

The academic as whistle-blower

Jock Young argues for another look at the pre-conceptions behind current practice in crime control.

In normal usage to be 'academic' implies to be more than a little divorced from reality, to be in an ivory tower separate from the down to earth world of practitioners. There is divorce between theory and practice in criminology, to be sure, but it is more profound than common sense or the lack of it. It was not academic criminology, after all, that believed that burglary could be controlled by putting neighbourhood watch stickers like totems around housing estates and encouraging people to keep their eyes open. Nor was it academics who fondly maintained that adolescent boys could be taught to desist from stealing cars by enrolling them on courses in car maintenance or cutting their hair short and marching them around parade grounds to the sound of macho-men barking out orders.

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Crime control

Nowhere is this divergence in attitudes so apparent as in the area of measurement and assessment. We live in an era of league tables, monitoring, quality control and performance indicators. Such auditing as part of the process of public accountability has progressed apace in crime control and community safety, and has been placed on a statutory footing in the recent Crime and Disorder Act (1998). The thinking behind the Act seems to incorporate two dimensions: first of all that a co-ordinated multi-agency approach to crime control can achieve considerable results; secondly that these results can be rigorously evaluated. Both of these seemingly self-obvious axioms are, in fact, highly contestable. Let me remind you of James Q Wilson's cautionary remarks in *Thinking About Crime*.

"To the extent we have learned anything at all, we have learned that the factors in our lives and history that most powerfully influence the crime rate - our commitment to liberty, our general prosperity, our child-rearing methods, our popular values - are

precisely the factors that are hardest or riskiest to change. Those things that can more easily and safely be changed - the behaviours of the police, the organisation of neighbourhoods, the management of the criminal justice system, the sentences imposed by courts - are the things that have only limited influence on the crime rate."

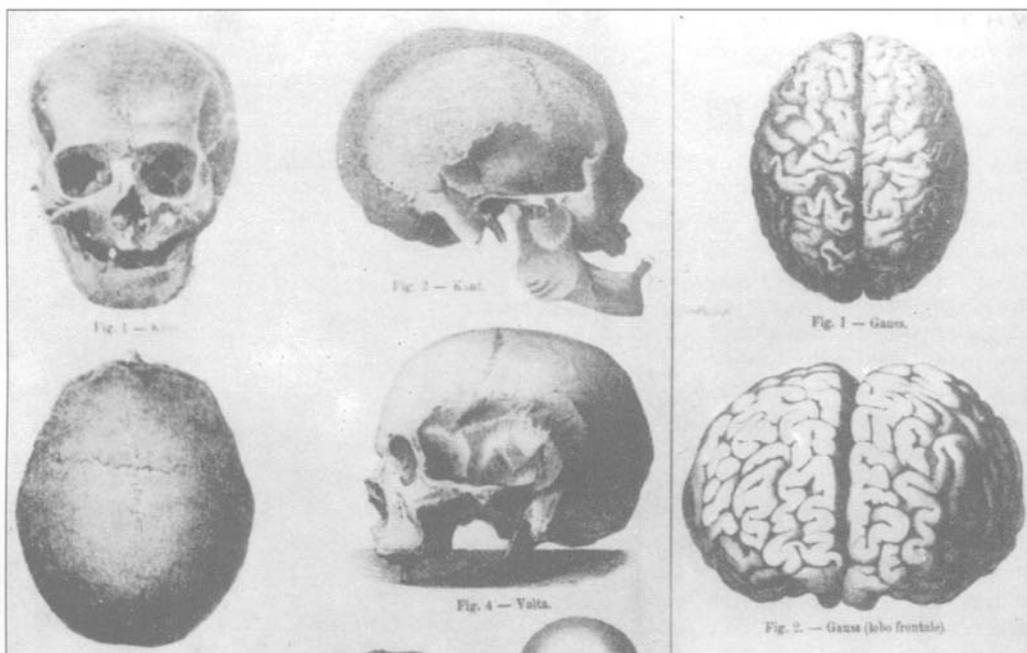
And Wilson, the hard bitten 'realist' is perhaps the most optimistic of those on the right of the political spectrum. Travis Hirschi, the influential founder of control theory, ends the *A General Theory of Crime* which he co-authored with Michael Gottfredson:

"...the state is neither the cause of nor the solution to crime. In our view, the origins of criminality of low self-control are to be found in the first six or eight years of life, during which time the child remains under the control and supervision of the family or a familial institution. Apart from the limited benefits that can be achieved by making specific criminal acts more difficult, policies directed toward enhancement of the ability of familial institutions to socialise children are the only realistic long-term state policies with potential for substantial crime reduction."

And in an article in *Society* they lambast American crime policy in the following terms:

"Lacking a theory to guide it, crime policy relies on the unexamined slogans" and "The proper response to these circumstances is to return to social theory and research. Recent events demonstrate too well that nothing is more dangerous than a policy justified only by the ambitions of politicians and bureaucrats."

Even Charles Murray, who advocates the widespread use of zero-tolerance methods together with extensive use of imprisonment, believes that because these methods will not tackle 'the root causes', they can contain 'not win, the war' and that



“Reliable statistics do not thrive either in a pressure cooker or a vacuum.”

‘if you are looking for a return to 1950s crime levels... you’re going to be disappointed.’

Wilson, Hirschi and Murray are, of course, voices from the establishment. If you turn to radicals they argue that to make a significant impact on crime rates you must change levels of employment, introduce measures which bring about equality of wealth, make moves towards creating a society which dispels market values and deconstructs masculinity - none of which, to my knowledge, are even vaguely on offer in the current notions of multi-agency intervention.

Measuring crime

Let us turn now to measurement. The applied criminologist seeks hard facts, reliable measurement, robust performance indicators and very definite notions of cause and effect. The core debate in academic criminology strikes at the very heart of this - for it consistently points to the fragility of causality and the social construction of statistics. This discourse carries within it precisely the sort of uncertainty which unsettles and disconcerts men and women ‘of the world’ with outcomes to measure and statutory obligations to fulfil.

‘Social construction’ is the key phrase, for all social statistics are a product of human bureaucracies with pressures upon them and preconceptions within them. Violence, for example, whether suicide or grievous bodily harm is not something out there to be measured but a social fact of human construction which varies in definition. Vandalism and fear of crime, likewise, have human evaluation at their core over time and between groups. The preconceptions are not a distinction of reality but part of its very nature. Rate of violence, whether suicide or GBH, will vary not only with changes in behaviour but with changes in definition. To make comparisons over time, is perfectly possible, if one takes this fundamental fact into account, but this is rarely done. It would be perfectly possible, for example, to have a rise in rates of violence because tolerance of violence has decreased even though behaviour itself had by initial standards markedly improved. To create a

statistic aware of preconceptions is one thing, to resist pressures from outside is another. Under extreme serial pressure even the most robust performance indicators corrupt. Reliable social statistics do not thrive either in a pressure cooker or a vacuum.

Both these concerns of validity and reliability need to be attended to, but the present climate, with intensive pressure to meet targets, militates against this. Anti-social behaviour is ‘up-crammed’ or ‘down-crammed’ to meet targets, the easily measurable (for example number of foot-stops or crime prevention leaflets handed out) is registered whether or not there is any positive impact on the problem.

The two problems of efficacy and measurement must be solved if we are to make any advances in the control of crime, otherwise the so called fight against crime will mire itself in incessant meetings and fudged statistics. I am fascinated by the image of the Vietnam war. There the Americans developed performance indicators into an intricate art: number of safe hamlets set up, of Vietcong dead, of bombing sorties flown and tonnage dropped, were dutifully logged. The brave commanders spent hours ticking the columns so that the only possible conclusion, as the graphs of performance rose steadily, was that the war was being won. What they did not realise was that their data was flawed and the efficacy of methods suspect; in the last analysis they did not understand the nature of the war they were fighting.

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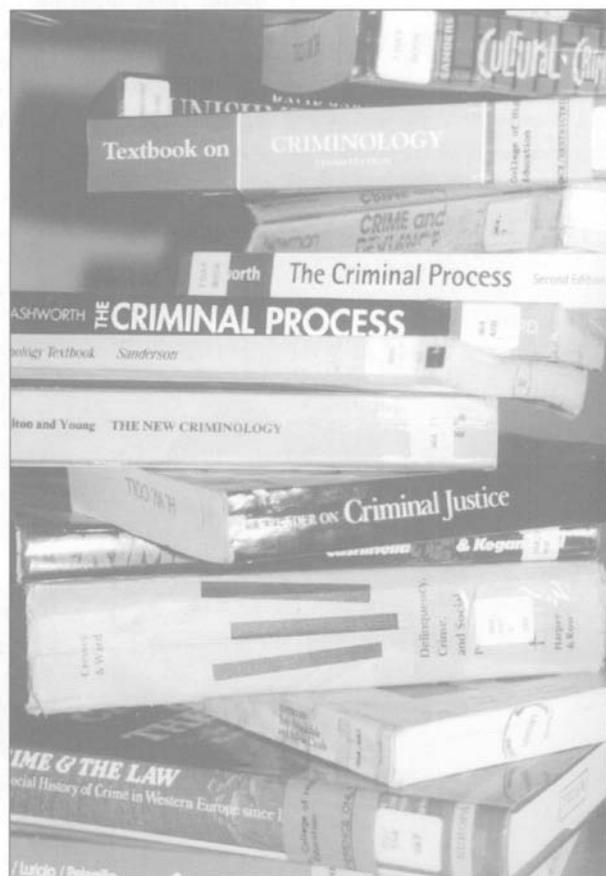
References:

- Wilson, James Q (1983) *Thinking about Crime*. New York: Basic Books
Hirschi, T & Gottfredson, M (1990) *A General Theory of Crime*. Stanford University Press
Murray, C (1996) *Does prison work?*

Criminology re-engages the public voice

Mick Ryan looks at recent developments in British penal policy-making.

In the twenty five years after 1945, penal policy making in England and Wales was very much in the hands of a small, almost exclusively male, metropolitan elite. This comprised senior civil servants; the leaders of pressure groups who, alongside a few university professors, were deemed to be the experts; senior jurists, and those politicians who were charged with running the penal system, and who were seen to be democratically accountable to Parliament.



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The nearest the public got to debating these issues with their political masters was at one of the political party conferences where party leaders met with ordinary members to discuss policy matters in general. In fact, the Labour Party rarely raised the issue of penal policy at its conferences and, while the Conservative Party did, its conference decisions on policy matters were not constitutionally binding on the party.

The role of public opinion

True, policy making elites are rarely quite as hermetically sealed as this suggests. They do not always have things all their own way.

For example, the power of public opinion in England and Wales in this period was evident in the prolonged struggle over the abolition of the death penalty and the use of corporal punishment in prisons. While there was, in principle, a strong body of support for abolition of both these practices among those elites who defined penal policy, capital punishment was only partially removed in 1957. Governments were unwilling to legislate for something that ran directly contrary to public opinion in England and Wales, as complete abolition would have done.

Legitimation

The exclusion of public opinion, should not surprise us. It is consistent with that nineteenth century tradition of European Parliamentary democracy elaborated by liberal theorists as a defence against the rise of the masses. Though they might in the modern world now exercise ultimate power over the choice of governments, they still required guidance from their educated betters, most notably academic and professional experts who developed an insular set of occupational discourses and standards which excluded the public sphere. The evolution of governance in Britain, not least in the field of penal policy making, exemplified this insularity, this liberal, expert defence.

The fact that this system was still very much in place in the post war period should also not surprise us. In historical terms mass

democracy was relatively young. Universal male suffrage was not achieved in England and Wales until 1918 and women over 21 did not secure the vote until 1928.

The new populism

This traditional, elite model of penal policy-making is being challenged in England and Wales. The public voice is now being actively re-engaged.

In a statement during the passage of the recent Crime and Disorder Bill the Home Secretary celebrated this populist approach, arguing that he now listens to ordinary communities, and not just academic experts and pressure groups. He claimed that for too long:

“the concerns of those who lived in areas undermined by crime and disorder were ignored or overlooked by [elite] people whose comfortable notions of human behaviour were matched only by their comfortable distance from its worse excesses”.

The Crime and Disorder Bill therefore represented the

“triumph of democratic politics - in truth a victory for local communities over detached metropolitan elites...” (Times, 8.4.1998).

It is easy to interpret this shift as Labour simply re-positioning itself more to the right of centre in order to challenge the Conservative Party on its own ideological territory. While I do not wish to deny such political opportunism, it seems to me that there is something else at work here.

Managing loss and re-engaging the public

The rise of the expert, the professional at the expense of the public has manifested itself in most western criminal justice systems. This has been accompanied by feelings of loss and alienation. The public felt excluded from an important area of social regulation. Of course, this exclusion was contested.

For example, while the liberal metropolitan elite with its plethora of experts may have dominated the debate (and to lesser extent) the practice of how criminals should be treated, its opinions never triumphed entirely in Britain.

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Penal practice often belied expert theory; there was always the burglar who re-offended on parole to expose the experts to public critique.

In spite of this resistance, however, the public has continued to feel a sense of loss, a feeling that it has been excluded. Government is now acknowledging this loss, and is encouraging communities to believe that they are reclaiming their voice(s) in a crucial area of social regulation.

I would argue that it signals something more layered (and yes, problematic) than simple opportunism. It is here that we connect with the new criminology.

Mobilising consent

The importance now placed on the public voice(s) is partly born out of necessity. It is not just a desire to manage loss, to wrest penal policy from the metropolitan elite(s) and their experts and restore it to communities. It is also partly, and relatedly, a consequence of other changes that have occurred throughout the criminal justice system in recent years. These have been marked by the re-introduction of members of the public in various situations into the criminal justice equation in response to the growing loss of confidence in the ability of the criminal justice system, including its highly trained expert professionals, to deal with crime.

David Garland, for example, has argued that the recurring message of the new criminology as we move towards the millennium, that “the state is not, and cannot effectively be, responsible for preventing and controlling crime,” has meant that the public, whether as citizen groups, as corporate organizations, or as individuals, has been encouraged back into the criminal justice system either at the expense of or more often, in partnership with the professionals. For Garland this marks:

“what may be the beginning of an important re-configuration of the “criminal justice state” and its relation to the citizen.” (Garland

1996)

The function of the new populism is easier to understand in this developing context. It is about the need to re-engage the public not only in crime control, but also in a dialogue about punishment. The one can hardly take place without the other. We are here talking about mobilising consent for the new criminological agenda, a classic political task.

This is not to deny that these developments arguably enhance state power, penetrate more deeply into the body politic (Garland 1996). The paradox here, of course, is that is that the rhetoric of the present government’s populism, of bringing power back to the people, is likely to be contradicted in practice.

New technologies and the media

Such paradoxes aside, these developments are testimony to the power of the claim that there is:

“an upgrading of the public voice in political communication. Instead of being positioned only to attend to and overhear the views and arguments of others (politicians, journalists, pressure group spokesmen) the experiences and opinions of “ordinary people” are being aired more often.” (Blumler and Gurevitch 1996).

This may make those academic criminologists who advocate progressive penal policies feel uncomfortable. Our “punitive obsession” is still alive and well in England and Wales. However, we cannot surely go into the new millennium believing that the new technologies which have been partly responsible for this re-positioning of criminology can be silenced by clinging to an outmoded, liberal political theory about the nature and practice of governance which owes as much to the nineteenth century as to our own.

This might leave us somewhat bewildered, even pessimistic. Bewildered because the new technologies have so fractured and divided civil society that it is sometimes difficult to be sure what

“public opinion” really is on important penal questions. Pessimistic because the emergence of powerful media monopolies challenges the autonomy of public debate leaving it open to manipulation by politicians who engage focus groups as individual consumers rather than as members of social groups struggling to make some mediated, collective response.

It is therefore easy to share Habermas’s (1989) anguish about Western European countries in general, that there is perhaps no longer a truly independent civic space in which public critical debate can take place.

But such anxieties are unlikely to go away, and future criminology agendas should be about exploring these difficult questions. The public voice is here to stay.

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Note:

This is a shorter version of an article to appear in the *International Journal of the Sociology of Law*, March 1999.

References:

Blumler J. and Gurevitch M. (1996), in *Media Change and Social Change*, Curran J and Gurevitch M ed. London: Arnold.
 Garland D. (1996) The Limits of the Sovereign State; Strategies of Crime Control in Contemporary Society, *British Journal of Criminology* vol 36 n4 Autumn 1996.
 Habermas J. (1989) *The Structural Transformation of the Public Sphere* (Oxford: Polity)

Beyond a modernist criminology

Stuart Henry explains his theory of constitutive criminology and in doing so answers his critics.

In the ten years since Dragan Milovanovic and I first formulated this theoretical perspective (see particularly, Henry, 1989; Henry and Milovanovic, 1991, 1994, 1996) we have received numerous questions asking us about various aspects of this theory. These have not come from academics, but mainly from undergraduate, graduate and even high school students, and many we get via e-mail. In addition there have been over twenty discussions of the theory in journals and books (for an assessment of these see Henry and Milovanovic, 1999). In this brief, and hopefully provocative, statement I shall try to address the issues raised in the questions in a way that summarizes the constitutive position.

Deconstructing the discourse

Constitutive criminology is a theoretical perspective that incorporates and accepts postmodernists’ anarchistic critique that knowledge is political,

subjective and hierarchical. Knowledge is not so much power as it is bodies of discourse continuously constructed and invoked by human subjects to make truth claims for use in the politics of their interaction with others. It is neither value free, objective, nor neutral, but a weapon of domination or resistance. Use of knowledge is an expression of power or resistance to power. We see socially constructed discourse as the basis for organizational activity, institutions and social structure. Constitutive criminology accepts the need for deconstruction of discourse in order to expose its constructed nature, assumptions and contradictions.

However, unlike sceptical postmodernists (see Rosenau, 1992), whose analysis comprises largely nihilistic critique, constitutive criminology takes an affirmative perspective. It believes in the political value and social reality of constructions. Constitutive criminology does not leave us in a deconstructed world, but one in which we recognize the constructed nature of the world and the continuous input of energy humans make to maintain it. Constitutive criminology takes the view that it is possible to expose, not only the tentative, contingent nature of knowledge and social reality (Butler, 1992) but also to make the politically conscious analysis that some social constructions and ways of constructing reality are more harmful and others are less harmful. Thus it proposes the concept of “replacement discourse,” which is the attempt to substitute new, less harmful discursive practices and their

associated constructions for those that are more harmful. Herein lies the politics of constitutive criminology: to deconstruct harmful constructions along with the sources and practices of their generation and to replace them with less harmful

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discursive forms that themselves are contingent and revisable. This involves putting energy into creating new social constructions that impact the wider social order. One way that this is accomplished is through an activist engagement with the mass media (Barak, 1993, 1994).

An open-ended approach

Elsewhere (Barak, Henry and Milovanovic, 1997: 93) we have summarized this basic position as follows:

The essence of the constitutive argument is that crime and its control cannot be separated from the totality of the discursively ordered, structural and cultural contexts in which it is produced. This new criminology addresses crime's interwoven connections with the wider complexity of social relationships through a synoptic analysis whereby crime is related to the "symbolic," the "imaginary," and the "real." It is an open-ended approach proposing that human subjects are responsible for actively creating their world with others, a world which simultaneously acts back, shaping the subject's own identity. Through social interaction involving language and symbolic representations, people identify and evaluate differences, construct categories, organize their activities to reflect those categories, and share a belief in the reality of that which is constructed. This shared belief gives order to otherwise chaotic states while it also recursively constructs their lives. By investing energy in socially constructed realities, human subjects are not only shaped, but they also help shape the world around them. Constitutive criminology thus furnishes a dynamic conception of social structure as a virtual and infinitely revisable society where human subjects dynamically and contingently interact.

Human subjects are thus not discrete individual entities. They are integrally bound up with the social constructions they and others make. They act towards

each other in terms of those constructions as if they were realities. Humans are permeable to their socially constructed world, as it is to them. But this is an unequal relationship; the discourse from which their subjectivity is constituted is that which exists as it is produced by others. An implication of this co-production is that human subjects are contingent, rather than complete, subjects in the making. For this reason we refer to them as "recovering subjects."

The human subject is seen as "recovering" because it is always striving for a final and certain state of being, but never arrives. Such a vision is an important first step in developing a framework that allows for the richness of human potentiality, without foreclosing its endless possibilities. The recovering human subject always has the potential to escape the cages of its own and others' constructions, not least by investing energy in new ones (Barak, Henry and Milovanovic, 1997: 95).

'Victims' and 'criminals'

Does this mean that we are all victims? It does if being a victim is taken to be being subject to oppression by virtue of our socially constructed existence. As a result of this integrational stance, seeing all knowledge as continuous rather than divided by disciplines (Barak, 1998), constitutive criminology takes an expansive position toward the concepts of crime and criminal justice.

In such a view we might consider that the focus on some people as "criminals" is merely an exaggeration of a condition of human existence that we are all subject to: powerlessness to be free from our own constructions. However, there is something uniquely concentrated about those designated as criminals. Whether single human beings or collectives of humans, constitutive criminology sees such people as "excessive investors" in the power to impose order (i.e. discursive constructions) on others. Their "crime" is a concentration of the general tendency to limit others, freedom. Their crime is that they

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act toward others as objects for domination such that in the process the subject as victim must "suffer the pain of being denied their own humanity, the power to make a difference. The victim is thus rendered a non-person, a non-human, or less complete being" (Henry and Milovanovic, 1996: 116). Rape victims feel something has been taken from them, their humanity and their dignity. Victims of financial fraud feel a loss, not just of money but a part of themselves. They are less whole than they were because they are reminded that they are vulnerable to extreme domination by others that reduces their humanity, disables, disadvantages and destroys some aspects of their sense of self as subject. This is what racism, sexism, ageism does. From the constitutive perspective all are concentrations of the general tendency for humans to relate to one another through relations of domination and subordination. Crime then becomes domination, whether by single humans such as rapists, or robbers, collectives such as organized crime or corporate fraudsters, or by state governments such as genocide. But these are the extremes of a construction process that is based on the same general principles. Indeed, this is why criminal justice is seen as harm creating; it denies human subjects their freedom to make a difference and contributes to the discursive divisions that fragment society.

Criminal justice matters

So from the constitutive/criminological position criminal justice matters because it is part of the problem, not the solution. It is a system whose practitioners act toward the world of crime as though it were a reality. It is a system designed to invest excessively in producing harm, while claiming to protect others. Instead of criminal justice we take the view that the central issue should be criminal justice. This is

not social justice in terms of equity principles but in terms of the ways we produce harm so that less is produced. In contrast to conventional criminal justice that involves institutionalizing and further fragmenting the community, the social justice approach of constitutive criminology involves an integrational orientation. Integration involves a proactive searching for and celebration of alternative and diverse discourses. As Arrigo says, this "is not a systematic, reconstitutive closure to possibilities; rather, it is an opening-up to multiple, discordant, and different expressions by which meaning and being are articulated" (1995: 465). Moreover, the integration of constitutive theory, consistent with the affirmative postmortem analysis

is not concerned with the scope and magnitude with which it accounts for the conditions or the causes of social problems. It seeks, however, to understand the manifold and ever-changing ways in which disparate groups communicate and give meaning to local sites of crime, justice, law, and community. Thus the idea of postmodern integration refers to its relational, positional, and provisional function to interpret, reinterpret, validate, and repudiate *multiple discourses* (1995:465).

Thus constitutive criminology favors peacemaking alternatives (Pepinsky and Quinney, 1991) and restorative justice approaches (Galaway and Hudson, 1996) that emphasize and restore the integral relations between humans and the communities they create and of which they are a part.

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international perspectives. Roughly, the DIC has about 300 members. In past meetings, non-North American participation was as high as one quarter of all attendees of the annual conference.

An international constituency

What strikes me - as an 'old timer' and long-standing participant - is the growth of its international constituency. This is probably due to a number of developments in academic and governmental dialogues. First of all, travel is much easier and perhaps less daunting than 20 years ago. While my Australian friends might disagree, many of us weather long-haul flights better now than then. Many of the non-North American participants are active within their

own countries' debates about crime, and bring these debates and concerns to the US meetings. It is not unusual, for instance, that I come upon a large group of Europeans (many of the Brits, Dutch, Swedish and German scholars) chatting about issues central to the crime debates in Europe. The non-North Americans may dominate even the attendance of particular sessions. To me, the value of the ASC is in the access to multiple perspectives about 'the crime problem' that flow from those living and working in very different cultural, political and theoretical traditions. For instance, the two sessions devoted to European criminology at this year's meeting were largely attended by those living outside the US. These sessions could have been held at a British Criminology

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Conference, or at another European conference. In some respects, the Europeans may have hosted a parallel network within the wider ASC. (This may also be for the Caribbean criminologists - who have recently formed their own Committee within the DIC). Yet these scholars chose (and continue to choose) to have conversations at the ASC.

Second, those who are employed within various 'official' government departments attend to discuss diverse government policy in person. The National Institute of Justice, the Dutch Ministry of Justice, the Swedish Police College, the Home Office - to name but a few - are actively exchanging research, policy perspectives and approaches to crime. The National Institute of Justice has established an International Unit, staffed by a small core of researchers whose job it is to promote US approaches to challenging crime and to discover approaches fostered by those outside the US. This unit is in its infancy, and it will be interesting to watch it develop over the next few years.

Clearly the tensions between the so-called 'state' or government-driven perspectives (some have labelled this as administrative criminology) and those who are active critics of policy-driven criminology or critical-theory driven policy exist in all the jurisdictions in which scholars live. What is interesting is to see how and whether criminologists co-operate - or not - in challenging policy and practice in criminology. In many ways government-driven crime policy folk have dominated the participation in the DIC. But this is beginning to change. The politics and the perspectives of the participants in these international forums are eclectic. I would say that this setting provides one context which some fascinating exchanges among researchers with very different perspectives and politics can and do take place. Few UK scholars, however, participate in the DIC. I would urge those who consider attending the ASC to come along to DIC events. Even better, if you are a member of the ASC, why not pay an additional ten dollars for membership to the DIC, or the other divisions?

An open invitation

Next year the meeting will take place in Toronto. In my capacity as the Chair of the Division on International Criminology this year, I hosted a luncheon for 100 people. During the conference, I introduced countless people from different countries to each other, acting as a matchmaker to those who have similar research interests. I will do this again next year. I urge you to consider attending the ASC at some point in your career as criminologists. While I am always relieved to board the plane back to London, I benefit from attending this conference. At the bare minimum, I am reminded that approaches to crime and criminal justice must be sensitive to its local context. Debating homicide in any US setting, for instance, without all participants understanding what the difference is in the use and ownership of guns across the globe, is nigh impossible. But I also feel that creative approaches in criminology and criminal justice are those adapted, drawn and re-conceptualised utilising ideas gathered from across the globe. The ASC's annual meeting - four (very long) days - provides a perfect venue for this exchange of ideas.

To join the DIC (or other divisions of the ASC) you must first be a member of the American Society of Criminology. The DIC distributes two newsletters each year. Information about the ASC may be obtained from its web site: <http://www.asc41.com> or write to Sarah Hall, The American Society of Criminology, 1314 Kinnear Road, Suite 121, Columbus, Ohio 43212, USA.

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