

# Chapter 1

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## To Treat or Not to Treat? An Historical Perspective

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### INTRODUCTION

We are passing from the sphere of history to the sphere of the present and partly to the sphere of the future (Vladimir I. Lenin, *What is to be Done?*).

There is, it seems, one statistic that can be predicted with a high degree of accuracy: each year crime figures are released; each year the number of recorded crimes will have increased compared with previous years. In England and Wales, for example, if we look back over the past few decades, the number of recorded crimes has inexorably risen, hitting milestone after milestone with monotonous regularity. In the 1950s there were 500 000 recorded crimes, a figure that steadily rose, million by million, over the following decades. Thus, the Home Office Statistical Bulletin dated 24 September 1996, notes that: “5.1 million offences were recorded by the police in the twelve months to June 1996, an increase of 0.4 per cent from the previous twelve months” (p. 1).

Now, there are many reasons to be cautious about crime figures, official or otherwise (Bottomley & Pease, 1986; Coleman & Moynihan, 1996), but the point to be made is that crime is a significant issue in contemporary society. The significance of crime is at least fourfold: first, there are victims who suffer personal harm or corporate loss; second, there are offenders and their families who may lead impoverished and unhappy lives; third, there is the cost to the public purse in running the criminal justice system and offering health care for victims; fourth, there are the general costs of insurance, repairs, and replacement of lost goods.

There is nothing new about crime. Throughout history all societies have experienced the unwanted effects and costs of crime. It is therefore reasonable to

assume that crime will always be part of our society; crime is not going to disappear from our everyday lives. If we accept this assumption, and it is one that is difficult to resist, then the crime problem can be seen as a management problem: as a society, how are we best to contain and reduce the harm and the costs of crime?

The quotation at the head of this chapter offers a structure within which the question of management of crime can be considered. In seeking to understand the current moral, philosophical, legal, political, and practical complexities associated with the treatment of offenders, we need to consider first the sphere of history.

## THE SPHERE OF HISTORY

If we look to the sphere of history in western society, it is plain that for many centuries the solution to the crime management problem lay in the hands of the rich and powerful. It was royalty, landowners, judges and the like who, in arbitrary fashion, dispensed penalties for crime. Inevitably, the punishments for crime were severe, typically involving public humiliation, mutilation, burning, and execution: in England in the mid-1800s there were more than 100 offences that were punishable by the death penalty. The beginnings of the changes that heralded the development of the current legal system took place in the mid-1700s with the advent of classical theory.

### Classical Theory

The roots of classical theory as an influence in law are traced in many texts (e.g. Roshier, 1989; Russell, 1961; Siegal, 1986) to the influence of two key figures: the Italian nobleman and economist, Cesare Beccaria (b. 1738), and the British philosopher, Jeremy Bentham (b. 1748). At a time when punishment for crime was inevitably severe in the extreme, both Beccaria and Bentham argued the case for the principle of *utility*.

The principle of utility, in which Beccaria's economic influence is clear, has its basis in a hedonistic view of human behaviour. The assumption underpinning this theoretical position is that our actions are intended to avoid pain and gain pleasure. It follows that crimes are committed when the criminal judges, making a rational choice of their own free will, that he or she is able to act in a criminal manner, avoiding pain and gaining reward. A system of criminal law, therefore, must aim to make the individual's interests the same as those of society at large; that is, neither the individual nor other members of society will want a crime to be committed. Thus, criminal law must seek to prevent crime by deterring both the individual and society from committing criminal acts by ensuring that the pain of sanctions outweighs the pleasure of a successful crime. Indeed, Bentham held that punishment should seek to achieve four outcomes:

1. To prevent crime.
2. If prevention is not achieved, then to convince a criminal to commit a less serious crime.
3. To reduce the harm inflicted during a crime.
4. To prevent crime as cheaply as possible.

The practical implications of a utilitarian philosophy were to affect profoundly the legal system across nineteenth-century Europe. Contrary to the belief of the day, utilitarianism argued that excessive punishment is both unnecessary and counter-productive in terms of preventing crime. The level of punishment, it is argued, should be in proportion to the severity of the crime. The reasoning behind this position is plain. If all crimes carry an equally harsh penalty, then there can be no selective, differential effect of punishment. For example, if child abuse and murder were both punishable by the death penalty, then logically the child abuser would have little reason not to kill their victim to prevent disclosure of the abuse. In other words, matching the crime to the punishment creates the possibility that punishment can act as a deterrent to criminal acts.

Thus, classical theory offers an explanation for criminal behaviour, and proposes a system based on punishment by which crime can be controlled. There are two key assumptions inherent within classical theory: first, that we exercise free will in making choices about our actions; second, that we act in a rational manner in making those choices.

The legacy of classical theory is clearly seen in the modern day legal systems of Europe and the United States. The principle of *mens rea*, guilty intent, lies close to the concept of free will. The dispensation by contemporary courts of punishments that seek to fit the crime, thereby acting as a deterrent to further offending, clearly owes much to utilitarian thinking. Thus, classical theory, utilitarianism, and crime prevention through punishment are powerful historical factors in shaping the way society both conceptualizes crime and develops strategies to manage the problems presented by criminal behaviour.

The most obvious challenge to the assumptions inherent in classical theory arose as the new discipline of Psychology began to take shape.

## Psychological Theory and Crime

A traditional starting place in the history of theoretical developments within mainstream psychology is, of course, the psychoanalytic theory developed by Sigmund Freud. Tracing the broad historical lineage of psychology after Freud and psychodynamic theory, we see the influence of Ivan Pavlov and B. F. Skinner in the development of learning theory; Raymond B. Cattell and Hans Eysenck in the articulation of personality theory; the movement from traditional learning theories to social learning and cognitive-behavioural theory, perhaps best typified by the work of Julian Rotter and Albert Bandura; and, most recently, the advent of cognitive psychology as seen in the writings of John Anderson and Ulric Neisser.

Now, the point to make about most of these theories is that they seek to offer accounts of human action that are not always compatible with classical theory. To take the obvious and extreme example, B. F. Skinner's radical behaviourism seeks to account for human behaviour in terms of a genotype–environment interaction and has no time for the ghost in the machine of free will.

As psychological theories unfolded, there were two further important developments: first, theories became the basis of therapies; second, the theories began to be applied to the phenomenon of criminal behaviour. Thus, to follow the broad theories outlined above, we can chart the unfolding of therapies within the tradition of psychoanalysis and psychodynamic psychotherapy; then behaviour modification, behaviour therapy, and cognitive–behaviour therapy; and, most recently, cognitive therapy. Of course, there are many variations on themes and the distinctions often become blurred in practice, but most psychologists would, I think, recognise these broad churches of therapy.

The application of psychological theories to offer an account of criminal behaviour similarly follows an historical route that closely tracks theoretical development. Psychodynamically orientated accounts of criminal behaviour are to be seen, for example, in Alexander's use of the concept of the reality principle to explain criminal behaviour (Alexander & Healy, 1935; Alexander & Staub, 1931). Similarly, Healy and Bronner (1936) applied the psychoanalytic concept of sublimation to offer an account of criminal behaviour. Most famously, and perhaps most influentially, John Bowlby's writings on material deprivation and delinquency are a clear attempt to apply psychodynamic thought to explain offending (Bowlby, 1944, 1946).

The influence of learning theory is clearly to be seen in Differential Association Theory (Sutherland, 1947), and in Differential Reinforcement Theory (Jeffery, 1965). Bandura (1973) applied his own social learning theory to aggressive behaviour, while Ronald Akers uses social learning theory in its fullest sense to develop a theory of crime (Akers, 1977; Akers, Krohn, Lanza-Kaduce & Radosevich, 1979). The application of personality theory is clearly seen in two traditions: Eysenck most famously developed the theme of personality and crime (Eysenck, 1977), while Blackburn's experimental and theoretical work clearly makes a major contribution within this approach (Blackburn, 1968, 1986).

The impact of cognitive psychology is seen in two conceptually distinct research camps. The first approach is to be found in studies that are concerned with social cognition and social information processing in offenders. A body of evidence has accrued on the relationship between social cognition, such as empathy, social problem solving, moral reasoning and social perception, and offending (Ross & Fabiano, 1985). Similarly, Kenneth Dodge has developed a comprehensive model of social information processing as applied to understanding delinquent behaviour (e.g. Crick & Dodge, 1994). Allied to this approach is the influential research by Raymond Novaco on the role of anger in violent crime (e.g. Novaco, 1994). Dodge's work is concerned with the interaction between socio-cognitive development and the aetiology of child and adolescent

problems, including delinquent behaviour. The exploration of the overlap between this work and the findings of the longitudinal research, as exemplified by the highly influential work of David Farrington (e.g. Farrington, 1995), is a project waiting to be completed.

The second cognitive approach, portraying the offender as a rational decision-maker (e.g. Cornish & Clarke, 1986), is interesting for two reasons. First, this approach applies a particular branch of cognitive research, decision-making, to understanding criminal behaviour. Second, the view of the offender as a *rational* decision-maker stands comparison with the classical view of the offender acting of their own free will. Indeed, the whole approach of rational decision-making has been seen as heralding the advent of neo-classical criminological theory.

### **Applying Theory: The Rise of Rehabilitation Through Treatment**

Not content with the development of psychological explanations of criminal behaviour, psychologists were eager to turn theory into practice. As the development of treatment methods followed theoretical advances in psychology, so a succession of therapeutic approaches was applied to work with offenders. For example, working within a psychoanalytic tradition, August Aichhorn (1925–1955) articulated a theory of latent delinquency. Working from this position, in which delinquent behaviour is seen as the product of a failure in psychological development, Aichhorn developed therapeutic methods to work with young offenders. Throughout the years up to the 1970s, treatment with offenders was dominated by methods following psychodynamic principles, with counselling and group therapy particularly widely applied. In addition, educational programmes proved popular during that period, a trend still evident today (e.g. Schweinhart, Barnes, & Weikart, 1993).

While treatment within a psychodynamic tradition continues today (e.g. Cordess & Cox, 1996), the decades since the 1970s, 1980s, and 1990s have seen an upsurge in offender treatment programmes based on behavioural and cognitive-behavioural principles (e.g. Hollin, 1990; McGuire, 1995; Nietzel, 1979; Ross & Fabiano, 1985). Thus, certainly by the late 1950s and into the 1960s, a position had been reached in which psychological theories had been applied to criminal behaviour, and associated treatments were relatively widely used for a range of offender groups.

### **Conflict Between Criminal Justice and Treatment**

It is during the 1960s that the first contemporary signs of unease can be detected. As Jeffery (1960) notes, there are three apparent assumptions inherent within a treatment philosophy; that is, *determinism*, *differentiation*, and *pathology*. Each of these three assumptions sets advocates of treatment in potential conflict with a

criminal justice system that is configured on principles stemming from classical theory.

First, determinism holds that factors outside of the individual's control—be they biological, psychological, social factors, or, more likely, some combination of all three—bring about the individual's behaviour. Second, the logical conclusion from a deterministic position is that criminals are different from non-criminals. The origin of this differentiation may be biological, psychological, or social, but the position remains that criminals are in some way different from people who are not criminals. Third, the notion of pathology, the logical next step from differentiation, is that the difference between criminals and non-criminals is one of abnormality. The cause of the abnormality may be individual to the offender (i.e. biological or psychological) or social through learning from an abnormal environment. Thus, we arrive at a position in which the offender is portrayed as a victim of circumstance, with some level of individual or social "wrongness" or abnormality as the root cause of their behaviour. Of course, it is easy to close the loop in arguing that some form of intervention, be it treatment or welfare, is needed to "cure" the offender of their crimes.

Now, clearly there are cases where the legal system makes due allowances, as, for example, with mentally disordered offenders, but in the main, determinism, differentiation, and pathology stand in direct conflict with a system based on the notion of free will (Alper, 1998). A deterministic position, in which the individual is compelled to offend by forces beyond their control, does not accord with rational hedonism as the basis for a criminal justice system.

Throughout the 1950s and 1960s an uneasy truce existed between advocates of treatment and the criminal justice system. Social and probation workers would plead their clients' cases, typically on grounds of personal or social mitigation, and the courts would consider a just verdict. However, it is clear that from a philosophical standpoint, rehabilitation and deterrence make uneasy companions.

The tensions between psychological models of offending, rehabilitation through treatment, and the theoretical underpinnings of criminal justice can be seen elsewhere in the system. As the academic study of crime grew, it became evident that criminology, with its academic base in sociology, was not going to accept easily the imposition of psychology and its attendant theories.

## **Conflict between Criminology and Psychology**

It is difficult to unravel the history of criminology with the myriad of twists and turns that characterize its development as an academic discipline both in Britain and the United States (Tierney, 1996). With its roots in early psychiatric research in prisons, much of it government funded, the first studies in criminology were steeped in a positivist tradition, searching for the essential determinants of crime and the differences between criminals and non-criminals (e.g. Burt, 1925). However, by the 1950s an identifiable sociological criminology had begun to emerge. The forerunner of this sociological tradition in criminology is generally

acknowledged to be the Chicago School and its famous studies, conducted through the 1920s, 1930s, and 1940s, showing the relationship between social organization (within the city of Chicago) and the incidence of crime (e.g. Shaw, 1930; Shaw & McKay, 1942). The American sociological criminology developed with, for example, the formulation of strain theory (Merton, 1938), Cohen's (1955) theory of delinquent subcultures, and social control theory (Hirschi, 1969). With the possible exception of Sutherland's differential association theory (Sutherland, 1939), criminology in the United States became predominantly a matter of sociological concern.

In Britain there was some criminological research in the American sociological tradition, as seen in the work of Morris (1957), Willmott (1966), and Downes (1966). However, the late 1960s and 1970s were to see a remarkable intellectual contribution by British criminologists. With its roots in deviancy theory, labelling theory, and European philosophy, the publication in 1973 of *The New Criminology* by Taylor, Walton, and Young marked the real impact of left-wing political analysis in mainstream criminology. While of immense theoretical significance, the new criminology was outright in its rejection of psychological theory and research in the criminological arena.

Since the 1970s, it appears that sociological criminology has become increasingly fragmented with the advent of left realism, critical criminology, feminist criminology, neo-classical theory, and even neo-positivism (Tierney, 1996). However, it is the 1970s that is the key period as we move from the sphere of the past to the sphere of the present.

## **Just Desserts and Marx: The Fall of Rehabilitation**

While the offender treatment ideal flourished throughout the 1950s and 1960s, the fall was waiting to happen. Like a gunshot precipitating an avalanche, the publication in 1974 of Robert Martinson's paper, "What Works? Questions and Answers About Prison Reform", heralded a rush of those eager to disavow rehabilitation. Who were these opponents of rehabilitation? Cullen and Gendreau (1989) offer an analysis of the political and academic forces that very quickly quelled the rehabilitative ideal.

The marked political shift to the right in both the United States and Britain resolved the conflict between rehabilitation and the criminal justice system. Rehabilitation had been shown not to work and the return to a criminal justice philosophy based on force of punishment and just desserts quickly followed. (Martinson's later paper, published in 1979, in which he recanted many of the views expressed in his 1974 paper had little impact.) In England and Wales, for example, the 1979 May Report on the prison service asserted that the rhetoric of training and treatment had had its day and prisons should aim no higher than humane containment. The message that "nothing works" was also in accord with the dominant criminological theories of the mid-1970s, which, as noted above, were heavily based on political analysis and rejected the need for theories of

crime that included individual factors. Thus, academic opposition to the overthrow of the rehabilitative ideal was, at best, fragmentary and, at worst, destructive (Andrews & Wormith, 1989).

As the message that “nothing works” continued to hit home during the 1980s, there were three significant strands of development. First, it was clear that any proponents of treatment (e.g. Gendreau & Ross, 1979, 1987) would be working against the ethos of the day. The 1980s became a time for the implementation of harsh measures, such as prison regimes given to boot camps and “short sharp shocks”, to punish offenders harshly and deter them from a life of crime. Second, government funding shifted away from rehabilitation and into situational crime prevention. With its roots in a view of offenders as hedonistic rational decision-makers (Cornish & Clarke, 1986), this approach was in accord with classical theory and so attracted considerable government patronage. The legacy of situational crime prevention is to be seen in the plethora of alarms, security devices, video cameras, and electronic tagging of offenders that have rapidly become part of everyday life. Third, the research base in support of the effectiveness of treatment was subjected to intense academic criticism. While all research can be criticized, the thesis has been advanced that the real intention of the adverse academic criticism was to destroy the knowledge that human scientists could bring to explaining crime (Andrews & Bonta, 1998; Andrews & Wormith, 1989).

As events unfolded, the 1980s became a low point for those holding to the rehabilitative ideal: all notions of rehabilitation of offenders, including treatment, were looked on with scepticism and disfavour. The fall from grace was at its nadir.

## THE SPHERE OF THE PRESENT

If the 1980s saw the fall of the rehabilitative ideal, then the early 1990s witnessed a spectacular resurrection, certainly in Canada and Britain and also in parts of the United States. The resurrection of treatment as an option within the criminal justice system can be directly traced to the impact of a string of meta-analytic studies of the effects of offender treatment published towards the end of the 1980s and into the 1990s (Andrews et al., 1990; Antonowicz & Ross, 1994; Cleland, Pearson, Lipton & Yee, 1997; Garrett, 1985; Gottschalk, Davidson, Gensheimer, & Mayer, 1987a, Gottschalk, Davidson, Mayer, & Gensheimer, 1987b; Izzo & Ross, 1990; Lipsey, 1992; Lösel & Köferl, 1989; Pearson, Lipton, & Cleland, 1997; Redondo, Garrido, Anguera, & Luque, 1996; Redondo, Sánchez-Meca & Garrido, 1999; Whitehead & Lab, 1989); with several syntheses also available (Gendreau, 1996; Gendreau & Andrews, 1990; Hollin, 1993, 1994, 1999; Lipsey, 1995; Lipsey & Wilson, 1998; Lösel, 1995a, 1995b, 1996; McGuire & Priestley, 1995). The message emerging from these studies was that treatment with offenders can have a small but significant effect in terms of reducing re-offending. Further, when certain treatment factors are combined, the meta-analyses

suggest that this small effect can be considerably enhanced. It has therefore proved possible to describe the characteristics of “high-impact” programmes for offenders. Briefly, high-impact programmes would have the following characteristics: theoretically, they would espouse a cognitive-behavioural perspective; they would focus on the offence behaviour of high-risk offenders; the treatment would be delivered using a structured programme with defined aims and objectives; the treatment would be delivered by highly trained practitioners; and organizations would support, manage, and evaluate the programmes to ensure high treatment integrity (Hollin, 1995; Hollin, Epps, & Kendrick, 1995).

Research findings need a voice if they are to reach policy makers and practitioners: the development of the “what works” agenda, first by a small group of psychologists and probation officers, then by increasingly large numbers from several professions and service agencies, has provided the necessary impetus for a real movement to be evident (McGuire, 1995). Now, it would be wrong to assume that the case for treatment is proven: it is evident that a great deal more work needs to be carried out on the effectiveness of treatment. In particular, the outcome evidence from current treatment programmes configured according to “what works” principles will prove critical over the coming years.

## THE SPHERE OF THE FUTURE

The resurrection of offender treatment raises some interesting possibilities in both the short and long term. In the short term it might be predicted that service agencies will focus on four interrelated aspects of treatment delivery. First, there will be a continued and growing interest in cognitive-behavioural theory and practice. Second, considerably more attention will be paid to practitioner training in order to ensure high-quality delivery of treatment programmes. Third, the issue of treatment integrity will assume greater importance, with more attention being paid to the management, supervision, and support of practitioners delivering treatment. Finally, in an era of evidence-based practice, service agencies will develop ever more sophisticated systems of monitoring and evaluating the effects of treatment.

Looking to the longer term, the predictions might be more speculative but some interesting possibilities arise. In terms of treatment content, it is likely that programmes will become ever more complex, seeking to attend to a range of criminogenic needs. This, in turn, raises questions about the configuration of service agencies: will it be tenable to have separate, dislocated agencies—say at different stages of sentence, or in custody versus community—when the aim should be coherent, sustained treatment? Further, recent evidence (e.g. Lipton, 1998) suggests that there are strong grounds, in terms of reducing recidivism, for increasing the application of “Concept Therapeutic Communities” and Milieu Therapies with offender groups.

For academics and researchers there are many issues awaiting debate. While recent attention has focused on the practical implications of “what works”, the

theoretical interpretation of the research base (mainly the meta-analyses) remains largely unattempted. It is also important that thought is given to the prevailing belief, discussed above, that “treatment equals pathology”. There urgently needs to be some conceptual reworking of this issue in order to move the field forward. However, it is the findings of the eventual long-term recidivism studies from the current “what works” programmes that will undoubtedly have the greatest impact over the next generation. It might also be hoped that there might be a rapprochement between psychology and criminology, so that both sides can constructively engage in the study and prevention of criminal behaviour.

Finally, in the long long term, might there be a paradigm shift in the criminal justice system so that classical theory is replaced by a theory more sympathetic to a human science, rather than economic, view of human behaviour? Might such a change herald the replacement of punishment by a more constructive approach to managing the problem of crime? Time, as they say, will tell.

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