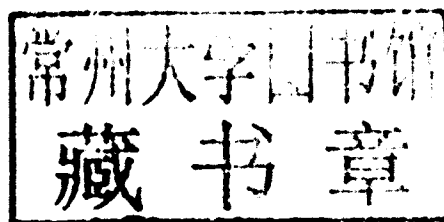


Building Modern Criminology

Forays and Skirmishes

DAVID F. GREENBERG
New York University, USA



PIONEERS IN CONTEMPORARY CRIMINOLOGY SERIES

ASHGATE

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“Hoc es corpus meum”

- Jesus of Nazareth, Matthew 26:26, Mark 14:22,
Luke 22:19, 1 Cor. 11:24

“Criminological research is not for putting people to sleep; it is for waking them up.”

- paraphrase of a quotation from Rabbi Nachman of Bratislava

“I have been a stranger in a strange land.”

- Exodus 2:22

Introduction

Of crime and of a man I sing. Here, O Muse, is how the story about a man of many turns began. I grew up in the shadow of Wrigley Field in Chicago, and became a Cubs fan at an early age. It was by no means the last time I was to embrace a losing cause. It was there that I became a pre-adolescent-limited thief¹ who shoplifted candy from the local pharmacy, and quickly escalated to other forms of theft. Somehow the police learned of some of these activities, and came after me. I will never forget the surprised look on my third-grade teacher's face when a messenger came to my class to say that the police were in the principal's office to question me about a burglary.

Fortunately, I had an air-tight alibi for the burglary. However, the short time spent in a holding cell at the police station was enough to scare me straight – for a time. I relapsed during the Vietnam War, when, frustrated by President Lyndon Johnson's failure to stop the American war on Vietnam in the face of widespread opposition, I became a founding member of CADRE (Chicago Area Draft Resisters). Inspired by the French Resistance, the Indian Independence and US civil rights movements, CADRE was devoted to stopping US war crimes in South-East Asia by ending the war through open non-violent refusal of cooperation with military recruitment, including conscription. On October 16, 1967 I was one of more than 1,200 draft-age men throughout the country who handed in their draft cards, giving up all deferments and exemptions and placing themselves in jeopardy of a five-year federal prison sentence for non-possession of a draft card.

This was by no means my first attempt to bring about social change. While in college I was an active member of the University of Chicago chapter of CORE (Congress of Racial Equality), and did civil rights work in the US South, as well as in Chicago. After I became a criminologist, the exposure I had to police and court practices while active in the civil rights and anti-war movements made me receptive to the critical currents roiling the field of criminology in the 1970s. I didn't need to read the radical criminologists who were making an appearance on the criminological scene to learn that law enforcement could be used as a weapon in political conflict, because my associates and I had already experienced or witnessed it.

In anticipation of a prison sentence for refusing to aid and abet the murderers in the Pentagon and State Department, I began reading about courts and prisons so that I would know

1 Terry Moffitt (1993) has proposed that offenders have criminal career trajectories that permit them to be classified as either 'adolescent-limited' or 'life-course persistent' offenders. Offenders in the former category largely restrict their illegal activities to the teen-age years, while those in the latter category do not abandon their illegal activities as they get older. This typology has been the subject of much research. Most of this work finds evidence for more than two classes of criminal careers. My brief career in theft came too early for me to fit into either category.

what to expect. As it happened, I was never prosecuted. The Justice Department prosecuted only cases referred to it by the local draft board, and mine never referred me. I believe I was protected by my high school science and math teachers, both of whom served on the board. I was their pride and joy for getting a PhD in physics from the University of Chicago. Many of my fellow draft resisters, however, were prosecuted. Visiting and corresponding with them while they were serving prison sentences added to my knowledge of, and curiosity about, the penal system. I even co-edited with Beverly Houghton a book of prison writings authored by war resisters – but was unable to get it published. Every publisher we contacted thought the war would end before the book came out, reducing sales. In fact the war was to continue for a number of years.

When my post-doctoral fellowship in the Carnegie-Mellon University Physics Department ended, a collapsing job market in physics, combined with political discrimination, made it impossible for me to find a physics job, even though I'd published a co-authored book and a dozen journal articles in theoretical physics. Leonard Rapping, an economist who studied with Milton Friedman and worked at the Rand Corporation before going to CMU, encouraged me to apply for admission to the CMU PhD program in Economics. I had been team-teaching an undergraduate course in radical social, political and economic theory with Rapping and two historians, Daniel Resnick and Paul Garver. Recognizing that I already knew a good deal of economics, the Department waived all course requirements. I was to take a qualifying exam and write a dissertation while being supported on Rapping's grant. After I was admitted, however, CMU revoked the admission on the grounds that I had applied after the deadline. I had, in fact, applied after the deadline, but that hadn't stopped the University from admitting me in the first place. I was told informally that a wealthy donor had threatened to withhold a very large contribution to the University if I were allowed into the PhD program. I had caught the eye of the donor through my authorship of a pamphlet about the influence the old Pittsburgh wealth had on the university through membership on the Board of Trustees, and my role in organizing a disruption of the Gulf Oil Company's stockholder's meeting.

The radical historian Staughton Lynd – a fellow draft resister – came to my aid by helping me obtain a job teaching in the Social Science Department at Columbia College. While teaching four courses a semester as a part-time adjunct instructor and working with a prisoner-support group I had founded, I wrote the first draft of the book *Struggle for Justice* under the sponsorship of the American Friends Service Committee. With young Quakers going to prison for draft law violations, the AFSC felt called to do more about courts and prisons than opening a new half-way house every five years. In response to this call, it assembled a Working Party to provide guidance for a new AFSC prison initiative. *Struggle for Justice* broke with the dominant liberal treatment ideology and argued that the exercise of unreviewed and unchecked discretion at multiple points in the criminal justice decision-making led to unjustified disparities, including systematic racial differences. Without repudiating programs to help those incarcerated, the book argued that a criminal justice philosophy based primarily on treatment enabled the infliction of profound injustices on those whose freedom was taken away for the ostensible purpose of helping them.

After one year, I lost my job at Columbia College, and for a time was unemployed. Physics jobs were still unavailable, and the social science departments to which I applied told me to go back to graduate school, something I did not want to do. An unexpected telephone

call gave me an alternative. The caller, Andrew von Hirsch, explained that when the former Republican Senator from New York, Charles Goodell, lost his re-election bid, his friends in the foundation world set him up with a large grant to study incarceration. Von Hirsch, his former legislative assistant, would actually do the study. As Goodell and von Hirsch lacked any background in the field of penology, they needed a research assistant. Though *Struggle for Justice* had not yet been released, word of it was leaking out, and von Hirsch offered me the job. The book that von Hirsch subsequently published, *Doing Justice* – an articulation of a retributivist approach to sentencing – was the product of several years of deliberation and debate by the members of the Committee for the Study of Incarceration.

When I saw the grant money running out, I applied for academic jobs in sociology with several publications on criminal justice subjects on my vita, and prominent members of the Committee as references. Hiding my sordid past by omitting my physics publications and saying nothing about the field my PhD was in, I had better luck when I applied for jobs this time. After receiving several offers, I came to New York University as a beginning assistant professor of sociology. I have been there now for 37 years.

Tenure provides the freedom and support that enables one to explore diverse subjects. Though most of my work has concerned crime and criminal justice, I have occasionally turned to the sociology of law, human sexuality (primarily gay studies), evolutionary psychology, computational linguistics, mathematical modeling and statistics. This sampling of my work is limited to crime and criminal justice. Its subtitle, *Forays and Skirmishes*, reflects two styles of writing represented in the collection. In some essays I explore new ideas, or take previously formulated theories into new areas to assess their capacity to shed light on patterns not well-understood. In other essays I criticize and debate the work of others, sometimes by finding fault with their theoretical logic, sometimes by showing that it is not consistent with empirical evidence.

Chapter 1 of this collection, ‘Delinquency and the Age Structure of Society’, grew out of my teaching. Textbooks in criminology all noted that adolescents commit crimes at higher rates than older adults, but offered little in the way of explanation. In teaching my first criminology class I wanted to do more than describe the phenomenon. At that time, Marxist analyses of crime and law were being developed by criminologists influenced by the New Left. My political experiences made me sympathetic to this approach, even though I found some of the writings of this camp to be oversimplified and mechanical. I decided to see what insights this approach might furnish when used to examine a pattern of crime that, on its face, would not seem easy to explain in a Marxist framework. Marxism was created to understand class and its social implications, not age differences, and not crime.

In developing my ideas I drew substantially on my own limited experiences as a juvenile thief and alienated student, but I tried to understand those experiences in terms provided by criminological theory. The essay’s effort to integrate macro and micro considerations was an attempt to demonstrate that the study of the master institutions of society did not preclude the study of face-to-face interactions. In my conceptualization, the dominant institutions shape the settings within which interpersonal transactions take place. At the time I was writing, many social theorists were arguing for the incompatibility of macro and micro analyses. The essay also tried to bridge theoretical gaps by drawing on two strands of criminological theory sometimes held to be mutually incompatible – strain theory and control theory. Strain theory

considers variability across individuals or groups in the strength of motivation to violate the law as a cause of differential involvement in illegal activity, while control theory considers factors that prevent those who are motivated to violate the law from actually doing so.

Some of the ideas in the paper have a close relationship to subsequent developments in analyses of crime, such as Terry Moffitt's (1993) characterization of the 'adolescence-limited' delinquent whose illegal activities are assumed to grow out of the life circumstances of teenagers, and those of Robert Sampson and John Laub (1993) about crime and the life course. They traced a group of male offenders for decades after their initial involvement in juvenile delinquency. Sampson and Laub's analyses, however, focus exclusively on social control as a factor influencing the shape of a criminal career. My essay considers both strain and control as influences on criminal behavior. I have returned to the age-crime relationship on occasion, and am currently doing research on criminal careers, a subject intimately related to the essay reprinted here.

At the time I worked on the age-crime relationship, I paid very little attention to another striking feature of contemporary crime: it is predominantly male. Differential socialization provided an obvious explanation for this predominance. There didn't seem to be much need to say more than this. Some years later, however, when I began preparing the second edition of my anthology, *Crime and Capitalism*, I realized that sex differences in crime could not be neglected. Feminist criminologists had made clear that gender was important and interesting enough to be worth studying, and I could not ignore it. Knowing little about the subject myself, I asked a leftist criminologist who specialized in gender to write a paper dealing with the gender dimension of crime from a Marxist perspective. She agreed, but after some months, told me that she couldn't write the essay. If the job was to be done, I had to do it myself.

A fortuitous conversation with political scientist Malcolm Feeley helped to shape my approach. Button-holing me at a meeting, Feeley told me that the trial proceedings of London's Old Bailey Court documented remarkably high levels of female criminality in the eighteenth century. Later, reading the trial records with NYU graduate student Annette Sroka, I confirmed what Feeley told me: the ratio of women to men among the defendants peaked in the first half of the 18th century, and then began a slow decline that bottomed out only in the early 20th century. This pattern demonstrated that the sex ratio of crime was not something that could be understood exclusively by reference to genes or hormones; there were clearly powerful social forces at work. Gender socialization could not explain this pattern either, if understood as a trans-historical universal. My essay was an attempt to see what could be said about these trends within a Marxist theoretical framework.

This use of Marxism in several of my pieces – along with my editing of an anthology highlighting Marxist analyses of crime and criminal justice – inevitably raises the question of my relationship to this theoretical tradition. Some people know from a very early age which all-embracing theory best explains the world. For some it is Freud; for others Darwin or Marx, or in the past couple of decades, Foucault. It has never seemed to me that any one theoretical tradition was likely to provide the key that would unlock every criminological door. The great theorists all seem to me to have achieved some important insights, but they also had blind spots and made mistakes. I have always viewed their works as resources for the theorist to use in understanding the world, not as divinely inspired doctrine. Not knowing

whether any specific theoretical tools will, in fact, clarify the world, I do not commit myself dogmatically to any of them. Only an ideologue would. For the same reason I do not think it helpful to view the theoretical terrain as a battleground where one sets out to demolish the claims of rival theorists. While it is essential to identify mis-steps in theorizing, I try to avoid putting all of my energies into this enterprise. This openness to all ideas does not, of course, inhibit me from pointing out what I believe to be mistakes in reasoning or in research methods when I see them. When I do so, however, I do so with the recognition that my own ideas may be mistaken. No one is infallible, not even me!

My skepticism about grand theory restrains me from trying to formulate a new grand theory of everything. In principle, ambitious theorizing has the potential for parsimoniously explaining a wide range of phenomena. When successful, such theorizing advances science greatly, and it is not surprising that some criminologists strive for it. As a result we already have a bunch of theories that aim to explain all crime. Yet each of them, it seems to me, falls short when compared with grand theories in the natural sciences, such as natural selection in biology, or quantum mechanics and relativity in physics. Reading the general theories of crime, I find myself thinking of phenomena they don't explain, or that they rely on dubious reasoning. While such efforts nevertheless deserve our admiration for their ambition, for stimulating thought, and for providing topics for PhD dissertations, I limit my own theorizing to more modest and manageable topics. I do not necessarily recommend this strategy for everyone, but for me, a sound middle-range theory is worth more than a more encompassing theory built on sand. When we have a collection of modest theories that seem to be valid, perhaps they can be synthesized into a more far-reaching theoretical structure.

Empirical research to determine whether the patterns expected on the basis of theory conform to the patterns actually present in the world is an essential part of every science. A good deal of my own empirical work on crime causation has grown out of skepticism about overstated theoretical claims made by other theorists, or about empirical claims made on the basis of research that is methodologically flawed.

When I shifted from physics to sociology, I received enormous help and support from the late John Irwin, an ex-convict criminologist who conducted interviews and observations to learn about social life. He argued that the analysis of quantified data was a poor way to study social reality. Quantitative data, he contended, are often of poor quality, and fail to capture the meanings of actions held by those being studied. The patterns revealed by statistical studies of data collected by law enforcement agencies, he insisted, reflect little more than the differential enforcement practices of the agencies, not underlying patterns of criminality.

For a time I was persuaded by these critiques of quantitative methods, and limited myself to qualitative methods. Then one of my colleagues told me that he would be going on sabbatical, and wondered whether I would be willing to teach the year-long graduate course in statistics that he regularly taught. When I told him that I did not know any statistics (as a physicist I did theoretical work, and did not analyze data), he lent me a copy of Hubert Blalock's *Social Statistics*. Reading it over the weekend, I could see that the subject was not difficult, but it also left me frustrated by its 'cook book' approach. I could apply the formulas, but didn't know how they were derived. Then I went to the library, found a book of mathematical statistics, and fell in love with the subject. A good deal of my work since then has been quantitative. I recognize some of the limitations of the data pointed out by the

symbolic interactionists, but like most quantitative criminologists, consider them to be overstated. While it is important to keep questions about the validity of the data in mind, my own assessment is that it is possible to do meaningful work using statistical methods.

The next two essays were provoked by discontent with other criminologists' analyses of temporal change in rates of violent crime. Research being done on the effect of unemployment on crime rates was failing to make use of recent developments in the statistical tools available for analyzing time series. Like a great deal of statistical research in criminology, this body of work was too casual in translating ideas about causality into equations. The essay, 'Time Series Analyses of Crime Rates' (Chapter 3) was intended to show what the new tools could teach us. The essay on long-term trends in violent crime (Chapter 4) is concerned not with annual variation but with shifts in levels of crime over the centuries. Much historical criminology strikes me as glib and superficial. Writers commonly postulate major cultural or social-structural change without doing the hard work of digging up evidence that change has actually occurred, and that it was caused by the factors postulated. This essay emphasizes the importance of doing the nitty-gritty work to accomplish this.

'Modeling Criminal Careers' (Chapter 5) was an intervention into a controversy regarding the temporal dimension of criminal offences committed. Two competing characterizations of the patterning of individual offence histories had been proposed, with the rival parties each offering some empirical evidence supporting their views. This essay showed that the aggregate patterns being cited in this debate were inherently incapable of resolving the controversy. Much research on criminal careers using individual data has taken place since my essay was written, but the issues it addresses remain unresolved to this day. Some of them are the subject of my current research.

When I first began studying criminal justice issues empirically, little was known about the effectiveness of the criminal justice system in preventing crime. I set out to establish what its impact was, to the extent that existing data permitted. In a series of essays I examined the effectiveness of rehabilitation programs, the deterrent impact of policing, and the incapacitative effect of imprisonment. In the decades since that work was done the criminal justice system has changed a great deal, so that some of the conclusions reached in those essays would not necessarily apply today. Better statistical methods are now available, but limitations of data remain a vexing problem in this type of research.

Of the two essays from this body of work included in this volume, 'The Effect of Arrests on Crime: A Multivariate Panel Analysis' (Chapter 6), represents an early use of statistical methods for the analysis of panel data to study the criminal justice system. Though newer methods for analyzing panel data are now in vogue, the methods described in this essay represent approaches of potential criminological value. 'The Incapacitative Effect of Imprisonment' (Chapter 7) illustrates my preference for analyzing quantitative problems with simple models rather than elaborate and sophisticated ones, at least when data are lacking or are of poor quality. The concerns this essay raises about selective incapacitation are as relevant today as they were 30 years ago. Though claims about the adoption of actuarial methods in the criminal justice system advanced by Feeley and Simon (1992) are over-statements,² there

2 See Greenberg (2008). Some of the most striking developments in American sentencing practices of the past few decades include high statutory minimum sentences, very long sentences for repeat

are a number of places where American courts are making use of statistical predictions of dangerousness, most notably in dealing with sex offenders.

Criminologists seek to understand not only the effects of criminal justice interventions, but the historical development of the criminal justice system. Why does the criminal law prohibit some activities but not others? Why have forms of punishment changed over time? 'The Dialectics of Crime Control' (Chapter 8) attempts to clarify the conceptual tools Marxism offers for answering these questions and uses them for insights into some of the most important developments in criminal law and criminal justice in the past few centuries. At the same time it also notes the limitations of Marxist theory for this purpose.

'The Prison as a Lawless Agency' (Chapter 10) was written when Fay Stender, a California attorney specializing in prisoners' rights litigation, approached me with the idea of publishing a law review article based on letters she received from prison inmates about the conditions of their confinement. The essay tries to analyze their circumstances in light of the political philosophy of power and attempts to restrict it in order to protect individuals from abuses by power-holders.

'The Dynamics of Oscillatory Punishment Processes' (Chapter 9) was provoked by my skepticism about Durkheimian explanations of the operations of the criminal justice system. Alfred Blumstein, Jacqueline Cohen and Daniel Nagin drew creatively on Durkheim's ideas about primitive social control to explain oscillations in prison populations. As much as I admire Durkheim, I have always found his ideas about punishment and social solidarity to be dubious. The notion that short-term oscillations in prison populations could be explained as a consequence of short-term fluctuations in social solidarity seemed especially dubious. In this paper I offered an alternative explanation, consistent with the same data Blumstein et al. used.

Despite this skepticism about some of Durkheim's ideas, his writings also provide theoretical tools that remain useful now, more than a hundred years after he wrote them. 'Punishment, Division of Labor, and Social Solidarity' (Chapter 11), draws on those ideas to illuminate the 'punitive turn' in modern criminal justice policy. Some of the best criminological minds have attempted to understand this development, and have proposed valuable insights into the social and political conditions that have given rise to this turn. However, they have not always attended to differences in the ways different polities have dealt with crime. The essay, 'State Prison Populations and Their Growth, 1971–1991' (Chapter 12), attempts to understand variability among the American states in the growth of prison populations, while 'Siting the Death Penalty Internationally' (Chapter 13), similarly addresses comparative issues by trying to explain why some countries retain the death penalty while others have abolished it. The essay argues against a narrow focus on economic factors, and provides evidence that a country's culture and politics are important determinants of its criminal justice policy. I continue to study capital punishment, both cross-nationally and within the United States.

While engaged in assembling this collection of work reflecting four decades of engagement with crime, I could not help reflecting on the field to which the essays in this collection attempt to contribute. This assessment evokes feelings of both modest satisfaction and

offenders, and sentencing provisions that exclude consideration of characteristics of the defendant that might help to predict future return to crime.

profound unease. As an institutionalized enterprise, criminology is in good shape. Courses in criminology draw large enrollments; schools and departments devoted to criminology and criminal justice proliferate, as do journals. Increasingly, criminology is an international enterprise.

Advances in research methods – particularly quantitative methods – make it possible for researchers to draw conclusions from their data with greater confidence in their answers than was possible in the past. However, limitations in the availability of data and in their reliability limit the uses of these methods. Moreover, many students are not adequately trained in these methods and some practicing criminologists misuse them. Research funding is nowhere near a desirable level, and is often limited to topics and methods of interest to the funders. The field is vulnerable to theoretical and methodological fads. The very justification for the existence of criminology as a distinct specialty within the social sciences is unclear. Still, the number of researchers and journals increases the likelihood that shaky ideas will draw criticism. The field possesses possibilities for correcting its errors.

It is in criminology's potential for informing crime control policy that unease is particularly warranted. Time and again, researchers make policy recommendations on the basis of their research findings. Then others find serious weaknesses or mistakes in the original research. Sometimes better research follows and affirms the original conclusions; sometimes it doesn't. In the years I have been working, criminological research about the effectiveness of correctional rehabilitation programs, gun control, imprisonment, capital punishment, habitual offender legislation and the effect of legalized abortion on crime have all come in for serious question (Greenberg, 2006). This instability of research findings means that criminologists ought to be cautious in formulating policy recommendations on the basis of their research. And policy-makers should treat criminal justice policy recommendations with a healthy dose of skepticism. Chances are high that someone will come along to point out a methodological flaw that raises serious doubts about the conclusions.

Even when policy-relevant research findings are sound, advocacy based on that research commonly fails to take the full range of alternatives into account. That policy A is superior to policy B according to some agreed-upon criterion does not automatically imply that A should be adopted. Perhaps policy C would be even better. Moreover, the criteria relevant for evaluating policies are sometimes open to challenge. Civil libertarians tend not to see eye-to-eye with criminal justice 'hawks' or efficiency-maximizing policy analysts about what the former consider invasions of privacy and loss of personal autonomy that accompany some crime-control policies. There may be political reasons why a policy, even if effective, should not or cannot be adopted.

Typically, authors who make recommendations about policies assume that governments are benign, and are waiting with bated breath for the insights that criminologists can give them. Yet, when major policy initiatives are undertaken, criminologists often go unconsulted. Few criminologists favored the enormous expansion of prison populations the United States has seen in recent decades, but that hasn't slowed down prison construction. In November, 1989, the American Society of Criminology adopted a resolution condemning capital punishment, but there is no evidence that any legislator has changed a vote on the death penalty, or that any judge has decided a case differently, on the basis of this resolution.

On many issues, politicians have little to gain by consulting criminologists, and consequently criminological research, even when sound, and even when it would improve crime control policy, has had limited influence on policy adoption. However, hope springs eternal, even in the hearts of criminologists, and they soldier on, hoping that next time it will be different. My political experiences and observations of the policy formation process leave me pessimistic about what my writings and those of my colleagues can accomplish by enlightening a well-intended benevolent political leadership. In principle these writings can inform a larger public, but this is an audience not easily reached. Where I think my work can inform public policy, I cannot in good conscience hold my tongue, but when I write I do so with little faith that I will make a difference. I would, of course, be delighted were my readers to prove me wrong.

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