police drew on a range of material, including lyrics in the aforementioned videos and intelligence information, which they referred to the courts that stated that Calder was involved in 'gang culture'. He was, they suggested, "a member of a group of people, centred on other members of his close family, which it is suspected take part in serious criminal activity" after Calder had been shot in the hand when picking up his mother from a bingo hall (his mother was also injured in the shooting) (Britton, 2014). The police, through their intelligence linked Calder to 'shootings, kidnappings' and 'inter-gang rivalry concerned with drugs'. Calder first sought, but failed to secure, anonymity for himself and his family (Gallagher, 2014) on the grounds that disclosure would breach their right to respect for privacy and family life under Article 8 of the European Convention on Human Rights.

In October 2014, Calder and several other associates were imprisoned for between two and four years for conspiracy to burgle. The group had been using tracking devices fitted to rival commercial cannabis cultivator's vehicles to follow them to their growing operations and subsequently target and steal drugs from their factories (Spillet, 2014). This appears to be the likely context for much of the action surrounding the previous application for a civil injunction. The question, then, that ought to be asked is: if previously Calder was so much involved in organised criminality, would not pursuit of this, rather than a bureaucratised attempt to manage him through injunction have been a more appropriate strategy? The Governmental response of course has been to seek to make the definitional contours less specific, but there may yet be value in questioning why it was that 'The Demon', Scott Calder, was ever being policed by civil injunction? Was it simply a short term mechanism for preventing retaliatory violence? Was it part of a genuine concern to be able to protect him from violence? Or is it a mechanism to prosecute organised criminal behaviour more effectively?

The introduction of the CGI makes an implicit assumption that linked forms of criminal violence are foreseeable and predictable, and therefore might be preventable through procedural, legislative intervention and a notional deterrence. Indeed, when one considers recent cases involving extreme violence tied to gangs and organised crime, such as the violent offence committed by Dale Cregan, it becomes self-evident that those involved in serious gang violence may be little deterred by the threat of a civil injunction.

Within a relatively short space of time, Cregan shot dead Mark Short, in the Cotton Tree pub in Droylsden, Manchester on the 25th May 2012, and then, in August 2012, killed his father David Short at his home in Clayton by shooting him and throwing a hand grenade. Cregan then went into hiding. At the culmination of a large manhunt for him, Cregan made a phone call summoning two female police officers to a property in Manchester where he murdered them with a gun and grenades, before handing himself over to the authorities. It is highly doubtful that a CGI would have prevented any of those murders, and the fact that Cregan would have been well on the police radar after the initial killing clearly did little to curtail his violence. It does not seem that in the period of these incidents of extreme violence that the authorities sought to utilise gang injunction powers, but it does suggest at the complexity of serious gang and organised crime violence, and the questionable extent to which pre-planned manifestations of it can actually be deterred or eradicated by injunction based prohibitions. What more aptly it shows though is the difficulty of preventing criminal violence, the very logic and premise on which the CGI is justified.

The question then that perhaps arises is: if gang members are involved in serious violence or the likelihood of it, why are they being pursued through civil means? Do we really need an ASBO for violent gangsters? Or is it the case that, given the connections now being made between youth crime and gangs (as if the two are synonymous with one another), the real potential is that a new form of ASBO has been created that could ultimately be used to heavily target urban inner city (crime involved) youth?

Conclusion

Since their inception, the scope of the CGI in England and Wales have been gradually extended both in age, (to youths aged 14-17 years old), in jurisdiction, (to the youth courts) and in scope, (to include 'gang related' drug activity). However, to date, the use of such measures has remained relatively small scale and focused within a few local authorities. Yet the drive toward their greater use may have already commenced. The House of Commons Home Affairs Committee recently concluded that this level of use was 'shocking', and recommended a 'league table of gang injunctions on a six monthly basis' (House of Commons, 2015:13).

Evidence to the same committee claimed that the use of CGIs had 'destroyed' gangs in Merseyside. Similarly, claims have also been made that the use of CGIs in the

Birmingham area have significantly contributed to the reduction of gang related activity (Birmingham City Council, 2014). Such assertions are not easily substantiated, and potentially the recommendations of the Home Affairs Committee betray an alarming zeal for the use of CGIs without any real pause for thought.

We have argued that, rather perplexingly given current headline falls in youth crime, concern with young people's criminality is increasingly being narrowly (re)framed as gang-related activity. The 'Gangbo' has received relatively little attention from the criminological community. Its passage, adoption and usage has resulted in very little critical comment. Yet as it is extended, rather than being a mechanism for violence prevention, the Gangbo seemingly has the potential to mutate into a means of targeting perceived problematic young people. As the Crime and Security Act 2010 extended the scope to the courts to grant CGI to all those aged over 14 years, the accompanying government guidance noted:

The teenage years are often the critical point for intervention to prevent the young person becoming further involved in gangs and gang violence. Crisis points in a young person's life such as arrest, school exclusion, or A&E admission can provide vital opportunities to persuade the young person to leave the gang lifestyle. Gang injunctions offer local partners a way to intervene and to engage the young person with positive activities, with the aim of preventing further involvement in gangs and violence. (Home Office, 2011: para 3.1).

Of course, a slightly more cynical reading is that on a lower burden of proof and freed of the burdensome demands of compiling evidence that would meet a criminal standard, the Police and Local Authorities have been handed an extremely restrictive and suppressive crime management tool. The use of the CGI risks a return to British policing more akin to 'sus laws' and the statutory mandated and harassment of largely young (often Black and ethnic minority) inner city men from the lower socio-economic strata (Goffman, 2014; Rios, 2011; Smithson et al., 2013). Indeed, in England and Wales, it is that group who are most frequently targeted by the police, and often it is this group who are implicitly central to a racialized discourse and talk of gangs (Smithson et al., 2013). Moreover, as recent academic contributions in the US have noted (Goffman, 2014; Rios, 2011), young Black and Latino men with high levels of social exclusion can find themselves in a vicious cycle of punishment and incarceration after being harassed,

profiled, watched, and disciplined at a young age. This process eventually leads many of them to fulfil the destiny expected of them, or to find themselves trapped in an almost inescapable cycle of exclusion. We perhaps ought to ask, is this simply another case of where America leads, England and Wales will inevitably follow?

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To what extent there is scope for a common EU policy of firearms controls?

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Abstract:

The illicit manufacturing and trafficking of firearms used in criminal activities is a major concern because of the political, social and economic damage it causes to communities. The possession of small arms and 'heavy' firearms, which could be used within organised crime groups, as well as lower-level street gangs, continues to rise in many parts of the European Union. Thus, the impact and success of gun control legislation continues to demand the attention of academics and policymakers alike. Despite a considerable amount of literature about gun crime, there is a lack of understanding surrounding the market in illegal firearms and the trafficking of firearms. This paper presents an overview of a research project that explores the extent of firearm control within the European Union, and the barriers to consensus in firearm law.

Key words: Firearms/gun-crime; control; consensus; trafficking.

Research aims

This paper presents an outline of a research project that aims to explore the extent of firearm control and the barriers to consensus upon firearm law within the European Union (EU). The research will explore the scale of firearm misuse, crime and weapon trafficking, and domestic and national firearms laws and regulations, before soliciting the views and interests of stakeholders (gun controllers and enforcers) to ascertain what

factors influence the future direction of EU firearms policy and what the barriers to consensus are.

Drawing on previous literature, the proposed research will provide an overview of European society gun control profiles and construct a typology of different societies and gun cultures. The proposed work aims to establish the emerging firearms law development agenda in Europe, within a broader social, political and security context.

Introduction

There are in excess of 875 million firearms in the world today, of which 75% are owned by individuals, and an estimated 360,000 people are killed with firearms in non-conflict situations each year (World Health Organisation, 2010: 64). Around eight million small arms are manufactured each year, with over 1,200 companies operating in over 90 countries. This plethora of sources is reflected in the firearms that are recovered (Association of Chief Police Officers, 2007). For example, shotguns and assault-rifles produced by the Italian company Beretta and AK-47 assault rifles produced by Russian company Izhmash. The illicit manufacturing and trafficking of firearms used in criminal activities is a major concern because of the political, social and economic damage it causes to communities (Council of the European Union, 2013). The damage, whether direct or indirect, is significant. The direct impact includes the number of deaths by firearm and any injuries sustained, within the EU alone this stands at 10,000 in the last decade, and this does not include suicides by firearm, which total over 4,000 each year (United Nations Office on Drugs and Crime (UNODC), 2011). Indirectly, the impact is vast but unquantifiable (UNODC, 2011). However, it would include the diminishment of quality of life of the individual and the community; and increased perceptions of threat and the associated trauma (Muggah, 2001).

A wide variety of gangs operate throughout the UK and the EU with many methods of obtaining, storing, sharing and using firearms (Serious Organised Crime Agency (SOCA), 2013). The elimination of internal borders within the Schengen area and the subsequent ease with which crime can, and indeed has, spread has increased the need for a more coordinated system of cooperation with regard to criminal justice agencies, the police and related administrative matters (European Commission, 2015: 11). The recent terrorist shootings in Paris, Copenhagen and Tunisia raise questions about the

trafficking of weapons throughout Europe; and the possession of small arms, and 'heavy' firearms; for example, AK-47s or rocket launchers, which could be used within terrorist cells, organised crime groups, as well as lower-level street gangs, in many parts of the European Union.

Background

Gun crime is defined by the Metropolitan Police (2012) as any offence that involves "the use or threat of a firearm of any description in the commission of offences within the following categories; murder, assault, sexual offences, harassment, robbery, burglary, theft and handling stolen goods". "Firearms are taken to be involved in a crime if they are fired, used as a blunt instrument against a person, or used as a threat" (Kaiza, 2008: 35). There are also varying definitions of what actually counts as 'use' of a firearm. For example, when an air weapon (a weapon that compresses air or gas through a cylinder to expel a projectile) is fired, and there is either some form of damage or injury; that is classified as 'misused'. Handguns on the other hand are 'misused' during the course of a "robbery when they are brandished to intimidate a victim and when they are discharged" (Squires, et al., 2008: 10).

Firearm crime statistics predominantly focus upon crime committed with firearms (except the theft of firearms); there is seldom any information about the following matters: offences that result from the breach of firearms control laws (adaption, possession and trafficking etc.) and the way in which firearms fall into the hands of potential offenders (ibid: 20).

There are also a number of caveats that must be considered. Policing activity and priorities affect the levels of reported and recorded violent crime; most crimes go unreported to the police, undoubtedly due to the fact that the majority of gun crime involves individuals, and all too frequently gangs involved in criminality, armed robberies and drug distribution and they are therefore unlikely to report incidences (Hales, et al., 2006).

There are also definitional issues; the Home Office dataset only record crimes where a firearm was used, rather than offences where a firearm is present, or they may not be recorded at all due to a lack of evidence. In terms of issues in under-reporting of

violent crime, the definition of gun crime influences patterns of crime recording (Squires, et al., 2008).

There is a considerable amount of literature about gun crime, particularly USA-based, and a growing body of international evidence now points towards a clear correlation between firearms and gun crime, violence, homicide and suicide rates (Bangalore and Messerli, 2013; Van Kesteren, 2014). The relationships that exist between guns and violent crime is intensely debated (Alzheimer, 2010) and the debate has been longstanding, with proponents of gun control and gun rights fiercely clinging to studies that support their side of the argument and either ignoring or questioning the other side (Chambliss, 2011).

However, scholarly enquiry into gun crime and gun control and empirical evidence concerning the impact of firearms legislation is limited and, indeed, far from conclusive (*ibid*). Despite trafficking in illicit firearms being on the political agenda of the EU for over a decade (European Parliament, 2013), qualitative evidence or ethnographic research on gun crime is limited (Campbell, 2010). Similarly, there is also limited research available on firearm smuggling within the EU, and a significant proportion of gun involved victimisation continues to go unreported (Squires, 2008: 2014). Thus, the impact and success of gun control legislation continues to demand the attention of academics and policymakers alike and there is need for more research into the European firearms situation (Duquet and Van Alstein, 2014). Such demand has governed the core aims of this research.

In terms of policy interventions, two recent studies (European Commission, 2014a; 2014b) examined policy options, to assist with the detection, prevention, and prosecution of those involved in firearms offences, specifically focusing on the fight against illicit arms trafficking in the EU. It was found that Europe faces a serious illicit firearms trafficking problem that has far-reaching consequences, as discussed later.

The world's crime figures are collected by the United Nations Office on Drugs and Crime (UNODC) and they gather their data from multiple sources. Member States submit information via the Annual Report Questionnaire and the Crime Trend Survey, and other national surveys are produced in cooperation with national governments, or compiled from scientific literature (UNODC, 2013). Data are collated on firearm homicides with details of size of population, and whilst these data are comprehensive, there are nonetheless limitations; there is data missing for Belgium, Estonia, France and Greece,

and some nations (although not EU) are missing. The Small Arms Survey is also useful; it collates civilian gun ownership rates for 178 countries around the world.

Although statistics are used to generate an idea of the extent of crime, and specifically in this case, gun crime, it is apparent that these do not present the most reliable picture of crime rates and there are significant limitations. The British police record 4-5 million crimes annually, yet British Crime Survey evidence suggests a figure of closer to 11-12 million, although there are still significant gaps in the BCS (ACPO, 2007). The Home Office publishes the only national statistics on gun crime available in England and Wales and their statistics on recorded crimes involving firearms are considered the most important national source (Hales et al., 2006). However, there is limited information available on how these statistics are generated and what they include, and subsequently their strengths and limitations. Despite the highly complex, and at times partial picture they present, they are nonetheless treated uncritically both in the UK and internationally (ibid: 1). While open sources of information can provide a general overview of the major legal arms transfers they are not sufficient to establish a comprehensive and applicable overview with functional statistics about the flow of firearms to and within regions. This then hinders the effective investigation and prosecution of those involved (UNODC, 2013).

There are also differences between countries in terms of criminal justice and legal systems: definitions, methods of reporting, recording and counting crimes, which makes direct comparisons difficult (Tavares et al., 2012: 2). Furthermore, criminal statistics record offences involving the 'criminal use of a firearm' rather than simple offences of illegal firearm possession (Squires, et al., 2008: 7). There are also ambiguities in the interpretation of firearm 'use' – it is these deficiencies in the definition and recording of offences that undoubtedly contribute to the gaps in intelligence. This allows for muddled debates, and hence problems with clearly formed crime prevention strategies (ibid: 16).

Statistics on the availability of illicit firearms are hard to come by (European Parliament, 2013) and precise levels of gun crime may be masked from official statistics for many reasons. Despite the increasingly restrictive legislation, crimes involving firearms continue to occur (Hales et al., 2006). EUROPOL (2013) following their Serious and Organised Crime Threat Assessment (SOCTA), argue that their data do not indicate an increase in the trafficking of heavy firearms. Nonetheless, there were in excess of

5,000 murders committed with firearms in the EU in 2012 and no EU country is unaffected by firearms violence (European Commission, 2013). Firearms continue to be a common denominator in all kinds of serious and organised crime (European Parliament, 2013). Organised Criminal Gangs/Groups (OCG) are behind a multi-million-pound business smuggling drugs and guns, and the Balkans have become a gateway to Europe for organised criminals.

In Greece, there are an estimated 1.5 – 2 million hunting guns in circulation yet only 300,000 individuals with a hunting licence (Ta Nea 2008, cited in Arsovska & Kostakos, 2008). Relatively little is known about the illegal markets and organised crime, despite the funding and abundance of programmes, initiatives and organisations in the area (Antonopoulos, 2008: 315; Arsovska & Kostakos, 2008: 353). Similar to other countries, most of what is known in Greece is influenced by official discourse and ideologies, and there is a lack of serious research or empirical evidence. Moreover, as is often the case, what information there may be about the actual amount of organised crime is fragmentary or largely unavailable to researchers (Antonopoulos, 2008). This is a result of it being immersed in technical or political issues, and an inability or unwillingness of the state, or international agencies, to cooperate (ibid). There is undoubtedly a need for further research to be conducted, in order to identify the threat that is posed by organised crime and the illicit trafficking of arms, and to ensure that appropriate collaboration strategies are in place to combat it, particularly in relation to the specific risks that are inherent in EU expansion (Davis et al., 2001: 7).

The nature of organised crime results in a 'dark figure' and under-reporting, leading to a lack of functional and meaningful data (Antonopoulos 2008: 320). This is especially problematic given the unwillingness and inability of state and international agencies; and the distinct nature of illegal markets needs to be acknowledged and taken into account by the academic community (ibid: 323). The scale of trafficking in illicit firearms remains variable throughout the EU, as does the nature of illicit firearms trafficking with firearms originating from outside the EU and from EU Member States; firearms trafficking therefore continues to be considered a constant threat (EUROPOL, 2005). It was predicted in 2000, by the British National Criminal Intelligence Service (NCIS), that law enforcement would see an increase in the use of firearms among organised criminals (Arsovska & Kostakos, 2008). The possession of firearms by members of OCG and lower-level street gangs has indeed continued to rise, yet the nature

of the situation regarding local demand, internal circulation and importation represents a significant intelligence gap (EUROPOL, 2010). It is these significant gaps in information provided by several states, and the lack of transparency, that hinder the investigation making a cross analysis of 'mirror' data almost impossible (UNODC, 2013).

Duquet and Van Alstein (2012; 2014) acknowledge the lack of data on civilian firearm possession, with numbers frequently estimated and the methods applied to arrive at the estimates remaining unclear. Historically in many EU states previous record keeping has been inadequate, with issues with documenting and definitions, although recently member states have begun to establish electronic firearms registers. Belgium has an advantage in terms of their Central Weapons Registry, although there are also limitations with this. For example, according to these sources, 21% of legally acquired guns had not been recorded, and 30% of the records contained errors (Duquet and Van Alstein, 2012). Nonetheless, a more unified approach to the recording/registration of firearms would go some way to addressing this. This is why recent research conducted by Duquet and Van Alstein (2014), regarding the reform of gun control laws in Belgium, is not only timely but provides an excellent model from which further assessments of firearm law might develop.

Discussion

Europe presents a number of anomalies with regard to the study of conflict, violence and civilian firearm ownership and there is need for a more coherent and evidence-based approach to the regulation of firearms. Illicit firearms trafficking is an issue in its own right, contributing to criminal activities such as drug smuggling and terrorist-related activities. However, it also contributes to the level of criminal violence by increasing the number of firearms that are available (European Commission, 2014a).

The reason for these anomalies is not hard to see. For although many European societies often fall towards the lower end of a range of societies in terms of their levels of ownership and rates of firearm involved violence, a number of European societies, for example: Scandinavian countries, Switzerland and Austria, also have relatively high rates (globally) of civilian firearm ownership. Which therefore represent what might be considered a more 'civilised' gun culture (Kopel, 1992; Munday, 1996), as compared to those considered less civilised. It is important to note, however, that within many of these

societies, the rate of firearm suicide exceeds the rate of firearm homicide (Squires, 2014). In such societies, firearm ownership mainly comprises shotguns and rifles, and these guns are predominantly employed in sports shooting, field sports and agriculture. There is relatively limited ownership of handguns for purposes of personal protection (although this may be changing) even though many (although certainly not all) European countries' firearms regulations specifically prohibit this (Squires, 2000).

On the other hand, many of these so-called 'civilised' gun cultures have also experienced what are sometimes seen as mass, rampage or spree homicides. The UK has experienced three such events since 1987, Germany two, Finland two, Switzerland three, Belgium one, and France two (Squires, 2014). Norway can lay claim to the dubious distinction of having witnessed the world's most lethal firearms rampage however, when Anders Breivik shot and killed over 70 young people at a youth camp outside Oslo in 2011 (Aylward, 2012). In many countries incidents such as these have prompted the authorities (backed by an outraged public opinion) to embark upon substantial firearms control reforms (such as the UK in 1996, Australia in 1996 and Belgium in 2006). Interest in firearms legislation from the media and general public is frequently sporadic and incident-driven however (Duquet and Van Alstein, 2014). Most societies have not tended to enact such substantial changes, perhaps regarding these events as rare anomalies or as 'tragedy' events unrelated to broader patterns of crime. Notwithstanding such variation, it might be possible to regard progressive reform – tightening – of firearms control laws as an aspect of the 'civilisation thesis' (Elias, 1982; Pinker, 2011) albeit a rather 'Euro-centric' version.

Firearms ownership is relatively low in most EU Member states, compared to many parts of the world (European Commission, 2013). EU Member states have low rates of gun-involved crime but have many of the elements that have (historically) tended to inflate rates of firearm violence. Europe is home to a wide variety of small arms manufacturers that can truly be said to have armed the world, (especially via their former 'empires', commonwealths and geo-political alliances, from the early 19th century to the post-Cold War era, and especially, too, if one includes former Soviet bloc countries which played their part in the distribution of the AK47). The UK in 2013 was the second largest arms-selling country in the world (Fleurant & Perlo-Freeman, 2013). In other countries (USA, Brazil) a manufacturing base has often served as a key foundation of a society's gun lobby. Even so, no European culture can claim a gun lobby of anything similar to the scale,

significance and influence of the US National Rifle Association (NRA). Support, however, is growing for a 'European' lobby group. Warsaw based Firearms United, with partnerships/branches across Europe is aiming to unite all gun owners and to bring about a change in legislation in order to make society 'feel free and safe' (Firearms United, 2015). Nonetheless, in comparison to the NRA, lobby groups elsewhere are rather less prominent, potentially because in European countries gun control does not rank particularly high on the political and public agenda (Duquet and Van Alstein, 2014). That is until, of course, there is a public incident of gun violence that receives media attention and causes public outrage; thus prompting politicians to consider implementing stricter regulations in terms of the possession and use of firearms by private citizens (ibid). Such actions are typically endorsed by groups in Europe such as the Flemish Peace Institute and the Stockholm International Peace Research Institute (SIPRI).

Many commentators (for example, Bellesiles, 2000) refer to the significance of war (in the US case, the American Civil War 1861-65) and conflict in establishing gun control, or gun rights (or gun cultures) by fostering the spirit of militarism and disseminating unchecked supplies of firearms. The European mainland has certainly seen its share of wars during the past 200 years. It is, of course, important to acknowledge, as American Criminologist Elliott Currie has noted, that "the role of guns in violent crime cannot be considered in isolation from other conditions that influence the likelihood of violence, such as the degree of inequality, the depth of social exclusion, and the erosion of family and community supports" (2005: 106-7). It follows that it would be inappropriate to focus exclusively on firearms alone when seeking to understand rates of crime and firearm involved violence. Therefore, the research will explore debates concerning social order and the role of culture, and how embedded and socially meaningful firearms are (Greene and Marsh, 2012).

Police, politicians and the media reports describe the emergence of a gun culture (Hales et al., 2006: vii), and gun crime as becoming prominent and omnipresent features of Western European capitals. Hales et al., (ibid: xiii) found that, in terms of gangs and gun culture, Merton's "Innovation" mode of adaption is frequently interpreted as a response by individuals to structural strain (Einstadter and Henry, 2006: 166) and used to explain how economic hardship is reconciled by some through involvement with criminal activities. Illegal drug markets also significantly underpin the criminal economy,

representing the most important theme in terms of the illegal use of firearms (Hales et al., 2006: 65).

Taken together, it is clear that a wide range of post-war/post-conflict factors: social, political and cultural solidarities, the role of law and, especially since the 1970s, the increasing role of the EU, have played their part in restraining firearm proliferation and enhancing police and security co-operation to prevent widespread firearms trafficking in the European region (Spapens, 2007). At the European Union level, acquisition, ownership and possession of firearms are governed by two directives agreed in 1991 and revised in 2008 (Directive 91/477/EEC and Directive 2008/51/EC). In simple terms, the Directives establish minimum requirements, and these regulations are intended to control access to, and possession of, weapons, to facilitate the flow of firearms in a single market, and to bring within the realm of EU law the United Nations Protocol against the Illicit Manufacturing and Trafficking of Firearms.

Methodology

In order to understand the gun control landscape, in terms of legislation, it is necessary to conduct an extensive review of legislation and practice across Europe. This will establish areas of national convergence and divergence, and ascertain obstacles to consensus (the politics and impediments to harmonisation of laws, identifying areas of agreement and disagreement) as they stand now and how these differences are accounted for. It is now necessary to establish the factual behaviour of the member states, against rules set out in the directives, to estimate the degree of compliance (Crowley & Persbo, 2006).

Due to the complexity of gun crime and indeed governmentality across Europe, the research will need to be carried out at several different levels. Developing understanding beyond governmental level, the work must be broad enough to include law enforcement community perspectives and a variety of European gun control lobby organisations, acknowledging the influence that they have on policy in each of the member states. Therefore, part of the legislation review process will involve the identification of key stakeholders in both the law enforcement community and the gun control lobby. For example; in Brussels, the Flemish Peace Institute, in Oslo, Peace Research Institute Oslo (PRIO), and representatives/researchers from the Small Arms

Survey working in Europe. Further participants may also be identified by way of 'snowball' sampling.

Once participants have been identified, data will be gathered by way of semi-structured interviews, with those from the Pro-control/anti-control/law and enforcement community experts. The questions will be developed during the course of the literature review, but will seek to establish the perspectives of those involved in the research. The research will follow an interpretive/exploratory approach, as it is concerned with generating theory, also associated with grounded theory (Davies, 2006: 110-111). It will be a long-term iterative process, that allows theory to come through the writing. The research process is often referred to in stages; collecting the data, analysing the data and then writing up the data. This is a rather linear and, according to Butler-Kisber (2010: 30), a false depiction of what is a complex and iterative process. Analysis will occur from the outset; it is what the researcher brings to the research, what is paid attention to during the interviews and how the interviews are constructed (ibid). Working with the interview transcripts is part of the analysis, just as the writing-up phase is (Ely et al., 1997). The process of reading through and interpreting the data will continue throughout the project; this will allow theoretical insight to emerge whilst the researchers engage with the data that has been collected, something Parlett and Hamilton (1976) call 'progressive focussing'.

Conclusion

The damage caused by firearms is a major concern for the world, and the nature of the situation regarding local demand, internal circulation and importation represents a significant intelligence gap in our knowledge-base (EUROPOL, 2010). Further, analysis of firearm data is frequently hindered by a lack of transparency and the gaps in information provided by several states (UNODC, 2013).

The elimination of internal borders within the Schengen area and the subsequent ease with which crime can, and indeed has, spread has increased the need for a more coordinated system of cooperation with regard to criminal justice agencies, the police and related administrative matters (European Commission, 2015: 11). This is particularly so in terms of the strengths and weaknesses in cross-border sharing of law enforcement information (ibid). Thus, the impact and success of gun control legislation

continues to demand the attention of academics and policymakers alike and there is a need for more research into the European firearms market and use (Duquet and Van Alstein, 2014).

Based upon the literature discussed, this research project aims to explore the extent of firearm control within the EU, and the barriers associated with developing a consensus in firearms law. This research project aims to address the lack of scholarly inquiry and empirical research and to explore the diversity and variety of firearms laws, controls and regimes within the EU. The extent of gun crime, weapon trafficking and breach of firearms regulations will also be evaluated. This work will establish if there are any gaps in knowledge, and provide an overview of European Society gun control profiles, while constructing a typology of different societies and gun cultures, for example civilised or less civilised (Kopel, 1992; Munday, 1996). This will identify areas of convergence and divergence and address issues in terms of differences in how firearm violence and firearm crimes are monitored, defined, counted and recorded within the EU. The project will, therefore, support a more coordinated system of cooperation with regards to law enforcement and criminal justice agencies, and explore to what extent there is scope for a common EU policy of firearms controls?

The research will make a cross-analysis of mirror data significantly more realistic and will strengthen cross-border sharing of law enforcement information and assist with forming collaboration strategies. When supplemented with the views and interests of stakeholders (gun controllers and enforcers) the research will ascertain what the barriers to consensus are and what factors influence the future direction of EU firearms policy.

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Criminal Armourers and Illegal Firearm Supply in England and Wales

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Abstract

In response to the firearm legislation in the UK becoming progressively more restrictive criminals have had to be resourceful in respect to both their firearm supply and acquisition. Recent statistics indicate that over 50 percent of recorded firearms offences in England and Wales comprise of unidentified, imitation, reactivated or other firearms (ONS, 2015). This highlights a number of novel criminal opportunities which have been exploited to meet demand. Currently there is relatively little known about the individuals involved in the modification and supply of such weapons, including where they are positioned within the overall gun supply process (Hales et al., 2006). This paper will discuss the methodological approaches envisaged to undertake research with the aim to develop and explain the activities, motivations and *modus operandi* of criminal armourers and outline the emerging method of crime script analysis.

Key words: Gun crime, typology, armourer, United Kingdom, crime script analysis

Introduction

England and Wales have strict legislation relating to the legal acquisition, ownership and use of firearms by members of the public, ranking them as a high control, low tolerance society in relation to gun ownership (Squires, 2014; Warlow, 2007). These restrictions

have progressively become more restrictive following trends identified in the criminal misuse of firearms, government interventions, media coverage and public reaction following tragic events such as Hungerford¹ and Dunblane². In response individuals have had to be resourceful in respect to both their firearm supply and acquisition practices. Recent statistics indicate that over 50 percent of recorded firearms offences in England and Wales involve unidentified, imitation, reactivated or other firearms (ONS, 2015). The data exposes a number of novel criminal opportunities which have been exploited to meet demand, therefore suggesting the potential for a number of enforcement opportunities. Relatively little is currently known about the individuals who are involved in the supply of these types of weapons, including where they are positioned within the overall gun supply process.

In this paper I will provide an overview of the scale and dynamic nature of crime involving the use of firearms in England and Wales, providing details on the diverse range of illegal firearms currently in circulation. I will introduce my research area and drawing upon open source data I will attempt to provide an initial typology of criminal armourers who have previously been involved in the illegal supply of firearms. For this paper the term 'armourer' is defined as an individual who has either been convicted of a firearm supply offence or who has stored or collected weapons that could potentially be used by criminal individuals.

Trends and range of illegal firearms in England and Wales

Official statistics provided by the Home Office suggest that over the past three to four decades there has been a significant rise and then fall in the number of firearm offences recorded in England and Wales. Recorded offences reached the highest levels in 2003-04 with 24,094 recorded offences involving the use of firearms (including air weapons). This increase was then followed by a sharp decrease, accelerated by new legislation³, tougher

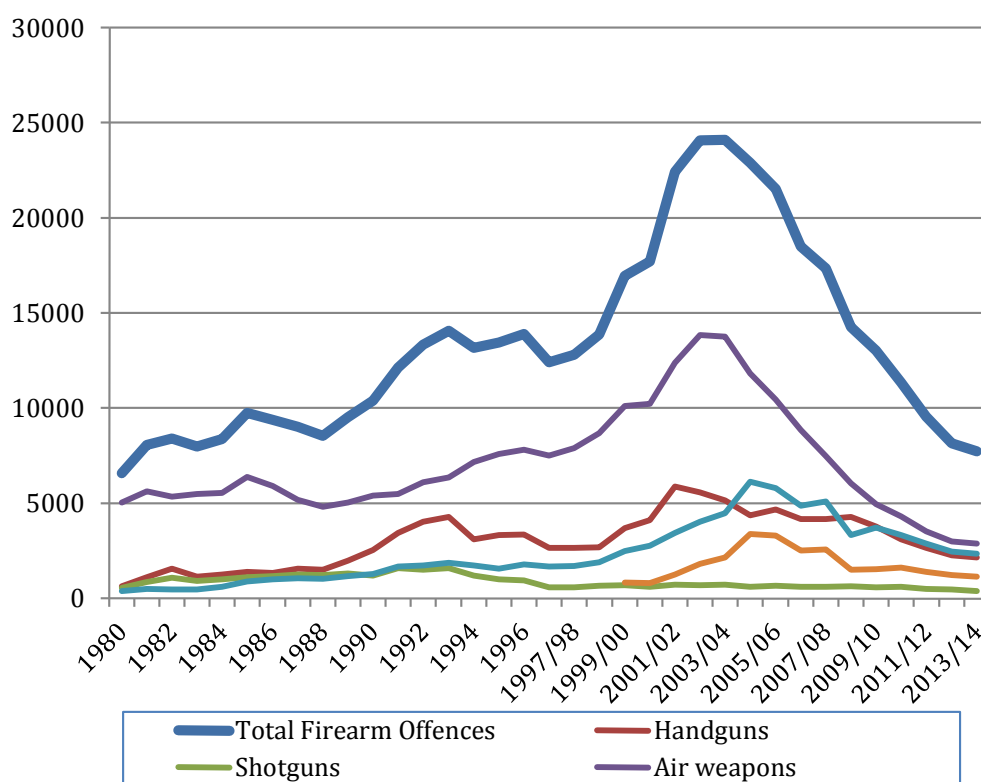
¹ On 19th August 1987 Michael Ryan, aged 27, shot and killed 16 people, including his mother, before committing suicide in the quiet town of Hungerford.

² Thomas Hamilton, aged 43, shot and killed 16 children and their teacher at Dunblane Primary School on 13th March 1996, before committing suicide.

³ Anti-Social Behaviour Act, 2003; Violence Crime Reduction Act, 2006; The Firearm (Amendment) Rules, 2007, 2010, 2013; The Firearm (Amendment) Regulations 2010; The Firearms (Electronic Communications) Order 2011; Anti-Social Behaviour, Crime and Policing Act, 2014.

sentencing⁴, policing innovations⁵ and targeted interventions⁶; a trend which is continuing, as represented in Figure 1. The most recent figures indicate 7,709 recorded firearm offences occurred during 2013-14, representing a drop of over 65% from the recorded high. Figure 1 represents not only total firearm offences but also those offences involving specific firearms such as shotguns, air weapons, handguns, imitation (data available after 1998) and other (CS gas, disguised firearms, machine guns, pepper spray, stun guns, paintball guns and weapons unable to be identified). In addition to representing the number of recorded firearm offences, Figure 1 bears witness to the steep learning curve undergone by police in England and Wales and the Home Office in terms of their understanding of the gun crime problem, especially the complex nature of illegal firearm supply.

Figure 1. Weapon types in recorded gun crime in England and Wales, 1980 – 2014



Source: Berman, 2012; ONS, 2015

⁴ The Firearms (Sentencing) (Transitory Provisions) Order 2007; Anti-Social Behaviour, Crime and Policing Act, 2014.

⁵ The National Ballistics Intelligence Service, established in 2008, provides a national (across force) database for all recovered firearms and ballistic material.

⁶ Targeted enforcement of specific groups/areas; gang-related information gathering; monitoring of previous offenders.

The significant increase in the criminal use of firearms is explained by a number of theories, centring upon risk, guardianship, opportunity and choice. Researching armed robbery in the UK, Roger Matthews identified a shift in offender *modus operandi* in post-war Britain influenced primarily by offender skills and organisation, weapon availability and the changing character of bank security (Matthews, 2002). This caught the attention of the media (ibid), raising criminal awareness of the benefit of using a firearm and, consequently, there was a notable increase in the number of armed robberies. In particular, during the 1980s Matthews noted a movement away from use of costly weapons that required care and commitment such as shotguns, to those that were cheap, easily concealed, readily accessible and disposable such as imitation or converted firearms. This change also corresponded with a shift in the types of offender, from old-style professional criminals to younger, less experienced, more spontaneous criminals (Hobbs, 1995; Matthews, 2002). Matthews argues that the most profound cause, resulting in the increase use of firearms in relation to armed robbery, is due to the gradual process of deskilling; no preparation or organisation is required by the offender(s), it is seen as sufficient to only carry a firearm as a 'frightener'.

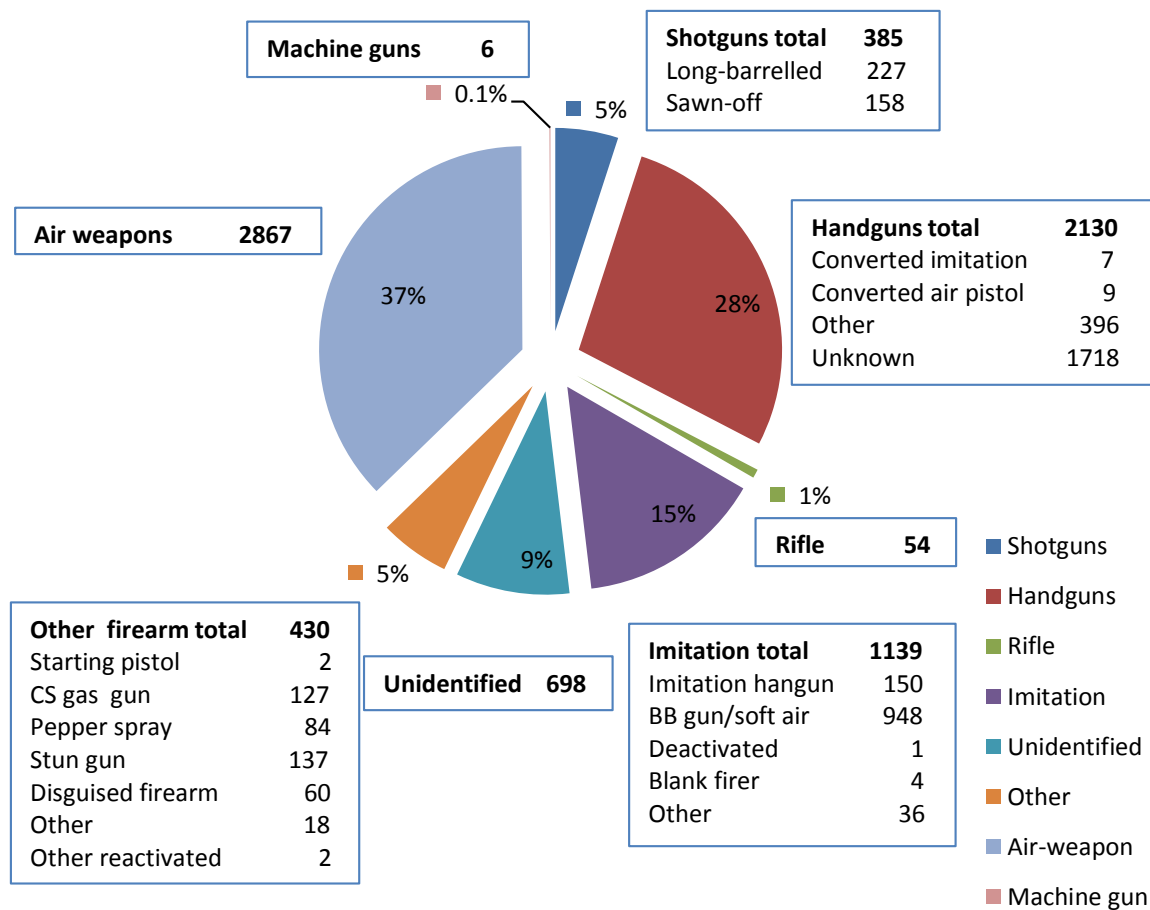
Another aspect of the significant increase was the growing use of firearms in the UK's black communities in inner city areas (McLagan, 2006). Especially problematic were the new 'Yardie' drug gangs with ties to the Jamaican drug economy (Densley and Stevens, 2015; Pitts, 2007). Although nowhere near as prevalent as in the USA, street gangs, often, involved in drug dealing, generated a demand for cheap firearms. A position in a gang and access to firearms promised marginalised young people facing racial discrimination and social exclusion access to identity, respect, excitement and otherwise unobtainable economic opportunities (Densley and Stevens, 2015). Research conducted by Hales in conjunction with the Metropolitan Police following a number of fatal shootings in the London Borough of Brent identified a strong correlation between the drug market and the possession and use of illegal firearms (Hales and Silverstone, 2005; Hales et al., 2006). In addition, findings suggested that imitation and converted imitation firearms appeared to be widely available and cheaper than purpose built firearms; consequently, it became relatively easy for some individuals to arm themselves (ibid).

One useful perspective for understanding the size, scale and trends within the illegal firearm economy involves understanding laws of criminal supply and demand. In

the wake of the 1998 (post-Dunblane) handgun ban, the Firearms Amendment Act 1997, police witnessed the surrender of over 160,000 handguns. Together with improvements in intelligence-led policing operations, such as Operation Trident in the Metropolitan Police and more effective surveillance and improved community links, the availability of 'factory-quality' handguns diminished significantly (Squires, 2014) although demand persisted (Hales et al., 2006). Using the perspective of rational choice, in which criminal behaviour changes in response to crime prevention efforts (Leong, 2014), the suppression of quality firearms forced criminals to seek out other means of sourcing firearms; these included non-lethal weapons which had been modified to fire live ammunition or those which have been fully improvised or recycled in some way (converted blank firers, engineered or reactivated firearms), amounting to a form of weapons displacement. Figure 2 visually represents the diverse mixed economy of criminal firearms based on the 7,709 recorded firearm offences in England and Wales during 2013-14 (ONS, 2015; Squires, 2014). It breaks the offences primarily into firearm type with more detailed information in each box representing the subtypes of weapons used in each category.

The information presented in Figure 2 shows that around 30 percent of the recorded firearm offences in England and Wales during 2013-14 involved firearms that were unidentified or unknown and over 20 percent involved firearms that were imitations, reactivated or other firearms. These figures support the findings of a 2006 Home Office study involving the interviewing of 80 convicted firearm offenders, which stated that for the majority supply is patchy and offenders are forced to buy whatever was on offer. This included converted imitation firearms that were considered unreliable and dangerous, as well as guns of unknown provenance that may have previously been used in serious crimes (Hales et al., 2006). Such firearms are sometimes referred to as 'junk guns' due to the fact they are often highly unreliable, underpowered, less robust, fairly inaccurate and likely to misfire (De Vries, 2011; Spapens, 2007). As stated by Squires (2014), this diverse mixed economy of illegal firearms in England and Wales represents a particularly complex, multi-layered, illegal weapon inventory, demonstrating a certain criminal inventiveness in acquiring, adapting and utilizing a variety of weapons. In addition, it also points to a requirement of a correspondingly diverse set of control, prevention and response strategies (ibid).

Figure 2. Mixed economy of illegal firearms in England and Wales, 2013 – 2014



Source: ONS, 2015

Limitations of recorded data

Interpretation of the trends in firearm offences in England and Wales must acknowledge a number of limitations in relation to police recording practices. Concerns were first raised about the use of imitation firearms in the 1980's (Squires and Kennison, 2010). At that time, they could be bought from a number of sources without any background checks and ranged from those which were incapable of firing anything to those that could fire a pellet at a high enough velocity that it could be included in the 'prohibited' category within the firearm legislation (Squires, 2014). It was not until 1998 that offences involving the use of imitation weapons were recorded separately. This leads to the possibility that prior to 1998 the substantial increase in the use of handguns could be

partially attributed to the increased use of imitation firearms (Hales et al., 2006; Squires, 2014). As a result of imitation weapons being recorded separately, a level of uncertainty remains in relation to their identification; if a firearm is only used as a 'frightener' and is neither discharged nor recovered, it sometimes is not possible to determine whether the weapon used was capable of inflicting a lethal shot or was in fact an extremely realistic imitation. Likewise, any type of weapon employed in an offence can remain unknown if it has not been discharged or recovered. Additionally, only the 'principal firearm' identified from an incident is recorded, representing intelligence gaps in relation to other weapons carried and possibly brandished left unrecorded (ibid).

Furthermore, recording standards of firearm offences have also been subject to change. Prior to 2003 guidance for police in England and Wales was to treat air weapons offences, especially those involving some kind of injury, as a firearms offence. Following the introduction of the 2003 Anti-Social Behaviour Act charges for the misuse of air weapons (unless causing serious injury) came to be recorded as anti-social behaviour offences. Likewise, offences involving possession of an imitation firearm in a public place were also recorded under the Anti-Social Behaviour Act. Furthermore, the introduction of the Violent Crimes Reduction Act 2006 made it an offence to use another person to 'look after' or 'mind' a firearm, and criminalised the possession of a firearm with the intent to injure or cause fear of violence, to use to resist arrest, to carry with criminal intent, or to carry in a public place or while trespassing in a building. The offences that fall under the Anti-Social Behaviour Act and Violent Crimes Reduction Act are not included in the overall recorded gun crime figures (ibid).

It is well known that some firearm crime goes unreported to the police, particularly within gang cultures (Squires et al., 2008). Almost all of the 80 firearm offenders interviewed by Hales et al. (2006) demonstrated the distinction between offender and victim was significantly blurred with 40 (50%) experiencing being threatened with a firearm, 29 (36%) being shot at and 8 (10%) being shot. They concluded that generally firearm crime only comes to the attention of the police in the case of fatal or serious injury, with interviewees indicating a preference for personal retribution alongside a fear of being labelled a grass. The complications of the 'no grass' culture has witnessed gunshot victims refusing to cooperate with the police while denying they have been shot only for X-ray examinations later to reveal bullets lodged in their bodies (Squires, 2014).

The limitations of the recorded firearm offence data clearly indicate an incomplete picture of the problem of gun crime in England and Wales, a concern raised by Squires (ibid).

Weapon Displacement: movement from legal to illegal

The vast majority of firearms are known to start off as legal entities, both in production and procurement, entering the illegal domain later on (Spapens, 2007). Researching the trafficking in illicit firearms for criminal purpose within the European Union, Spapens suggested that the upshot of tightening firearm legislation in the UK, alongside other European countries, is that new market opportunities are created for criminal entrepreneurs in regard to firearm supply and trafficking. He identified six leakage routes detailing how legal firearms enter the illegal domain:

1. Direct leakage from firearm factory
2. Fake exports/imports, sometimes via intermediaries
3. Conversion of non-lethal firearms (*)
4. Recycling of discarded weapons or re-use of surplus parts including deactivated) (*)
5. Theft from legal dealers or private owners of legal firearms
6. Fraud by private owners of legal firearms

These correspond with the findings of Hales et al. (2006), who identified 6 additional routes:

1. Failure to renew firearm licences
2. Legal or imitation firearms being used in an illegal manner (e.g. to intentionally injure)
3. Firearms that have a legitimate origin in the UK which have been retained following amnesties
4. Firearms that have been improvised or manufactured from scratch (*)
5. Firearms that are prohibited in the UK that have been legally imported by registered firearms dealers but which are then diverted into criminal hands

6. Military battlefield trophies

In addition, literature identifies 2 further routes:

1. Reactivation of collectible souvenirs (Squires, 2000) (*)
2. Trade traffickers (Allen, 2011)

Leakage routes identified with (*) indicate the requirement of a criminal armorer to carry out some form of modification or conversion, discussed below with examples.

Converted firearms

A converted firearm is classified as a weapon that was originally designed as an imitation, or to fire CS gas pellets, blank ammunition and/or flares, which has been re-engineered to fire live ammunition, which in some cases can be homemade (McLagan, 2006). Such weapons are legally manufactured in a number of countries, such as the Russian Baikal gas pistol and the Italian Tanfoglio alarm pistol (Spapens, 2007), and converted before or after entering the UK. Analysis of the trend in converted firearms in England and Wales using information recorded by the National Firearms Forensic Intelligence Database (NFFID) between September 2003 and September 2008 calculated that annually 21% of the firearms submitted were conversions, and identified that one of the most common types of firearm used in crime within the UK was a blank (and sometimes gas) cartridge firing handgun that had been converted to fire bulletted ammunition (Hannam, 2010). The most recent trend witnessed the increasing submission of the converted Olympic .380 BBM blank firing starter pistol during 2006-2007, (see Figure 3). With the establishment of the National Ballistics Intelligence Service (NABIS), who superseded NFFID in 2008, this trend was monitored. Following the seizure of 179 converted pistols, NABIS produced a report in 2011 detailing its operation in respect to the Olympic .380 BBM blank firer. An independent test was carried out by the Forensic Science Service which identified the Olympic .380 BBM blank firer to be 'readily converted' under the provisions of the Firearms Act 1982, consequently making it illegal to possess, supply or transfer them within the UK. A targeted amnesty across all police forces in England and Wales saw

the surrender of 1,300 firearms, thereby removing a significant number of convertible firearms from circulation. In response to the successful operation, NABIS warned that 'Criminals are entrepreneurial and will look to replace the Olympic .380 BBM with another blank firer' (Squires, 2014: 69).

Figure 3. Converted Olympic .380 BBM blank firing pistol with partial chamber and barrel obstructions removed



Source: Hannam, 2010

Improvised firearms

Open source data, predominantly newspaper reports, provided an insight into the range of firearms that have been manufactured, modified or used within criminal activities in England and Wales. Figure 4 shows a complete, improvised brass-barrel, single-shot pistol which was recovered as part of an investigation by the Metropolitan Police Service's anti-gun Trident Gang Crime Command. The pistol had been manufactured by Thomas Keatley in the garage of a rented house he shared with his mother. Alongside the improvised firearm police recovered the required 'blueprint', a USB memory stick containing 18 manuals detailing how to make handguns, machine guns and ammunition

(obtained from the internet), as well a large quantity of ammunition and the required equipment to make it.

Figure 4. A complete, improvised brass-barrel single shot pistol



Source: Webb, 2013 (original photograph Metropolitan Police)

In a very different operation, an off-chance discovery of a discarded plastic bag by a group of school-children was found to contain a firearm and ammunition. DNA evidence led police to a network of three individuals who were storing firearms believed to be intended for organised crime. Following a number of searches police recovered a large quantity of weapons; including mini torches that had been converted into working firearms (see Figure 5). The type of improvised weapon shown in Figures 4 and 5 are clearly easily concealable, unrecognisable and potentially lethal.

Figure 5. Mini torches converted into a firearm



Source: Greater Manchester Police, 2015

Antique firearms

Police are now witnessing an emerging trend in the criminal use of antique firearms. At present no licence is required to purchase and own an antique firearm, whilst what qualifies as an antique is not yet defined precisely within firearm legislation. What constitutes an antique firearm depends on a number of factors including age, if weapon calibre is obsolete, the firing mechanism, the loading and propulsion systems and the availability of ammunition (Squires, 2014). It has therefore been possible for criminals to legally purchase a fully serviceable and potentially lethal antique firearm and adapt it to fire current ammunition, or adapt ammunition to fire from it. Following the 2011 riots in England the West Midlands Police seized a number of antiques weapons including a French-made Saint-Etienne army revolver (used by the French Army in the 1870's), as well as others reaching as far back as the American Civil War and the First World War (Mackie, 2013). The killers of trooper Lee Rigby had an unloaded rusty Dutch KNIL 9.4mm revolver that was over 90 years old and which they used to threaten the police (Figure 6). Recently the same model was available online via the Gunstar website selling for £1,925; as the advert has now expired it is assumed that it has been purchased.

Figure 6. The firearm used in the attack on British soldier Lee Rigby



Source: Whitehead, 2014 (original photograph Metropolitan Police)

Recent changes to the firearm legislation, introduced in July 2014, now mean that someone who has served or received a criminal sentence can no longer possess an antique firearm. In addition, if a person receives a suspended sentence of 3 months or more they will not be able to purchase or possess a firearm or ammunition for a period of 5 years from the second day after sentence (Home Office, 2014).

Criminal Armourers: motivations and opportunities

As well as providing an insight as to the range of weapons that contribute to the diverse mixed economy of illegal firearms in England and Wales, media sources⁷ have revealed the existence of a number of criminal armourers who have been successfully apprehended and prosecuted. They have often involved themselves in elaborate arrangements to access supplies of (deactivated or convertible) firearms, then employing their knowledge, skills and contacts to adapt these weapons and sell them on. At first sight these criminal entrepreneurs appear to conform to the 'rational' choosing criminal (Cornish and Clarke, 1986) exploiting a unique market opportunity (Leclerc and Wortley, 2013) and turning their work routines to criminal purposes. Routine activity theory, for instance, emphasises how a criminal event depends upon an opportunity, a motive, and a capable offender (Clarke and Felson, 1993). Whilst these offenders can be seen to be calculating their own criminal choices, their activity also relies upon the existence of opportunities; if supplies of quality firearms were readily available their skills would be redundant, if they employed their skills in profitable legal activities they would not need to run the risk of arrest and prosecution. This particular subgroup of offenders more clearly conforms to a model of 'active decision-maker' (Cornish and Clarke, 1986), purposively pursuing criminal goals motivated by self-interest and deploying their routine skills to criminal purposes.

The information provided by newspaper articles provides some details of the individuals involved in the illegal supply of converted, modified or reactivated firearms; however, they tell us relatively little about their backgrounds, criminal histories, motivations, attitudes and working practices.

⁷ 'Lock, stock and barrel' The Guardian, 1999; 'Criminal past of jailed armourer' BBC, 2009; 'London and South East "gang armourer" Thomas Keatley jailed' BBC, 2013.

My research therefore seeks to address this gap in knowledge, working on the initial assumption that these individuals are acting as rational decision-makers, exploiting a unique market opportunity and using the theoretical framework of crime script analysis. It will be based on a series of subcultural case studies (Hobbs, 1995), to understand and explain the activities, motivations and *modus operandi* of illegal armourers in making firearms available to criminals. It will involve working alongside NABIS, obtaining statistical and operational information from their database. This information will be built on with case studies relating to successful operations and interviews with the police officers involved. Additionally, interviews will be sought with post-conviction armourers in order to explore the inner-worlds of the firearm suppliers.

The timing of this research is particularly relevant following amendments to the Firearms Act 1968 which came into effect on 14th July 2014, making it an offence to possess for sale or transfer prohibited weapons or ammunition with a maximum penalty of life imprisonment. This provision is aimed at targeting the middle market suppliers of illegal firearms, those individuals who are involved in potentially feeding new firearms into the criminal economy or most certainly circulating existing firearms.

Crime script concept

Scripts were first developed in the context of a computer simulation of the human cognitive structures and processes involved in understanding text. They form part of a hypothesised knowledge structure, or schemata, which are considered to organise our knowledge of people or events and help guide an individual in respect of others' behaviour and their own actions (Cornish, 1994). As indicated by Cornish a script is a special type of schema, known as an 'event' schema, since it organises our knowledge about how to understand and enact commonplace behavioural processes or routines. Typically, it extends over time with a causal effect, that is, early events in the sequences enable the occurrence of later events (Hancock and Laycock, 2010). Scripts therefore allow the researcher to map out and understand the sequence of any form of human behaviour and are underpinned by the process of rational choice as a decision-making tool. Mapping out of an event sequence identifies 'scenes' that make up the event and 'facets' which represent different ways the scene can be executed; in other words, events can be deconstructed into basic component actions (Brayley, 2011). One such event that

is often referred to when discussing the application of scripts is the restaurant script, put forward by Schank and Abelson (1977). It organises our knowledge on the sequence of actions that must be taken by a customer when visiting a restaurant; they must enter, wait to be seated, get the menu, order, eat, get the bill, pay and leave.

In recent years an important development of rational choice and routine activity theory has involved the application of crime script analysis, centred upon routine patterns of behaviour and decision-making points. Cornish (1994) suggested that by drawing attention to the way that events and episodes unfold, the script concept offered a useful analytic tool for looking at behavioural routines in the service of rational, purposive, goal-oriented action. Extending the rational choice event model and incorporating the concept of script, Cornish developed the application of a script-theoretic approach in order to generate, organise and systematize knowledge about the procedural aspects and procedural requirements of a particular crime commission process. In doing so he provided a framework to systematically investigate and identify all the stages of a crime-commission process of a specific crime, decisions and actions that must be taken at each stage and the resources required for successful completion. He thereby assisted criminologists in identifying a fuller range of intervention points in order to disrupt the script before its completion (Leclerc and Wortley, 2013). Put simply, a crime script represents the complete sequence of actions adopted before, during and after the commission of a specific crime, so supporting the design of situational prevention measures. Crime scripts can be built up using multiple sources of information, including material that is routinely collected by the police, interviews with offenders, investigative notes and information inferred by someone closely connected with the case. They are evolving and dynamic and can be created from partial or incomplete data which can later be added to or amended as more information becomes available (Brayley, 2011). By generating a greater understanding of the crime commission process, crime scripts can be used to identify how an offender has access to the scene, what skills and efforts are required, what tools and equipment are needed and what criminal contacts are essential. Patterns of choice and displacement can also be illuminated when certain script events are 'policed' or controlled, thus forcing offenders to make different choices or take evasive actions.

There is growing interest in the use of crime script analysis in such areas as burglary, drug manufacture and dealing, car ringing (Morselli and Roy, 2008), child sex

trafficking (Brayley, 2011), the trade in converted firearms in Holland (De Vries, 2012), and more recently the shifting *modus operandi* of Jihadist foreign fighters from the Netherlands (De Poot et al, 2015). Therefore, my research will adopt the theoretical framework of crime script analysis in order to map out the sequences of capabilities, events, opportunities and decisions that occur during the overall process of illegal firearm supply, identifying points where offenders, acting in a calculated and rational fashion, in given contexts and facing certain opportunity structures, fit themselves into the script. The overall aim of generating the crime script will be to identify a range of potential intervention points where the script can be disrupted, with the prospect of designing a diverse set of control and prevention strategies as called for by Squires (2014).

Exploring open source data

Adopting the research methodology of MacIntyre et al., (2014) when presenting a typology of British hitmen, and Yardley et al., (2014) when presenting a taxonomy of family annihilators, a number of LexisNexis searches were undertaken. LexisNexis is an electronic database which houses all major British newspapers. Searches were conducted in order to generate a list of individuals involved in the criminal activity of supplying firearms using the key terminology: 'criminal armourers', 'underworld armourers', 'dodgy dealers', 'cloned firearms', 'firearm traffickers', 'convert*' (refined to search for the term 'firearm' within results), 'reactivat*', (refined to search for the term 'firearm' within results), 'minding firearm', 'looking after firearm', 'looking after gun', 'hide his gun and you help commit the crime' (a campaign run by the Metropolitan Police to target 15-19 year old women of African and African-Caribbean heritage), 'military historian', 'historical collector' and 'antique collector'. In total 1,117 results were generated. I was able to condense the results due to repeats found in different search criteria, and a number of different articles detailing the same offender and editorials (some of which contained the names of convicted offenders). Additionally, articles were eliminated relating to religious conversions, war, and home conversions. Furthermore, the research methodology of Cameron (2013) when discussing the economics of contract killing within a UK setting, was adopted using an internet website search to identify any local newspaper articles that did not, for some reason, make it into the national press. In total

181 names were generated, including 4 unknowns due to age of offender. A further LexisNexis search was conducted on each individual in order to identify further information in regard to social and criminological background, skills and lifestyle choices including any identified drug link. Finally searches using both LexisNexis and Westlaw were conducted in order to identify any additional information available from court transcripts. Transcripts were only available for appeal cases or cases of significant interest; therefore, at this stage, I was unable to consult the court transcripts of all the 181 individuals.

Discussion

Initial interrogation of open source data has revealed the existence of a number of alternative scripts a criminal armourer may adopt in order to meet demand. Tentative groupings have been established in relation to the practices undertaken, as well as links to social and criminological backgrounds. At present there appear to be 7 potential types of armourers who have been responsible for arming criminals in England and Wales. Table 1 details the seven groups along with key characteristics and possible motivations.

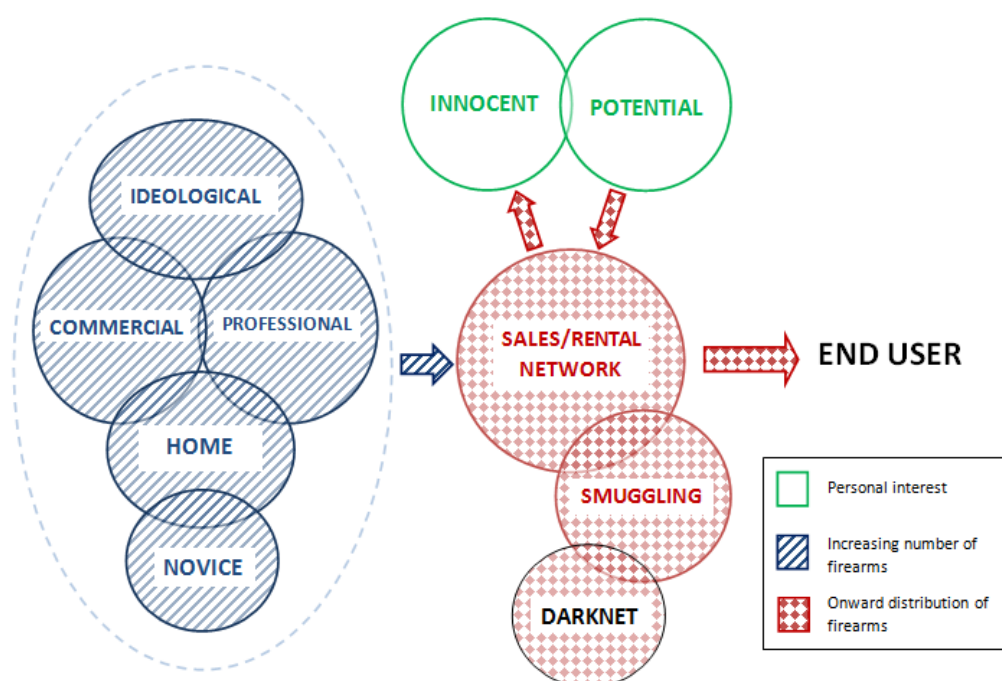
Table 1. Tentative typology of criminal armourers

	Novice	Innocent	Potential	Professional	Ideological	Commercial	Home
Description	Self-taught gunsmith with a history of criminal convictions.	Temporary weapons custodian. Looks after firearms. Vulnerable.	Firearm collector with no hidden agenda or criminal links.	Police, military or governmental background. Skilled or knowledgeable about firearms.	Alternative political or cultural beliefs.	Business owner using it as a cover to sell illegal firearms.	Skilled craftsman. Uses an area at home as a weapons factory.
Increasing number of firearms	✓	✗	✗	✓	✓	✓	✓
Previous convictions	✓	✗	✗	✗	✗	✗	✗
Firearm training/ knowledge	Self-taught	✗	✗	✓	✗	✓	✗
Drug link	✓	Male ✓ Female ✗	✗	✗	✗	✗	✗
Firearm enthusiast	✗	✗	✓	✗	✗	✓	✓
Possible motivation	Financial gain	Outside exploitation, drug debt	No criminal motivation /firearm collector	Financial gain, application of skill	Personal retribution	Financial gain	Financial gain

These groupings are an attempt to categorise an initial typology of criminal armourers, using open source data only. At this early stage it is evident that individuals can fit into more than one group, indicating a complex supply side of the illegal firearm market in England and Wales. In addition, it is well known that firearms are also modified or converted outside the UK prior to being smuggled into the country via transportation links such as the Channel Tunnel (Connolly, 2007). More recently the Darknet has offered another avenue for individuals to purchase firearms anonymously, bypassing legislation, some of which arrive into the UK via courier service (Pleasance, 2015). Analysis of the open source data also identified a number of small networks responsible for the onward distribution (sales and rentals) of firearms. Positions were identified within these networks which must be occupied in order for the network to function. These include: a ‘purchaser’ who is responsible for the sourcing of firearms (potentially from a criminal armourer); a ‘facilitator’ who aids communication between the network and customer; a ‘courier’ responsible for the transportation of the weapon(s); and a ‘custodian’ who stores the firearms prior to the sale or rental (at a cost). Figure 7 is an initial attempt to

represent the overlapping nature of the supply of illegal firearms in England and Wales; the arrows represent the direction of movement of illegal firearms.

Figure 7. Role of criminal armourers in illegal firearm supply



Ideological, commercial, professional, home and novice armourers are responsible for increasing the number of illegal firearms in circulation, (see Table 1); they therefore feed into the sale/rental network in Figure 7. In contrast the potential and innocent armourers are not directly involved in increasing the number of firearms available. The potential armourer (an individual who has either legally or illegally amassed a large collection of weapons, predominantly at home) is shown as feeding into the sales/rental network due to the possibility of their collection being targeted by criminal individuals therefore increasing the number of illegal firearms in circulation. In contrast firearms are shown as moving towards the innocent armourer for two potential reasons. As a vulnerable individual, they may be coerced into either looking after a firearm(s) for a criminal individual or taking the position of a 'courier' in a network of individuals in order to transport firearm(s) to the end user.

Conclusion

The tentative typology outlining seven criminal armourers and the understanding of their roles within the process of illegal firearm supply presented in this paper represent initial findings from the first year of my research. Future work will continue to develop this typology by exploring the role of each criminal armourer in more detail, identifying skills, knowledge and potential contacts required, populating each with case studies. In addition, collaboration with NABIS will support access to further data currently not openly available. Interviews will also be sought with police officers involved in successful operations in relation to firearm supply and post-conviction criminal armourers in order to establish a greater understanding of the activities, motivations and *modus operandi* of illegal armourers in making firearms available to criminals. Collected data will be organised and interpreted using the theoretical framework of crime script analysis in order to establish where individuals involved in illegal firearm supply are positioned in the overall firearm supply process within England and Wales, as well as identifying potential intervention and enforcement opportunities.

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