

NOT ANOTHER MEDICAL MODEL: USING METAPHOR AND ANALOGY TO EXPLORE CRIME AND CRIMINAL JUSTICE'

*Rob Canton, Professor of Community and Criminal Justice, De Montfort University,
Leicester*

Abstract

This paper considers the place of metaphor and analogy in criminal justice discourse. Thinking (and speaking) metaphorically is an unavoidable aspect of the framing of social problems. Some examples are offered of the ways in which these figures of speech and thought may influence how we think about these matters, variously generating new ideas or perhaps constraining other possibilities. Metaphors may also be emotionally evocative, influencing feelings as well as thoughts. It is argued that the (often concealed and embedded) assumptions that metaphors import or sustain need to be exposed and sometimes challenged, if liberal criminology is to make its due contribution in debate about criminal justice policy. We need new ways of thinking and talking about the relationship between crime and criminal justice. In the second part of the paper, a specific analogy is drawn - between, on the one hand, crime and criminal justice and, on the other hand, health and medicine. Several points of correspondence are identified and some ideas that are perhaps more familiar in the sociology of medicine are used to illuminate criminal justice. This analogy exposes some of the assumptions in criminal justice debate and offers another way of thinking and talking about policy.

Introduction

The first part of this paper considers the use of metaphor and analogy in criminal justice discourse. When the attempt is made to understand complex phenomena like crime and criminal justice, metaphor and analogy are usually deployed. Invoking a metaphor proposes, or more often implies, that crime and criminal justice are like this. It will be argued that these 'figures of speech' (but also figures of thinking) exercise a powerful and tacit influence on the way in which people talk and think about criminal justice - an influence all the more powerful because tacit. Becoming aware of the metaphors and their influence may be a precondition of finding other ways of engaging effectively in the policy debate.

While the analysis focuses on the politics of criminal justice in England and Wales, it seems likely that it has relevance for other countries besides. Many countries, for example, are experiencing a 'new punitiveness' (for example, Pratt et al., 2005; although for a different view, Matthews, 2005) and it will be argued that the language of debate and the metaphors with which it is infused should be understood as one important aspect of the way in which penal trends emerge and are sustained.

The second part of the paper draws a particular analogy - between, on the one hand, crime and criminal justice and, on the other hand, health and medicine. Having set out the basis of this analogy, the paper identifies other points of correspondence. The analogy, then, offers another way of talking and thinking about criminal justice.

Metaphor and Analogy in Criminal Justice

Thibodeau, McClelland and Boroditsky assert that "Our language for discussing war, crime, politics, healthcare, and the economy is suffused with metaphor" (2009: 809). Metaphor is already pervasive and one of the ways in which we try to make sense of the world (id. and references there cited) and perhaps the more abstract and complex a problem, the greater our need to liken it to a more familiar phenomenon. We need metaphors to explore what kind of thing crime is and, if this is our aim, what kind of criminal justice response would be likely to reduce it.

Donald Schön insists that it is "not that we ought to think metaphorically about social policy problems, but that we do already think about them in terms of certain pervasive, tacit generative metaphors" (Schön, 1993: 139 - emphasis in original). These metaphors structure our perceptions, our understanding, our framing of problems and proposed solutions - indeed what would count as a solution (Schön, 1993). In that case it must be important to become reflexively aware of the way in which particular metaphors and analogies function in political debates, the ways in which they lead us to think and alternative interpretations that these figures may constrain.

Schön offers an example. He writes:

One of the most pervasive stories about social services... diagnoses the problem as 'fragmentation' and prescribes 'coordination' as the remedy.... Fragmented services become problematic when they are seen as the shattering of a prior integration. The services are seen as something like a vase that was once whole and now is broken... Under the spell of metaphor, it appears obvious that fragmentation is bad and coordination, good. But this sense of obviousness depends very much on the metaphor remaining tacit (1993: 138).

While Schön was not here discussing criminal justice policy, the idea of dysfunctional separateness is frequently invoked in this context too. In referring to prison and probation as silos (grain? missiles?), Carter (2003) trades on a similar metaphor, one that evokes the

idea of pathological isolation to make a case for combining services. The aspiration to ‘join up’ services may be associated with the emergence of ‘new managerialism’ in the late 1970s / early 1980s, but has been common in criminal justice discourse for many years (for example, Home Office, 2000; Home Office, 2002; Casey, 2008). It is to be noted that silo is always used negatively in discussions of this type: it does not simply describe a separation but deplores it. And in this sense it performs a similar persuasive function to Schön’s example of fragmentation.

Now historically, of course, there never was a ‘prior integration’: the agencies of criminal justice were never created to work together as any kind of system. Indeed, with the exception of the Crown Prosecution Service, these agencies were arguably never created at all: rather, they emerged and evolved in response to a diverse and sometimes contradictory set of social forces. And, as Garland puts it:

Having developed as a means of managing tensions, arbitrating between conflicting forces, and getting certain necessary things done, social institutions typically contain within themselves traces of the contradictions and pluralities of interest which they seek to regulate (Garland 1990: 282).

This does not mean that we may not now resolve to align the work of these agencies towards a common purpose. Indeed there are certainly many ways in which the agencies ought to work together more efficiently and effectively. At the same time, as Schön goes on to point out, what is seen as disconnected could as well be understood as a healthy autonomy. In a criminal justice context too, the plea for joined-upness disregards the possibility that there are virtues in some of these tensions - checks and balances that are important in a democratic society. At a deeper level, these characterisations suppose that criminal justice is an instrumental device for reducing crime. But, as Faulkner wisely insists:

Criminal justice is not only about pursuing, convicting and punishing offenders: it is also about the exercise of the state's powers of interference, intrusion, control and ultimately of coercion, and correspondingly the limits which should be placed upon those powers (Faulkner 2006: 349).

Yet whatever position is to be taken on this question, the point here is that the metaphor encourages and commends one particular way of understanding criminal justice and inhibits other conceptions.

A second example is the metaphor of balance. “In the last 30 years, the balance in the criminal justice system has been tilted too far in favour of the criminal and against the protection of the public” (Michael Howard to Conservative Party Conference 6th October 1993). This metaphor, already a cliché by 1996 (see Ashworth, 1996), was enthusiastically taken up by New Labour and is to be found in many of their policy documents. It is affirmed emphatically in the first pages of Justice for All (Home Office, 2002) where the aim of the paper is said to be to “rebalance the system in favour of victims, witnesses and

communities to deliver justice for all, by building greater trust and credibility.” It is uncritically recycled in the Casey Report (Casey, 2008) and appeared again in Punishment and Reform (Ministry of Justice, 2008) where we read “Since 1997 we have continued to reform our services to get the balance right between the rights of the accused and the rights of the victim.”

Balance is an innocently persuasive metaphor, but, especially in this context, it irresistibly evokes an image of the scales of justice, one pan to be weighed against another. This is a utilitarian conception that implies that the rights of the many may be allowed to outweigh the rights of others, whereas rights can and should function as constraints on what the state may legitimately do or what a majority might inflict upon a minority (Ashworth, 1996; Loader and Walker, 2007). Yet, no less seriously, the metaphor immediately begins to prejudice thinking in other unhelpful ways. Many offender rights – almost all rights relating to the realities of sentencing implementation – do not in any way infringe the rights of victims. To set “the rights of the accused and the rights of the victim” against each other in the context of criminal proceedings is again profoundly unhelpful. For example, defendant rights include safeguards against wrongful conviction and victims have no wish, interest or right that the wrong person be found guilty.

Again, while it is legitimate to speak of victim and offender in relation to particular criminal incidents, these are not enduring and mutually exclusive categories. On the contrary, there is compelling evidence to suggest that offenders are themselves a disproportionately victimised group. Baroness Corston noted that the offending behaviour of many women can only be understood in the context of a history of abuse (Corston, 2007). Boswell (1996) showed that the same is true of many – perhaps most – of the young men who commit grave crimes.

Yet the point here again is to expose the metaphor and to recognise the ways in which it influences thinking. The offender-victim antithesis leaves offenders ineligible to be victims. If the mental figure is of scales, then every time a claim is heard for the rights of offenders, it will immediately be regarded with suspicion, since this image tells us that every gain for offenders must entail a loss for victims. What prospect of social inclusion if the prevailing metaphor sets offenders outside and against ‘the community’? The metaphor of balance, then, prejudices thinking against inclusive ways of responding to crime and against restorative approaches that try to envision solutions that are not premised on an assumption of an inherent conflict of interest between offenders and victims.

Once a metaphor has been invoked it moulds and constrains the way in which a problem is understood, structuring perceptions and understandings of that problem and what would count as a solution to it. In this way metaphor contributes to the establishing of a hegemonic discourse – a dominant way of speaking and thinking that comes to achieve an almost unassailable self-evidence, a taken-for-grantedness that suppresses other ways of speaking about crime and punishment (Brodkey, 1987). So while metaphors are sometimes invoked deliberately and strategically, to set the parameters of debate and / or to evoke particular emotional responses, yet at other times, the same metaphors are simply inherited

and used unreflectively because this is the language in which crime and punishment are discussed.

Metaphor shapes not only our thoughts, but our feelings as well. Consider, conspicuously, the metaphor of war on crime (Steinert, 2003; Huq and Muller, 2008). War on crime, perhaps, is less prominent a motif in English criminal justice discourse than in America. (Although it is to be noted that a 1964 Government paper had the title *The War Against Crime* [Home Office 1964]). Even so, aggressive metaphors – notably fighting crime (Casey, 2008) – suffuse policy debate about crime. To understand offenders in this way – as an enemy to be conquered by force – suppresses other ways of understanding crime and identifies not only offenders but also their families (including their children) and associates as enemy and other. Liberal criminology, then, appears as appeasement and perhaps treason. To have policies shown to be unsupported by evidence or exposed as ineffective is politically disadvantageous; to be seen to be soft on crime can be electorally fatal.

Metaphors of war can also neutralise us, much like techniques of neutralisation that offenders deploy to ‘justify’ their behaviour (Sykes and Matza, 1957), against the pains that punishment so routinely and casually inflicts. An enemy is a legitimate target in a way that members of our own community are not.

What kind of the war, after all, is this? It is certainly a civil war; perhaps it is a war on our children or at any rate a younger generation; it may be a declaration of war by the powerful against the disadvantaged and dispossessed. Since criminal justice is often racialised in political debate (Wacquant, 2001), the war against crime may turn out to be a race war. It is not that those who deploy such metaphors necessarily intend or even foresee such ugly implications. It is perhaps in the nature of metaphor that it spreads and imports connotations that had not necessarily been in the mind of the speaker. Presumably the construction of a metaphor begins with a limited and determinate number of points of plausible correspondence – *x* is [like] *y* in this or that respect. But once invoked it is likely to go beyond the original point of correspondence and lead us to take – or mistake – other aspects of *y* as features of *x*.

An awareness of metaphor could contribute to a deeper understanding of the underachievement of liberal criminology in influencing criminal justice policy. As Loader (2007) shows, while criminology has sometimes acted as a liberal constraint upon penal excess, some of the main tenets of the contemporary criminology – its scepticism about punishment, its approaches to understanding the origins of crime, its insistence upon the place of reason and evidence – have failed to establish their place in mainstream political debate (Hood, 2002). Despite government pretensions to evidence-led practice, Tonry alludes to “an inverse relationship between the government’s reliance on evidence and the political salience of a subject” (Tonry, 2004: 22). It is possible that the ways in which crime and criminal justice are discussed, moulded by metaphor, makes it harder for criminology, with a different set of metaphors, to participate in the debate.

In particular, it is not just the substance of debate on policy with which criminology fails to chime, but its tone. At least part of the reason why liberal criminology has underachieved is that the academic virtues of rigour and impartiality in research and scholarship struggle to find political resonance in a stridently aggressive debate. One of the features of contemporary criminal justice discourse to which Garland draws attention is that "The emotional temperature of policy-making has shifted from cool to hot" (Garland, 2001: 11). The complex reasons why and how criminal justice debate has this particular character – and why this may differ between countries and cultures – is beyond the scope of this paper (Garland, 2001; Karstedt, 2002). The purpose here is not to explore the origins of what Loader (2005) has aptly called the affects of punishment but rather to consider how this 'temperature' is fuelled and sustained and to explore the implications for a politically relevant criminology. Metaphor, as it seems to me, is deeply involved in these processes.

One of the ways of trying to understand the complex social institution of criminal justice is through investigating its relationship with power. The practices of criminal justice, one of whose functions is to uphold the existing social structure, not only reflect prevailing power relationships, but also reproduce them (for summary and discussion, Garland, 1990). Criminal justice sometimes deploys power repressively, but it always aspires to legitimacy. The very expression criminal justice system affirms this legitimacy: the practices of the agencies that constitute this system, even those that appear coercive, are undertaken in the name of justice (Lacey, 1994).

As authoritative social institutions, then, the agencies of criminal justice act to legitimate power, including the power of the state: to turn power into accepted authority. These ideological functions of criminal justice are accomplished not only through its institutions and practices, but by the way in which we talk and think about it. Metaphor, because of its deep penetration of our thinking and language, compellingly supports these ideological influences.

Not another Medical Model

If Schön is correct in saying that we do – and do unavoidably – think metaphorically about social problems, one task is to expose the metaphors that suffuse contemporary debate. But another task is to propose other and different metaphors and analogies that enable us to understand crime and criminal justice in other ways, to say criminal justice is not so much like this but more like that. As Brodkey insists, "The only way to fight a hegemonic discourse is to teach ourselves and others alternative ways of seeing the world..." (Brodkey, 1987: 75).

In this second part of the paper, one alternative way of understanding the relationship between crime and criminal justice will be explored through the use of an explicit analogy, which likens this relationship to that between health and medicine. This analogy is set out with some hesitation: analogies between crime and disease, after all, have an undistinguished history in criminology. Most notoriously, the 'medical model' – which is said to have tried to

understand offences as a symptom of a disease for which cures should be found – was criticised as conceptually flawed (Flew, 1973) and unsupported by any evidence (MacNamara, 1976). It was also denounced as an inherently unjust foundation for punishment: states have no right to punish people on the pretext of attempting to cure them of a putative illness, but only for and in proportion to the wrongs they have done (von Hirsch 1976). Deprecated by conservatives for its denial of offenders' responsibility, it was as vehemently denounced by those who argued that the focus on the pathology of individuals masked the social injustices with which crime is often associated (American Friends Service Committee, 1971).

The analogy I want to draw here, however, does not centre on any putative offender pathologies. The focus rather is on the relationship between the formal services of criminal justice and medicine and the problems to which they are ostensibly in place to respond.

The Basic Analogy

Briefly stated the analogy is this:

The relationship between crime and criminal justice is, in many important respects, like the relationship between health and medicine. What makes people healthy? Genetic legacy is important, as well as (in the most general sense) environment: the quality of the air that people breathe, the water that they drink, the food they eat; their capacity to find adequate shelter and protection from harm; their style of life; their avoidance of harmful circumstances. But most of this is entirely beyond the reach of medicine. This by no means entails that medicine is unimportant. On the contrary, high quality medical services are essential when people are ill or injured, and medical research has helped us to understand many of the elements of a healthy life. But it does expose the limitations of medical services in ensuring our health.

Analogously, authoritative reviews of personal and social characteristics of offenders (see for example Farrington 2007) and of the influences that appear to be associated with offending across the life course (Smith 2007) draw attention to the influence of parents and carers, of other associates, of school, as well as socio-economic factors, notably poverty and limited access to resources and opportunities (social exclusion). (Some scholars would also want to consider genetic influences on offending, as well as bio-chemical factors, diet and other examples of biological positivism - see, for example, Newburn (2007) Chapter 6 for an interesting account of these approaches to understanding offending).

Most of the factors that are known to be associated with offending, though, are entirely beyond the reach of criminal justice. The implications of criminological research point policy towards a range of social and educational measures, but very few of these are criminal justice interventions. This does not mean that criminal justice is unimportant: on the contrary, trustworthy and effective criminal justice institutions have an intrinsic worth and can make a decisive difference for many people. But, just as it is unrealistic

to expect that medical services can make people healthy, so it is not reasonable to suppose that the agencies of criminal justice can solve the problems of crime. Policing activities are a modest, though important, component of crime reduction; the contribution of punishment and the penal system is even more limited.

Much of this account would be accepted by many contemporary criminologists. Garland (1996), notably, discussed the limits of the sovereign state and the strategies that government adopts to respond to the inherent incapacity of the criminal justice system to control the incidence of crime. Yet political discourse still readily reverts to criminal justice solutions to problems which originate in the socio-economic order. In this way, it performs the ideological functions referred to earlier in diverting attention away from understandings of the origins of crime that call into question the justice of this social order.

The upshot of this is, as Gross eloquently puts it, that “... we are tempted to adopt barbarous measures out of disappointment, or foolish ones of out despair, simply because we fail to achieve what we have no right to hope for in the first place” (Gross, 1979: 4 – 5).

The analogy with health clarifies the limitations of criminal justice: few people now suppose that they can neglect their own diet, lifestyle and environment and demand a cure for the consequences. (Or, if they do, government works to disabuse them of this misunderstanding).

The initial correspondence set out in the analogy, then, helps to show:

- the social origins of ill health and of crime
- the consequent possibility that social interventions can make a difference to health and to crime
- the radical limitations of medicine and criminal justice in determining levels of health and of crime
- the importance of high quality medical and criminal justice services
- the value of health and criminal justice research in enhancing understanding of the determinants of ill-health and crime

Other Points of Correspondence

There are, however, other concepts that are familiar in debates about health that can illuminate the relationship between crime and criminal justice.

Latrogenesis

One such is the concept of iatrogenesis (Illich, 1991), which refers to the way in which medical diagnosis and treatment can sometimes aggravate illness or injury or lead to other disorders. Best known examples, perhaps, include the side-effects of prescribed medications, which can aggravate the condition, occasion other disorders and / or lead to problems of

addiction – for example in the prescription of benzodiazepines (Petursson and Lader, 1981). Another well known example is Methicillin-Resistant Staphylococcus Aureus (MRSA) which, while not confined to hospitals, is still primarily related to health care (Klevens et al., 2007). Nor are iatrogenic effects confined to the patient: it is now well known, for example, that excessive and inappropriate use of antibiotics can lead to the evolution of more virulent and aggressive infections to the detriment of a wider population (Department of Health n.d.).

The most obvious criminal justice counterpart to iatrogenesis is labelling (Becker, 1963). Labelling perspectives suggest that formal state interventions often make matters worse by characterising offenders in ways which make other people react to them differently and negatively and change their own perception of self (leading often to ‘secondary deviance’ [Lemert, 1967]). It is also well established that crimes are disproportionately committed by younger people and that the normal development is to ‘grow out of crime’ (Rutherford, 1986). It is doubtful that criminal justice interventions can accelerate that process, but they can slow it down – by removing people from the environment in which they must learn to live lawfully and denying them the opportunities that they need to create and sustain law-abiding life styles. In this way, the experience of imprisonment interferes with the attainment of a ‘good life’ with which desistance is typically associated (Farrall and Calverley, 2006; Ward and Maruna, 2007). Early intervention with young people ‘at risk of offending’ seems like common sense and is universally popular in political debate, but this ignores compelling historical evidence that criminal justice interventions are as likely to make things worse as better (Goldson, 2007). Formal criminal justice interventions, then, can aggravate or even cause crime problems.

In the same way that the iatrogenic consequences of treatment can go beyond its adverse effects on the individual patient, Hancock (2008) has applied the concept of labelling to communities: some neighbourhoods come to be seen as problem places on the basis of criminal and anti-social behaviour, leading to reactions and interventions that make these problems worse. For example, employers may be reluctant to employ people who live in these areas, there will probably be a lack of investment and successful members of the community may prefer to leave. Further disadvantage and deprivation follow, leading to more crime and disorder.

Sampson also envisages the possibility of the iatrogenic effects of poorly-judged policing:

*...heavy-handed attempts by police to reduce disorder through mass arrests for minor offences... may breed cynicism among inner-city residents toward the very idea of private-public cooperation. There is mounting evidence that a strict police crackdown on minor disorder offences may jeopardise the ability of the police to work as a partner with minority neighbourhoods. There is also evidence that among marginalised groups in European cities, alienation from police authority undermines the ability of the community to aid in their own protection through mutual cooperation. The perceived legitimacy of law enforcement is thus crucial... (Sampson, 2004: 110 – *emphasis added*).*

Another (of many possible) examples is the devastating impact on the socio-economic and demographic character of communities where many residents have been imprisoned (Clear, 2002). Similarly, the way in which the disproportionate use of police powers like 'stop and search' against minority ethnic groups (Equality and Human Rights Commission, 2009) not only leads to suspicion and disaffection, but contributes to oppression through criminalisation of these groups.

At the simplest and at the least, the idea of iatrogenesis encourages humility and stands as a reminder that 'solutions' – especially technical responses to problems of living (Illich, 1991) – can sometimes make things worse.

Medicalisation – a Suitable Amount of Crime and Illness?

How much ill-health is there? To ask the question is to demonstrate its futility. The variety, intensity and persistence of physical and emotional pains and distresses are indefinite. Better questions are to ask how many of these pains and distresses are best conceptualised as illnesses and (a distinct but related question) amenable to medical treatment? No one treats every pain or discomfort as something that needs the attention of a doctor. Some discomforts go away on their own; some can be managed by responses that cannot be described as medical – for example, by resting or by taking exercise, or by changes of diet and lifestyle; other complaints may have to be tolerated, whether or not they are referred to a doctor.

This matter of whether something is (best understood as) illness is not, incidentally, a question of the degree of distress. If a woman seeks the advice of her doctor because she is stressed and ground down by overwhelming circumstances – perhaps material hardship or maybe experiences of domestic abuse – to see this as an 'illness' is by no means necessarily the best response (nor a politically neutral one). Again, there are many 'conditions' that are not susceptible to 'cure': sometimes medicine can mitigate the pain and / or prevent deterioration, but this is by no means always the case.

Similarly, Christie makes a fundamental distinction between what he refers to as deplorable acts and, on the other hand, crimes. There are many (an indefinite number of) deplorable acts whose incidence no doubt ought to be reduced, but the decision to use the criminal law to this end is a political one. There is a sense, then, in which a society can have as much crime as it wants: political decisions determine which deplorable acts are to be called and treated as crimes and brought within the remit of the formal agencies of criminal justice. But it is not at all self-evident that criminalisation is the only, the best or sometimes even a plausible way to reduce the number of such acts. Indeed, criminalisation has many other unwelcome and often unforeseen consequences (Christie, 2004)², some of them much more readily predictable than the contingent effects on the unwelcome behaviour. Yet there seems to be a chronic dependence on criminalisation as the preferred response to misbehaviour, with disregard for iatrogenic consequences. It is said that the Labour administration elected in 1997 introduced more than 4000 new offences (Sunday Times, 2010).

Anxiety and Reassurance

Somatoform disorders are defined as “...repeated presentation of physical symptoms together with persistent requests for medical investigations, in spite of repeated negative findings and reassurances by doctors that the symptoms have no physical basis.” (World Health Organisation ICD-10 [2007]: F45). Like hypochondriacal disorder – “a persistent preoccupation with the possibility of having one or more serious and progressive physical disorders” (id. F45.2) - the phenomenon is a reminder that people’s assessment of their own distress does not always coincide with the judgement of clinicians. Skilled clinicians interpret and seek to understand the origins of their patients’ distress and to explore what type of response they would find most helpful, including a realistic consideration of the treatment options and their consequences.

Taylor ponders whether levels of fear and anxiety about crime expressed in surveys

“are ‘really’ about crime and the chances of criminal victimisation, or whether the fears expressed about crime are actually a convenient and socially-approved kind of metaphor through which survey respondents can articulate ... a much more complex sense of restlessness and anxiety” (Taylor, 1998: 23). Understanding fear of crime, then, calls for interpretation and negotiation, taking seriously people’s own perceptions, but at the same time helping them to explore the dimensions of the problem and, crucially, what would count as a solution to it.

Writing about reassurance policing Innes (2006) draws attention to its several dimensions and the need to bring them to work together. These are found to be of different significance in different places. For example, in high crime areas, responding assertively to signal crimes and disorders (“deviant acts, or their material traces, that connote the presence of other risks impacting upon how individuals and groups think, feel or act in relation to their security” [Innes, 2006: 14]) brought reassurance; in more affluent – and lower crime – areas, reassurance was enhanced through community engagement and involving local people in setting policing priorities. This is a large and complex topic (Innes, 2004). The point, however, is that just as skilled clinicians must interpret expressed concerns, so too must criminal justice professionals work hard to understand the origins of crime anxieties and the implications for their work. Again, just as clinicians must remain aware of the limitations of their own contributions, criminal justice agencies must avoid any temptation to overstate their capacity to change communities: it is evident, probably banal, to say that the character of communities is determined largely by their material conditions and by the people who live in them and the extent to which this can be changed by professional and technical interventions is limited.

A limitation of the analogy should be noted here, however. While health reassurance might plausibly been seen as a private matter for the patient, the responses of criminal justice can affect different individuals and communities in different ways. For example, the assertive policing strategies that may constitute reassurance for some members of the community may well be seen as aggressive and alienating by others. Some people have much more power

than others in determining what is a problem and what would count as a solution to it. Again, the power functions of criminal justice and the language in which it accounts for its practices need to be considered.

The characterisation of some behaviour as anti-social and the reaction that this is supposed to call for from the police is a good example. The political imperative to be (seen to be) able to repress anti-social behaviour is often irresistible. The British Crime Survey now includes a question about 'teenagers hanging around' (Moon et al., 2009). 30% of respondents felt this was a problem and 81% of those "also perceived the teenagers behaviour to be anti-social" (ibid.: 23). In other words, a small but significant number of people feel that teenagers hanging around, even when their behaviour is not anti-social, constitutes a problem.

The BCS authors also comment:

It is interesting to note that perceptions of whether behaviour is anti-social differ from person to person. For example, teenagers being loud, noisy or rowdy was identified as a problem with teenagers hanging around both by those perceiving their behaviour to be anti-social and those who did not.

Christie's insight about crime applies even more emphatically to anti-social behaviour: there is a plain sense in which a society can have as much as it wants. Anti-social behaviour ranges from the very serious (and often palpably criminal) to the merely annoying and its perpetrators range from aggressive intimidators to the harmless, the neglected and the troubled. Yet it is commonly discussed in an undifferentiated way, with exaggerated claims to deal with a (potentially limitless) demand, a misplaced confidence in the ability of the police and courts to resolve it and a complete disregard of any iatrogenic consequences of some types of intervention (for example, Her Majesty's Chief Inspector of Police, 2010). It is no answer to insist that anti-social behaviour causes real distress: that is not at issue. The point is that designating all such conduct as anti-social behaviour and relying on ASBOs and criminal justice responses is by no means necessarily the only, the best or sometimes even a plausible way of reducing it. In the same way, as we have seen, not all human distress and pain is best seen as illness amenable to medical treatment.

Demands and Responsibilisation

The indefinite expansion of the category anti-social behaviour creates an insatiable demand for the services of the police and the courts. This demand may be distorted and favour the claims of the assertive and relatively powerful over the greater needs of those who lack the confidence or willingness to involve formal authorities. It is difficult to know whether differences in recorded crime – and perhaps even more in recorded anti-social behaviour – reflect differences in incidence, in thresholds of tolerance, in preparedness to involve the police and / or in the willingness of the police to respond.

Both medical and criminal justice services have to address questions of responsabilisation. It is by now a familiar idea in health care: as was established in the basic analogy, individuals are encouraged to recognise that only they are able to change some of the factors that influence their health – for example, their diet, lifestyle and use of harmful substances. Yet some people are in a better position to accept responsibility than others. In some parts of the world, access to potable water and nutritious food is limited; it is not always possible for individuals and communities to change the quality of the air that they breathe.

In the criminal justice context, the term responsabilisation refers to the idea that the state, which has in the past affirmed both its ability to deal with a variety of crime problems and its responsibility to do so, has come to place that responsibility instead on individuals, families and communities (Garland, 2001). And, as with health, in terms of their resources, their power, self-confidence and motivation, some communities are much better able to accept responsibility than others. Many high crime areas are poorly placed in these respects. The challenge for criminal justice agencies then, is to find a course between, on the one hand, a responsabilisation that asks hard-pressed and disadvantaged communities to manage their own problems and, on the other hand, an unrealistic and self-defeating claim to be able to manage high levels of crime.

Security Industry and Drug Companies

In both the medical and crime control sectors, the influence of commerce is powerful. The influence of the pharmaceutical industry on medical research, drug development and promotion, prescription and even clinical guidance is well known and has attracted political attention (for example House of Commons Health Committee, 2005). A fascinating study by Kutchins and Kirk (1997) gives an account of a symbiosis between DSM (the Diagnostic and Statistical Manual of Mental Disorders), the American psychiatric profession and drug companies. DSM defines a very large number of psychiatric disorders, the vast majority of which have been ‘discovered’ or invented in the past twenty or thirty years. Most of these are said to be responsive to medication. An indefinitely expanding set of disorders – a ‘psychiatrisation’ of problems of living – fuels the development and marketing of the medicines to treat them.

Again there are clear parallels with the growth of the crime control industry (Christie, 2000; Garland, 2001). A proliferation of security organisations, crime reduction devices and technologies is ready to respond to increased anxiety about crime and anti-social behaviour. It is in the nature of commerce that it seeks growth and new markets and the expanding categories of crimes and perceptions of anti-social behaviour fuel – and are fuelled by – commercial development³. Certainly, heightened sensitivity to risk has corrosive (iatrogenic) effects on trust and mutuality, while stimulating a demand for services and a market for devices that are believed to make people safer.

Limitations and Insights of the Analogy

Mysticism arises by taking analogy for identity - turnings similes and metaphors (or 'as' statements) into absolutes (or 'is' statements), converting a useful epistemology into 'absolute truth' (Sacks 1973: 50).

The analogy drawn in this paper is no doubt unsatisfactory and may suggest other – misleading or otherwise inappropriate – points of correspondence. Even so, an explicitly drawn analogy may be easier to reject than the implications of metaphors that insinuate their way into our habits of thinking. Perhaps an analogy should be judged less in terms of the number of points of correspondence than for its heuristic value in enhancing understanding.

The analogy has its limitations. Crime, after all, is not disease and is unlike it in many important respects. The identity of the 'patient' is also obscure in the analogy. Yet the focus of the analogy is less on crime-as-ill-health, more on the correspondence between the formal agencies of criminal justice and medical services. Whether the 'patient' is the offender, the victim or the community, the analogy suggests that there are some circumstances in which offenders can be influenced, victims helped and communities supported through crime reduction, but the contribution of the agencies of criminal justice is important, specific – and limited.

Desistance (stopping offending and staying stopped) typically depends on living a worthwhile life, including, for example, sustaining rewarding relationships and 'pro-social' ways of living. The informal social controls exercised on most of us by our partners, our friends, our colleagues and which arise spontaneously from living full lives are a much more compelling inducement to good behaviour than the external controls of criminal justice. Criminal justice agencies can support these processes but cannot ensure their achievement (Farrall and Calverley, 2006). Victims can be significantly helped – and certainly significantly let down – by the agencies of criminal justice, but the sustained recovery from grave crime is much more likely to depend upon the level of support from families, friends and informal social networks. At community level, crime reduction seems to require social, economic and political responses that include, but go beyond, the contribution of criminal justice. The criminal justice system cannot even in principle bear the main burden of these endeavours.

Concluding Remarks

In the second part of this paper, I have attempted to draw an analogy which serves to underscore a number of significant characteristics of criminal justice that are excluded or suppressed by more familiar ways of speaking about it. Some deeply embedded assumptions, concealed, but also reinforced, by aggressive metaphors like war against crime, need to be exposed. In particular, the analogy draws attention to the following:

- Iatrogenesis - criminal justice interventions, like medical ones, have the capacity to make things worse rather than better

- Medicalisation / criminalisation - challenges the view that designating bad behaviour as crime or as anti-social behaviour, just as responding to distress and pain as illnesses suitable for treatment, is the best or only way of reducing their incidence or of understanding them
- Anxieties and fears are real and must be respected, but, just as distress may be expressed in complex ways (somatoform disorders – metaphors of the mind?), uncritical responses to complaints about crime and anti-social behaviour can bring false comforts which will lead to disappointment
- Demands cannot always be met and, both for security and health, are insatiable
- Responsibilisation recognises the limitations of formal agencies to manage the problems with which they are presented and the variable ability of people to take charge of their own circumstances
- Commerce has influenced the way in which crime and health problems are understood, but has a plainly vested interest in some types of response rather than others.

Whether or not this specific analogy has merit, the thesis of the first part of this paper needs to be reaffirmed. Metaphors and other figures of speech and thought suffuse the discourse of criminal justice. They mould the ways in which it becomes possible to speak about the relationship between crime and criminal justice, but also the ways in which we are expected to feel – the affects of (criminal justice and) punishment. Becoming aware of these metaphors is a precondition of engaging in effective political debate and enabling liberal criminology to exert the influence that it should. Whether or not a medical analogy is apt, we need new ways of speaking and thinking about crime and criminal justice.

End Notes

1. I should like to express my thanks to Jean Hine for encouraging me to write this paper and for pointing me towards some valuable literature. I am also grateful to two anonymous reviewers for the Journal for the care and attention they gave to their task and for their advice about improvements to the paper.
2. Garland (1990) chides philosophers of punishment for their limited appreciation of the diverse character, forms and meanings of penalty. Similarly, juristic debates about the proper scope of the criminal law – from John Stuart Mill onwards – have tended to assume the consequences of criminalisation without regard to the contingencies of public reaction to the law, its variable enforcement and the many undesirable consequences of criminalisation.
3. While I was researching this paper and trying to track down War against crime in England and Wales 1959-1964, a well-known search engine offered me an abstract which referred to Venal Practice in a Changing Society.

References

- Allen, F. (1981) *Decline of the Rehabilitative Ideal - Penal Policy and Social Purpose*, New Haven: Yale University Press
- American Friends Service Committee (1971) *Struggle for Justice*, New York: Hill and Wang
- Ashworth, A. (1996) 'Crime, community and creeping consequentialism', *Criminal Law Review*, 43: 220 - 230

- Becker, H (1963) *Outsiders*, New York: Free Press
- Boswell, G. (1996) *Young and Dangerous: the backgrounds and careers of Section 53 offenders*. Aldershot: Avebury
- Brodkey, L. (1987) 'Writing Critical Ethnographic Narratives', *Anthropology & Education Quarterly*, 18 (2): 67 - 76
- Carter, P. (2003) *Managing Offenders, Reducing Crime: A new approach*, London: Home Office
- Casey, L. (2008) *Engaging Communities in Fighting Crime*, London: Cabinet Office - available online at http://www.cabinetoffice.gov.uk/media/cabinetoffice/corp/assets/publications/crime/cc_full_report.pdf (accessed June 2010)
- Christie, N. (2000) *Crime Control as Industry: Towards Gulags, Western Style* (3rd edition), London: Routledge
- Christie, N. (2004) *A Suitable Amount of Crime*, London: Routledge
- Clear, T. (2002) 'The Problem with "Addition by Subtraction": The Prison-Crime Relationship in Low-Income Communities in Marc Mauer and Meda Chesney-Lind (eds.) *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*, New York: New Press
- Corston, J. (2007), *The Corston Report: A Review Of Women With Particular Vulnerabilities In The Criminal Justice System*, London: Home Office - available online at <http://www.homeoffice.gov.uk/documents/corston-report/> (accessed April 2010)
- Department of Health (n.d.) *Antibiotic Resistance: General Information* online at <http://snipurl.com/vabc4> (accessed June 2010)
- Equality and Human Rights Commission (2009) *Stop and think: A critical review of the use of stop and search powers in England and Wales*, available online at http://equalityhumanrights.com/uploaded_files/raceinbritain/ehrc_stop_and_search_report.pdf (accessed June 2010)
- Farrall, S. and Calverley, A. (2006) *Understanding desistance from crime: Theoretical directions in resettlement and rehabilitation*, Maidenhead: Open University Press
- Farrington, D. (2007) 'Childhood risk factors and risk focused prevention' in Mike Maguire, Rod Morgan and Robert Reiner (eds.) *The Oxford Handbook of Criminology* (4th edition), Oxford: Oxford University Press
- Faulkner, D. (2006) *Crime, State and Citizen* (2nd edition), Winchester: Waterside Press
- Flew, A. (1973) *Crime or Disease?* London: Macmillan
- Garland, D. (1990) *Punishment and Modern Society: A Study in Social Theory*, Oxford: Oxford University Press
- Garland, D. (1996) 'The Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society', *British Journal of Criminology* 36: 445 - 471
- Garland, D. (2001) *The Culture of Control: Crime and Social Order in Contemporary Society*, Oxford: Oxford University Press
- Goldson, B. (2007) 'Child criminalisation and the mistake of early intervention', *Criminal Justice Matters*, 69 (1): 8 - 9

- Gross, H. (1979) *A Theory of Criminal Justice*, New York: Oxford University Press
- Hancock, L. (2008) 'The criminalisation of places', *Criminal Justice Matters* 74 (1): 22 - 23
- Home Office (1964) *The War against Crime in England and Wales 1959-1964*, Cmnd. 2296, London: HMSO
- Home Office (2000) *Criminal Justice: The Way Ahead*, CM 5074, London: Home Office
- Home Office, Lord Chancellor's Department and Attorney General (2002) *Justice for All*, Cm 5563
- Hood, R. (2002) 'Criminology and penal policy: the vital role of empirical research' in Anthony Bottoms and Michael Tonry (eds.) *Ideology, Crime and Criminal Justice*, Cullompton: Willan
- Howard, M. (1993) Speech to Conservative Party Conference - see <http://snipurl.com/vb0qu> (accessed June 2010)
- House of Commons Health Committee (2005) *The Influence of the Pharmaceutical Industry: Fourth Report of Session 2004-05*, available online at <http://www.parliament.the-stationery-office.co.uk/pa/cm200405/cmselect/cmhealth/42/42.pdf> (accessed June 2010)
- Huq, A. and Muller, C. (2008) 'The War on Crime as Precursor to the War on Terror', *International Journal of Law, Crime and Justice*, 36: 215 - 229
- Illich, I. (1991) *Limits To Medicine: Medical Nemesis - The Expropriation of Health*, Harmondsworth: Penguin
- Karstedt, S. (2002) 'Emotions and Criminal Justice', *Theoretical Criminology*, 6 (3) 299 - 317
- Klevens, R. et al. (2007) 'Invasive Methicillin-Resistant Staphylococcus Aureus Infections in the United States', *Journal of the American Medical Association*, 298 (15): 1763 - 1771
- Kutchins, H. and Kirk, S. (1999) *Making Us Crazy: DSM - The Psychiatric Bible and the Creation of Mental Disorders*, London: Constable
- Lacey, N. (1994) 'Introduction: Making sense of criminal justice' in Nicola Lacey (ed.) *A Reader on Criminal Justice*, Oxford: Oxford University Press
- Lemert, E. (1967) *Human Deviance, Social Problems and Social Control*, Englewood Cliffs, NJ: Prentice-Hall
- Loader, I. (2005) 'The Affects of Punishment: emotions, democracy and penal politics', *Criminal Justice Matters* 60 (1): 12 - 13
- Loader, I. (2007) 'Has liberal criminology lost?' Eve Saville Memorial lecture, Centre for Crime and Justice Studies, available online at <http://www.crimeandjustice.org.uk/opus253.html> (accessed June 2010)
- Loader, I. and Walker, N. (2007) *Civilizing Security*, Cambridge: Cambridge University Press
- MacNamara, D. (1977) 'The Medical Model in Corrections' *Criminology* 14 (4) 439 - 448
- Matthews, R. (2005) 'The myth of punitiveness' *Theoretical Criminology*, 9 (2): 175 - 201
- Ministry of Justice (2008) *Punishment and Reform: Our Approach to Managing Offenders*, London: Ministry of Justice available online at <http://www.justice.gov.uk/publications/punishment-reform.htm> (accessed June 2010)
- Moon, D. et al. (2009) 'Perceptions of crime and anti-social behaviour: Findings from the 2008/09 British Crime Survey: Supplementary Volume 1 to Crime in England and Wales 2008/09', Home Office Statistical Bulletin 17 / 09 - available online at <http://www.homeoffice.gov.uk/rds/pdfs09/hosb1709.pdf> (accessed June 2010)
- Petursson, H. and Lader, M. (1981) 'Withdrawal from long-term benzodiazepine treatment', *British Medical Journal* 283: 643 - 645
- Pratt, J., Brown, D., Brown, M., Hallsworth, S. and Morrison, M. eds. (2005) *The New Punitiveness: Themes, theories, perspectives*, Cullompton: Willan

- Rutherford, A. (1986) *Growing Out of Crime*, Harmondsworth: Penguin
- Sacks, O. (1973) *Awakenings*, Harmondsworth: Penguin
- Sampson, R. (2004) 'Neighborhood and community: Collective efficacy and community safety', *New Economy* 11 (2): 106 - 113
- Schön, D. (1993) 'Generative Metaphor: A perspective on problem-setting in social policy' in Andrew Ortony (ed.) *Metaphor and Thought* (2nd edition), Cambridge: Cambridge University Press
- Smith, D.J. (2007) 'Crime and the life course' in Mike Maguire, Rod Morgan and Robert Reiner (eds.) *The Oxford Handbook of Criminology* (4th edition), Oxford: Oxford University Press
- Steinert, H. (2003) 'The indispensable metaphor of war: On populist politics and the contradictions of the state's monopoly of force', *Theoretical Criminology*, 7 (3): 265 - 291
- Sunday Times (2010) '4,300: How Labour has created a new crime every day since 1997' available online at <http://www.timesonline.co.uk/tol/news/politics/article7061148.ece> (accessed June 2010)
- Sykes, G. and Matza, D. (1957) 'Techniques of Neutralization: a theory of delinquency', *American Sociological Review*, 22: 664-670
- Taylor, I. (1998) 'Crime, market-liberalism and the European Idea' in Vincenzo Ruggiero, Nigel South and Ian Taylor (eds.) *The New European Criminology: Crime and Social Order in Europe*, London: Routledge
- Thibodeau, P., McClelland, J., and Boroditsky, L. (2009) 'When a bad metaphor may not be a victimless crime: The role of metaphor in social policy' in N. A. Taatgen & H. van Rijn (eds.), *Proceedings of the 31st Annual Conference of the Cognitive Science Society* (pp. 809-814), Austin, TX: Cognitive Science Society - available online at <http://www-psych.stanford.edu/~jlm/papers/ThibodeauMcClellandBoroditsky09CogSciProc.pdf> (accessed June 2010)
- Tonry, M. (2004) *Punishment and Politics: Evidence and emulation in the making of English crime control policy*, Cullompton: Willan Publishing
- von Hirsch, A. (1976) *Doing Justice: The Choice of Punishments*, New York: Hill and Wang
- Wacquant, L. (2001) 'Deadly symbiosis: when ghetto and prison meet and mesh', *Punishment and Society* 3 (1), 95 - 133
- Ward, T. and Maruna, S. (2007) *Rehabilitation*, London: Routledge
- World Health Organisation (2007) *International Statistical Classification of Diseases and Related Health Problems (10th Revision: Version for 2007)* available online at <http://apps.who.int/classifications/apps/icd/icd10online/> (accessed June 2010)

Copyright of British Journal of Community Justice is the property of Sheffield Hallam University and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.