STUDIES IN PENAL THEORY AND PENAL ETHICS

Ethical and Social Perspectives on Situational Crime Prevention

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HART PUBLISHING

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SITUATIONAL CRIME PREVENTION has drawn increasing interest in recent years, yet the debate has looked mainly at whether it 'works' to prevent crime. Little attention has been paid to how it alters conceptions and strategies of crime prevention in modern society, and to the ethical questions concerning its potential impact on freedom and privacy.

This volume addresses the ethics of situational crime prevention. Are situational crime prevention strategies likely to constrain unduly people's freedom of movement? Do such strategies involve an intrusive scrutiny of people's everyday activities? Can ethical principles be developed that would help distinguish acceptable from unacceptable forms of intervention?

It also examines the place of situational crime prevention within criminology. To what extent does its emergence represent a basic shift in thinking about the nature of crime, and about prospects and strategies for dealing with it? To what extent is crime being treated as a 'normal' risk to be managed? How far does situational crime prevention place responsibility for crime prevention beyond the state apparatus to the organisations and institutions of civil society? What are the social and political implications of doing so?

These questions are addressed by thirteen distinguished criminologists in the papers which make up the volume. Together they advance our understanding of the ethical and societal questions underlying crime prevention.

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Preface

'Situational crime prevention' refers to crime prevention strategies that aim at reducing criminal opportunities in the routines of everyday life. Methods of situational crime prevention (SCP) include 'hardening' potential targets, improving natural surveillance, controlling access to property, and deflecting offenders from settings in which crimes might occur. This approach, pioneered by Ronald V. Clarke and others in the late 1970s and 80s, has now become an important area of criminal-justice research and policy. To get a sense of SCP's influence, one needs merely to stroll down the streets of an English city, and witness the extent to which CCTV cameras, steering wheels locks and burglar alarms have become standard features of our urban environment.

While there has been extensive discussion and research on situational crime prevention in recent years, much of it has focused on SCP's more technical aspects: criminologists have been concerned to ask 'does SCP work?', 'does it merely displace crime to other locales?' and 'do its assumptions match what we know about prospective offenders and victims?' There has been much less discussion of how to *situate* this approach and of how it relates to the policy predicaments and strategies of crime prevention that characterise contemporary society. SCP also raises a variety of ethical questions – concerning, for example, its potential impact on the freedom of people to go about their everyday business. It seems to us that the time has come for addressing these issues, and for legal scholars, philosophers and sociologists to join criminologists in assessing SCP's social and ethical aspects.

This volume, in its various essays, addresses two kinds of questions. The *first* concerns the ethics of situational crime prevention. To what extent do SCP strategies unduly constrain people's liberty of movement? Will such strategies involve increased scrutiny of people's everyday activities, and what problems are involved in such scrutiny? Can ethical principles be developed that would help distinguish acceptable from unacceptable forms of intervention? The *second* kind of question concerns SCP's position in criminological discourse and in the contemporary culture of crime control. To what extent does SCP represent a shift in thinking about the nature of crime, and about the prospects and strategies for dealing with it? Does the emergence of SCP reflect a fundamental change in our expectations concerning crime prevention in a modern society? To the extent SCP treats crime as a 'normal' risk to be managed, or looks beyond the state apparatus to the organisations and institu-

tions of civil society, what are the social and political implications of doing so?

Insofar as the ethics and social aspects of situational crime prevention have been addressed at all, the discussion has tended to be couched in sweeping terms. Sceptics argue that SCP leads to a fortress or a 'Panopticon' society, that it is manipulative and amoral in its management of conduct, that it involves a cynical view of people's motivations, and so on. Defenders of SCP suggest that its strategies are generally benign, that they are less intrusive than punishment; and that problematic applications (such as the sale of CCTV tapes for public entertainment purposes) can readily be dealt with. The essays in this volume will suggest that the relevant issues are actually more complex, and more interesting. It is only certain types of SCP strategies, not all, that potentially interfere with such important rights as privacy and freedom of movement. How and to what extent they do so varies with the particulars of the practices involved. Certain SCP strategies may inhibit social trust, or may erode citizens' attachment to values of law abidingness; others may do the contrary. In discussing the ethics and the social aspects of situational crime prevention, it is essential to address and analyse *which* SCP strategies, *which* ethical values, and *which* social norms and practices are involved. The essays in this volume embark upon this task, and suggest the value of that undertaking.

The thinking reflected in this book was stimulated by two colloquia held in Cambridge, in January 1997 and October 1999. We are most grateful to those who took part in these meetings – presenters and commentators alike. Their insights and arguments made the colloquia immensely enjoyable and have contributed greatly to the analyses that appear in this volume. A list of those present at the meetings is set forth at the end of this book.

We wish to thank Joy Anderson and Jenny Lewis for their painstaking work in preparing the manuscript for submission.

During the preparation of this book, there has been established at the Institute of Criminology in Cambridge a new Centre for Penal Theory and Penal Ethics, to deal with ethical and jurisprudential issues in criminal law and policy. Thinking about the Centre's aims and activities has been influenced considerably by the present undertaking. For this reason, and in virtue of the themes addressed in the volume, the Board of the Centre believes it most appropriate that the work appears as the Centre's first publication.

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Contents

Notes on Contributors viii

1 Ideas, Institutions and Situational Crime Prevention 1
David Garland

2 Benefits, Burdens and Responsibilities: Some Ethical Dimensions of Situational Crime Prevention 17
R A Duff and S E Marshall

3 The Burdens of Situational Crime Prevention: An Ethical Commentary 37
John Kleinig

4 The Ethics of Public Television Surveillance 59
Andrew von Hirsch

5 Exclusion from Public Space 77
Andrew von Hirsch and Clifford Shearing

6 Situational Prevention, Criminology and Social Values 97
Ronald V. Clarke

7 Situational Prevention: Social Values and Social Viewpoints 113
Joanna Shapland

8 Situational Crime Prevention in Mass Private Property 125
Alison Wakefield

9 Changing Situations and Changing People 147
David J Smith

10 For a Sociological Theory of Situations (Or How Useful is Pragmatic Criminology?) 175
Tim Hope and Richard Sparks

11 Situational Crime Prevention, Urban Governance and Trust Relations 193
Adam Crawford

12 The New Criminologies of Everyday Life: Routine Activity Theory in Historical and Social Context 215
David Garland

List of Participants 225

Index 226

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1

Ideas, Institutions and Situational Crime Prevention

David Garland*

IDEAS AND INSTITUTIONS

Situational crime prevention (SCP) is a set of recipes for steering and channelling behaviour in ways that reduce the occurrence of criminal events. Its project is to use situational stimuli to guide conduct towards lawful outcomes, preferably in ways that are unobtrusive and invisible to those whose conduct is affected. Institutions, as Mary Douglas (1986) has shown, work in similar ways. Their institutional routines and practices, their distinctive ways of organizing the flow of social life, have the usually unnoticed consequence of channelling the thinking and acting of those caught up in them. The effect of embedded institutional arrangements (such as the criminal justice system) is to gently guide our thought and action in predetermined directions, shaping how we think about problems (such as crime) and how we routinely respond to them (e.g. by processing and punishing individual criminals).

What interests me most about the recent rise to prominence of situational crime prevention is its apparent success in breaking free of some of the institutionalized patterns of criminological thought and action that have prevailed for most of the 20th century. Without wishing to overstate the matter, or to attribute too much importance to this otherwise rather modest development, I want to suggest that situational crime prevention marks a break with the institutional epistemology that has characterised criminological thought and action for most of the modern period. Understanding the nature of that 'epistemological break' (to give an absurdly grandiose but actually quite accurate name to the event in question) and explaining how it came about, will be the purpose of this paper.

The striking thing about the premises and propositions of situational crime prevention is how very simple, how very mundane, how very straightforward they appear once they have been explicitly articulated. As an account of how

* The author is grateful to the Filomen D'Agastino and Max E. Greenberg Research Fund for its support during the writing of this chapter, and to the participants at the Cambridge SCP conference of January 1997 for their insights, comments and corrections.

crime events occur, and as a practical means for reducing the occurrence of these events, SCP has all the seeming obviousness and simplicity of common sense. Indeed, the commonsensical character of their diagnoses and prescriptions clearly appeals to the chief proponents of SCP – who take pains to stress that their insights derive not from fancy theorising or a close reading of criminological literature but simply from attending to the practical world and observing how it works. They like to think that the truth claims of SCP should be apparent to anyone, so long as they can shake themselves free of the legacy of criminological theory and see the world for what it is.[1] SCP thus presents itself as a layperson's criminology; as an empirical account of crime and a pragmatic account of what to do about it. And insofar as it entails an account of offenders and the processes that motivate their offending – that is to say, a criminological theory in the conventional sense of the phrase – SCP offers an account that seems equally simple and straightforward. Offenders are, for the most part, deemed to be normal, mundane individuals who give in to temptation as and when criminal opportunities arise. The common sense wisdom of age-old aphorisms tells us all we need to know: 'Opportunity makes the thief' (Felson and Clarke, 1999).

THE STRANGE DISAPPEARANCE OF SITUATIONAL PREVENTION

The first question to pose might therefore be, where has SCP been up until now? Why has this way of thinking and acting not been much more prominent in the history of criminology and governmental crime control? How do we explain the fact that until recently, the criminological ideas and crime prevention recipes that constitute the 'SCP' approach have hardly featured in the lecture courses and textbooks of criminology, were seldom mentioned in policy statements of governments, and had no significant place in the practices of criminal justice? (A first clue to answering these questions is contained in the very language that we use to pose them. That we routinely refer to our apparatus of crime control as a 'criminal justice' system is significant. It indicates that our standard institutionalised response to crime gives priority to case-processing and the punishment of offenders, and uses the threat of such processing and punishment – general deterrence – as its primary prevention technique.)

So, we have something of a paradox. Once it has made its way onto the agenda, and has been stated forcefully and repeatedly by well-placed proponents, SCP takes on the appearance of an obvious and commonsensical approach. But somehow or other, it has managed to be largely absent from the mainstream commonsense of criminology for most of the discipline's history. We need to emphasize this absence, and insist on its significance because our

[1] See my discussion of Marcus Felson's *Crime and Everyday Life* in Chapter 12 of this volume.

historical memory will soon be altered by present day concerns. Now that SCP has been developed and elaborated, now that it has achieved a measure of status and recognition in the world of criminology, it is increasingly able to summon up a respectable criminological lineage, pointing to people like Cyril Burt, Leslie Wilkins, Scott Briar and Irving Piliavin, and David Matza as its forerunners (see Clarke, 1997: Introduction). And as the textbooks come to be rewritten, these earlier criminologists will no doubt be represented as the harbingers of the current interest in situations, temptations and the blocking of opportunities, in much the same way that Cesare Beccaria has come to be viewed as a 'rational choice criminologist'. But for anyone who has lived through this period, and who knows how these earlier criminologists were read and understood, it is clear that their relation to SCP is a retrospective creation. This is a line of antecedents that has only now become visible, as we read criminology's history in the light of our present concerns.

Yet if we go further back to two centuries ago, there was real and explicit interest in situational prevention strategies. What can explain the virtual disappearance of the ideas and concerns that were so prominent in the crime-control writings of Patrick Colquhoun and others like him at the end of the 18th century – notably in his *Treatise on the Police of the Metropolis* first published in 1795? As I argued in an earlier article (Garland, 1996), the common sense of the late 18th century is remarkably close to the assumptions of SCP. Here are some of the propositions (phrased in our idiom, not his) that Colquhoun set forth with every expectation that they would strike his 18th century readers as obvious:

(a) Crime, especially property crime, is a matter of temptation and opportunity, not a matter of special dispositions. Criminal conduct is widely distributed, not a peculiarity of particular individuals.
(b) Wealth and abundance bring crime in their wake. Modern capitalism sets wealth free to circulate and, in consequence, produces new temptations and occasions for crime.
(c) The poor are always with us. So are criminals. Our efforts to control crime should focus upon reducing the occasions and opportunities for crime events rather than trying to change criminal dispositions.
(d) 'Policing' or 'prevention' is a matter of improving security, hardening targets, reducing the exposure of potential victims. The task is to address what Colquhoun called the 'ten thousand different ways' in which the newly mobile property of a modern commercial society is 'exposed to depredation'.
(e) Policing is the task and responsibility not of 'the state', nor of a single specialist agency, but of everyone with an interest in preserving private property and personal security.

By the beginning of the 20th century, this older common sense had been largely expunged from criminology. By that time our modern, specialized, differentiated response to crime had already been established in the form of

the criminal justice state and the state agencies that had taken shape during the 19th century – the police, prosecution and the prison – had made the response to crime primarily a matter of pursuing, prosecuting and punishing individual offenders. Crime control had come to be institutionalised as 'criminal justice' – the sanctioning of individual offenders, one by one, in a reactive response to completed crimes – together with the generalized prevention through deterrence that this was supposed to entail.

If we look at the criminological writings of the late 19th and early 20th centuries, we find that Colquhoun's ideas of 100 years before had all but disappeared. In the influential writings of Lombroso or Ferri or Garofalo, Colquhoun's assumptions are reversed, or else reinterpreted in a new framework of thought. In this new, 'positive' science of criminology, crime has been reconceptualized as 'criminality' and criminality is chiefly a characteristic of individuals. Criminal *events* cease to have much significance in themselves and become, instead, symptomatic manifestations of underlying criminal dispositions. And in terms of its intellectual interests and practical priorities, criminology has come to focus upon the peculiarities of the criminal type and the means necessary to correct or contain him. The discipline had little time to be distracted by the circumstances in which 'occasional criminals' – who were not truly 'criminal' at all – came to break the law.

In this new criminological framework, the progress of modern civilization and economic growth were no longer assumed to be causes of crime. On the contrary; they were taken to be means of ameliorating criminality and making criminal dispositions less widespread. Garofalo remarks: 'It is impossible to believe that progress in civilization contributes to the increase of crime...its effect is quite the opposite' (Garofalo, 1914: 174). The Gladstone Report (1895) takes the same view when it argues that social reform and the growth of wealth will dissolve the chief causes of crime and further reduce the crime rate. And when Cesare Lombroso addresses the notion that increased 'wealth' might cause increased crime, he takes this to be a proposition about affluent individuals and their characters, not a proposition about wealthy societies and the opportunities they generate: 'Rapidly acquired wealth, which is not balanced by high character...is harmful rather than helpful' (Lombroso, 1911: 132). Or again, 'wealth is a source of degeneration' (Lombroso, 1911: 134).

The idea of *opportunity* enters the argument only as an outlet for a criminality that is already established and must be expressed: 'The born criminal finds...more opportunities for crime in wealth than in poverty' (Lombroso, 1911:135).

By the start of the 20th century, the idea of crime prevention had shifted to become what we now term *social* prevention rather than the *situational* prevention advocated by Colquhoun. In this new way of thinking, crime control is to be achieved not through 'a correct police' and the widespread use of situational measures, but through social improvement and individual

reform, through generalised social security and remedial social work intervention. The proper target of preventive action has become the (social, psychological and biological) processes bearing upon the formation of criminal character, not the situational dynamics that produce particular criminal events.

A partial and interesting exception to this is to be found in the writings of Enrico Ferri, the most sociological and the most radical member of the positivist school of criminology. Ferri's analysis begins with a critique of the penal response to crime. Rather in the manner of the Home Office in the 1980s, he emphasizes the limitations of a crime control policy that focuses upon the individual offender: 'Punishment, far from being the convenient panacea which it seems to classical criminal legislators, and the public, has but a very limited power to control crime' (Ferri, 1917: 242). Ferri proposed instead a series of 'penal substitutes' – economic, political and moral measures that would prevent crime rather than punish it. Legislative action was to reach right down 'to the slightest details of existence' in order to guide 'human activity...into non-criminal ways'. Ferri's long and detailed list of preventative proposals contains several measures that we would today characterize as 'situational crime prevention'. He proposes the substitution of metal coinage for paper money to prevent counterfeiting; personal letters of credit rather than cash payments; the presence of a concierge at the entrance of apartment buildings; safety chains on doors; 'mechanisms against thieves such as safes, safety locks and alarm systems' and even the use of Roentgen Rays by customs officials to examine baggage and prevent smuggling (Ferri, 1917: 267).

But Ferri's argument is above all an argument for social reform and social engineering. His 'situational measures' are minor items on a political laundry list that is dedicated to more profound change. Here is his argument for what he calls 'social hygiene':

> The legislator...should realize that social reforms have much more power to prevent the overflow of crime than penal codes. His task is to maintain the health of the social body. He should, therefore, imitate the physician who preserves the health of individuals, and as little as possible and only in extreme cases, within the limits of strict necessity, have recourse to the violent methods of surgery. He should have but very limited confidence in the problematical value of remedies and should rely upon the safe and continuous services of hygiene (1917:279).

And here is his view of the place of punishment: 'The purely and stupidly repressive function [should] be transformed into a clinic, by which society will be preserved from the disease of crime as from any other physical or mental disease' (1917:286). Ferri was arguing, in effect, that crime was a social disease that presented itself as an individual pathology. Its treatment called for deep-rooted measures of social reform and continuous social hygiene. Situational measures occupied a relatively minor role in this radically social policy.

As it turned out, Ferri's radical proposals – and his situational measures –

were largely marginalised in the historical process whereby criminological ideas came to be translated into law and practice. As I have argued elsewhere (Garland, 1985), the silencing of these aspects of Ferri's radical programme came about not just as a result of political selection and compromise, but also because the criminal justice system, once established, quickly became the primary vehicle for crime control policies. Given the monopolizing tendencies of these institutions, a policy that could not be implemented as an aspect of responding to crime complaints and processing cases had little prospect of being put into practice. The established institutions acted as a grid that filtered out incompatible or disruptive proposals, denying them the legal, organisational and budgetary support that they required to succeed.

The emergence of the criminal justice state, and of the new 'positivistic' science of criminology thus tended to diminish the perceived relevance and utility of the kinds of measures that Colquhoun took to be central to crime control. So although situational measures remained present in the armoury of crime control – particularly in the low-level, order maintenance work of the professional police – at the level of policy and research they quickly became a subordinate, marginal element that attracted little institutional support. A good example of this is the 1949 *Memorandum on Juvenile Delinquency* (Home Office and Ministry of Education, 1949) in which situational measures are mentioned, only to be characterized as superficial, insufficiently constructive, incapable of tackling the 'real' problem: 'To some extent, juvenile delinquency can be combated by the practical device of removing...the temptations to wrongdoing; but as a permanent solution something more constructive is required'. Even as late as 1975, in a Report that fully recognizes the limits of traditional criminal justice measures and that acknowledges the apparent failure of the rehabilitative ideal, the Scottish Council on Crime adopts this same mildly dismissive approach:

> In this Memorandum, we discuss how society might raise the height of its defensive barricades to prevent crime – how to reduce opportunities for theft, how to reduce the availability of weapons for use in crimes of violence, etc. Measures such as these, necessary though they are, provide no long-term solutions to most crime problems, *they do nothing to tackle the problem of crime where it has its roots, namely in the individual, the family and the community*. (Scottish Council on Crime, 1975:89. *My emphasis.*)

To tackle a problem *at its roots* is to prevent it reappearing; to adopt an effective, thoroughgoing, radical strategy. By comparison, situational measures are viewed as merely cosmetic, superficial, doing nothing to address the *real* problem. The Report – by a Council that numbered Nigel Walker among its members – continues:

> Some of the measures which we suggest...might be expected to produce results in the shorter term; the measures concerned are largely those which would make it more difficult or less rewarding for a person to commit a crime. Such measures do

> nothing however to reduce the inclination or tendency within the individual to commit crime (p.98)

Somehow it has become obvious that the *crime* problem is a *criminality* problem. In the 200 years between Patrick Colquhoun and his fellow Scottish expatriate Nigel Walker, it somehow became natural for criminologists to assume that the problem of crime is a problem of criminal *individuals*, not of criminal *events*, and that effective action must focus its energies upon the former and not the latter. The strangeness of that 'common sense' has only now become apparent in the wake of SCP's deliberate challenge to it.

My suggestion is that SCP tended to drop out of sight during the two centuries following Colquhoun because a framework of thought and action became established that had the effect of marginalising these ideas. The criminal justice state, and later the penal-welfare version of the criminal justice state, operated in ways that routinely downplayed the significance of 'situational' ideas and prescriptions. The new agencies, which increasingly monopolized society's organized response to crime, directed attention to criminal individuals and the problem of criminality, aiming to transform them by penal measures or else by individual and social reform. Today we still experience the astonishing tenacity of that 'way of seeing', however much we strive to think outside its terms. However many times we tell ourselves and our students not to confuse crime control with the sanctioning of offenders we repeatedly find ourselves slipping back into the habits of thought that the established institutions impose upon us. There is such a thing as institutionalised forgetting, and criminological discourse shows all the signs of this when it effortlessly slips from the problem of controlling crime to the solution of sanctioning offenders.

For most of the 20th century, in summary, situational measures and ideas have remained present in the field of criminological thought, but have been accorded a low status and priority.[2] The state's institutions were structured in ways that made this style of thinking largely irrelevant. The key policies and practices of the criminal justice state turned away from managing situations and reducing opportunities to the pursuit and reform of individual offenders and their criminality. The institutional environment selected for other kinds of criminology, favouring above all the criminologies of disposition and deprivation that became central in the middle decades of the 20th century. These were criminologies that fitted better with the institutional epistemology of crime control in the 20th century and with the social and legal rationalities that underlay crime control and criminal justice (Garland, forthcoming). And once criminology became firmly established in the universities in the 1960s and 1970s, academic pressures and disciplinary commitments tended to pull

[2] These ideas would occasionally surface – as in the Cornish Report (1960) – only to drop from sight again without any appreciable practical effect. See Laycock and Heal (1989).

criminologists still further away from the kinds of mundane practical reasoning about crime that SCP embodied.

I should stress that I am certainly not suggesting that no one made use of SCP ideas and the preventive practices associated with them. Police forces deployed foot patrols and gave advice about locks and bolts; they supervised soccer games, industrial disputes and demonstrations where disorder was likely. Security firms sold alarm systems and private security. Insurance companies required preventive devices and a measure of care. And many commercial firms, private citizens and residential communities engaged in avoidance behaviour and routine precautions. But SCP was not an important aspect of the teaching and research of criminologists nor did it feature prominently in official crime control policy. And this was so because it did not fit with the social and legal rationalities that have increasingly dominated crime control policy over the course of the last two centuries.

THE RE-EMERGENCE OF SITUATIONAL PREVENTION

If SCP was, until recently, quite marginal to the criminological enterprise, it becomes necessary to ask: 'What explains the re-emergence of SCP in the last two decades?' One ought not to exaggerate its influence, of course. As a criminological approach and as a policy framework, it exists as one theme among many others, and its proponents are often dismayed (and perhaps a little puzzled) that they have not been yet more influential. But clearly over the past two decades SCP has become more prominent and more influential than it has been at any time in the last 200 years. It is now a standard feature in lecture courses that twenty years ago gave no place to it whatsoever. Criminological textbooks – the most slow-changing and conservative of academic institutions – now devote substantial sections to this approach. In graduate schools of criminology, whole courses are now devoted to it. More importantly, SCP has increasingly formed a central theme of the research programme of the British Home Office and has, since the early 1980s, attained an established place in official policy. There is nowadays a rapidly expanding crime prevention infrastructure – much enhanced by the Crime and Disorder Act of 1998 – of agencies, organizations, committees, and careers in which SCP features very prominently (see Crawford, 1997).

One important part of any explanation of how SCP re-emerged in criminological theory and practice will be a story about the (re)discovery and development of these ideas by particular individuals, most notably Ronald V. Clarke and a number of co-workers such as Derick Cornish, Paul Ekblom, Kevin Heal, Mike Hough, Gloria Laycock, Pat Mayhew, Ken Pease, Barry Poyner, Nick Tilley and later Marcus Felson. Indeed, we have already been told some of this story in a series of retrospective accounts of the formation of the SCP research programme and the ideas that underlie it (Cornish and Clarke, 1983;

Clarke, 1995; 1997). Clarke's background in psychology; his interest in Walter Mischel's work and its insistence that situational causation has primacy over dispositional accounts; the impasse reached by Home Office research in the mid-1970s following the largely negative findings about the effectiveness of rehabilitation and of the police; the influence of James Q. Wilson's argument for a criminological approach that would be directly useful for government; Clarke's research on absconding from Approved Schools and its finding that immediate environment seemed to explain more than inherent dispositions (Clarke and Martin, 1971) – these are the biographical and intellectual events that gradually resulted in the development first of an 'opportunity model', then a 'choice model', and eventually of the SCP framework in its fully elaborated form.

But the SCP framework did not develop in theoretical isolation. It emerged as one of a cluster of cognate theories and ways of thinking that has developed over the last three decades and which includes rational choice theory, routine activity theory, criminal lifestyle analysis, crime as opportunity, the economic analysis of crime – a whole new genre that I have elsewhere termed 'the new criminologies of everyday life' (Garland, 1996). These new developments derived support from a variety of sources, among them the economic analyses of Gary Becker (Becker, 1968); Oscar Newman's theory of 'defensive space' (Newman, 1972); Jane Jacobs' analysis of 'natural crime prevention' (Jacobs, 1961); C.R. Jefferey's *Crime Prevention Through Environmental Design* (1977); Goldstein's problem-oriented policing (Goldstein, 1979); and James Q. Wilson's influential critique of academic criminology, causal analysis and social solutions (Wilson, 1975).

Nor did the SCP framework develop in isolation from policy and governmental considerations. This was not a set of ideas that first developed academic respectability and then slowly spread into the world of practice. On the contrary, it was a set of ideas which was developed for official use, despite resistance from academic criminologists and from Home Office mandarins who had long been committed to a welfarist approach. It was an idea that had found its time – and more to the point, had found a favourable institutional climate – after being exiled for the best part of two centuries. What explains the new favour that SCP has found in the 1980s and since? Why is it now being positively selected by its institutional environment after such a long history of marginalisation?

The 'accident' of its location was obviously important. The person most closely associated with the development of SCP – Ronald V. Clarke – happens to have been located in the Home Office's (Criminological) Research and Planning Unit (HORPU), advising government officials on crime policy, evaluating current policies and casting around for a more effective approach to crime control at a time when crime rates were rising rapidly and the existing policies were increasingly discredited. Eventually he became Head of the Unit and was able to implement a new research agenda, organised in part around

SCP conceptions. If Clarke had emigrated to the USA in 1974 instead of 1984, one wonders whether SCP would have taken off in Britain in quite the way it did.

On the other hand, perhaps it was not so much the location that was 'accidental': perhaps the accident was Dr Clarke. Perhaps a particular configuration of institutional pressures, problems, commitments and constraints had made the Home Office Research and Planning Unit an institutional niche in which SCP was sooner or later liable to develop. As Cornish and Clarke (1983) describe it, the previous research agenda and policy approach had run adrift on a sea of negative research evidence. The 'nothing works' context of the late 1970s and early 1980s had severely undermined the established approach of the Home Office and the criminal justice agencies that it oversaw. This effect was reinforced by the more general critique of 'welfarist' and 'social' solutions to crime and other problems that was increasingly prominent from the mid-1970s onwards. Implementation failure was beginning to look like theory failure. The promise of a research-driven policy on crime, which formed the fundamental *raison d'être* of HORPU, was evidently not being fulfilled. Its former head, John Croft, talked publicly about the failure of criminology (Croft, 1978). In such a conjuncture, a new framework of thought and action comes to be desirable, providing it can meet the institutional needs of the organization, and does not disturb the powerful interests that form the organization's immediate environment. SCP and its associated ideas and techniques fitted the bill – if not perfectly then at least tolerably well. It offered a new direction for research and action: a direction with inherent appeal for pragmatic, empirical researchers whose bottom line was to develop politically acceptable policies that could work and could be shown to work. Unlike social programmes of crime prevention that typically had to cut through a tangle of other social pathologies before they could begin to impact upon criminal behaviour, SCP could be directly targeted upon crime events. It was quite separate from welfare benefits and community work, and so could avoid attracting the political criticism that it provided benefits to the undeserving. It could be delivered in the form of small-scale demonstration projects that were eminently practical and were not prohibitively expensive. In political terms it avoided the inflammatory political connotations that had come to be associated both with welfare and with penal programmes. And most importantly, its proposed interventions were attractively short-term in their impact, promising to produce immediate practical results that could be evaluated and, if successful, generalised.

By the mid-1980s, SCP had come to have a definite appeal for a Conservative government that had tried (and failed) to reduce crime rates and which was beginning to become acutely aware of the limits (and the costs) of conventional criminal justice measures. Ronald Clarke likes to insist that SCP found official favour for the simple and singular reason that 'it works' where other policies have failed, and regularly points to evaluation research and

displacement studies that give support to this view. But the political appeal of SCP was no doubt enhanced by a number of other features that have little to do with crime-prevention effectiveness. The fact that SCP uses a language of economic reasoning (risk and reward; opportunity; demand and supply; rational choice, etc.) that is usually associated with the market, rather than the social reasoning associated with the welfare state; its focus upon the victim rather than the offender; its insistence that crime is everyone's responsibility and not solely the state's business; its promise of short-term, low-cost interventions rather than large-scale social programmes – all of these undoubtedly increased the resonance of the approach for the post-welfarist, neo-liberal governments of the 1980s and 1990s. Similar considerations of pragmatism, short-term results, policy-related research agendas and governmental rather than scientific priorities had earlier shaped the criminological research agendas of the Home Office and of the Cambridge Institute of Criminology in the 1950s and 1960s (Home Office, 1959; Radzinowicz, 1988; and Garland, 1997). Our account of the re-emergence of situational crime prevention should be phrased not in terms of a lone criminologist coming up with a new theory but instead of a productive convergence of individuals, ideas and institutions that occurred in a uniquely receptive social and political conjuncture.

SCP AND THE NEW CULTURE OF CRIME CONTROL

A more general answer to the question: 'Why does SCP prosper now when it failed to prosper before?' would have to do with the fracturing of the institutional framework of the criminal justice state and the erosion of the particular epistemology that it sponsored. I have told that story elsewhere (see Garland, 1996) so I will not go into detail here, but two considerations seem worth mentioning: (a) The fact that high rates of crime and of victimization became, in this period, a normal social fact – a fact of life that was widely acknowledged as such, and to which behaviour was increasingly adapted; (b) The fact that criminal justice agencies, and eventually politicians and policy-makers, began to recognize the limits of criminal justice as a means of governing crime.

From the 1960s onwards, self-report studies, victim surveys, and interviews with convicted offenders, have all provided evidence of the generality of deviance and the normality of crime (see Gabor, 1994; Hirschi and Gottfredson, 1994). The force of this evidence was significant above and beyond its character as criminological data because it constituted evidence about crime that was not produced by the routines of the criminal justice system agencies and did not reproduce their way of seeing the world. Evidence of this kind worked to break the theoretical link between crime and individual personality; to undo the conflation of crime and criminality; and of course, to show very clearly the limited grip that criminal justice had on the phenomenon of crime.

Over the same period it became increasingly apparent that the historical experience of the post-war decades, especially the 1950s and 1960s, had undermined the assumption that economic growth and social reform would eventually reduce crime rates. Crime rates rose steeply during the period of the long boom. Full employment, higher standards of living, education and welfare for the poor were generally accompanied by more, not less, criminal conduct. In the 1960s, British criminology – including the criminology of the two main political parties (see Labour Party, 1964; Conservative Party, 1966) – shifted from an emphasis upon deprivation to new theories of 'relative deprivation' and 'strain theories' in an attempt to explain this, relying particularly upon the arguments of Merton and Cohen about the effects of raised expectations in producing consequent frustration. Patrick Colquhoun's equation between goods in circulation and temptations to crime thus became an increasingly plausible one again. Late 20th century consumer capitalism clearly generated a plenitude of opportunities for crime, and the social and cultural trends that began in the 1960s were widely viewed as relaxing some of the traditional inhibitions upon law-breaking and illegal acquisition. In this context, the utility of restricting criminal opportunities became more and more self-evident.

The normality of crime and the generality of deviance – particularly once they acquired the status of acknowledged social facts – have had major consequences for the day-to-day lives of individuals and businesses, and major costs to the taxpayer. The focal concern of official crime control until recently had been the criminality of individual delinquents. Penal-welfarism tended to downplay the significance of occasional and minor offending unless it was clearly linked to an underlying pathology. And in the 1960s and 70s, the police and prosecution agencies had tended to filter minor crime out of the system to curtail soaring costs and case-loads. A consequence of this pattern was an increasing fear of crime and a sense that minor, everyday criminality such as theft from cars, shoplifting, vandalism and disorderly behaviour were becoming widespread because of a relative immunity to official action.

Over a short period of time, no more than a single generation, large numbers of people have been obliged to change their learned habits of daily life, adopting new and more defensive precautions as a matter of routine, engaging in new forms of avoidance behaviour, all of which tend to increase levels of crime consciousness and the kinds of fears, distrustfulness and resentments typically associated with this sensibility. One consequence of these concerns has been the increased popularity of 'law and order' policies and a more punitive approach to convicted offenders. The appeal of 'quality of life' and 'zero tolerance' policing owes much to this new experience, as does the remarkable growth of the private security industry. But it is also within this cultural and criminological context that we should understand the emergence of the SCP framework, which also addressed these mundane, generalized, 'normal' forms of crime and did so in ways that were inexpensive and could become the responsibility of individual citizens, communities and businesses.

In criminological research, the generality of deviance in the midst of affluent consumer society has tended to shift the focus of inquiry away from criminal motivation towards questions of social control and self-control. In criminal and social policy, the same conditions have tended to displace social reforms and emphasize social controls. SCP rises to prominence in 'administrative criminology' at the same time that the social control theories of Hirschi (and later Hirschi and Gottfredson) become the dominant ones in academic criminology.

What are the wider cultural conditions that make SCP a possible and desirable approach to crime after such a long period of marginality? One might have to do with the re-emergence of private sector policing and security (see Shearing and Stenning, 1987; Johnson, 1992; Jones and Newburn, 1998). In the post-war period, businesses and commercial concerns as well as individual citizens adapted to the high crime environment by making their own security arrangements alongside those provided by the state. What one might term an 'economic' rationality of crime control grew up in this sector – concerned with costs, risks, harm reduction, reducing opportunities and rewards, minimizing exposure, insuring against major loss, and displacing criminal behaviour away from this particular victim. This economic rationality is now, belatedly, being taken up and emulated by government. What was once a 'private sector' mentality is now being reproduced by public agencies and government departments – in this field as in so many others.[3]

Another feature of SCP that has been attractive to policy-makers is that it addresses its prescriptions for action beyond the criminal justice state agencies to the actors and agencies of civil society (Garland, 1996). It reconfigures crime control policy as a partnership between the state and the private sector, the state and its citizens, rather than as a professional state monopoly. It is oriented towards self-starting, non-state solutions; to activating citizens and communities; to encouraging private individuals and organizations to take responsibility for crime control. One can see how this fits well with the political climate of the 1980s and 90s. However, one can also see the difficulties of implementation that this produces. SCP implies the generalization of crime control to meet the generality of crime. It seeks to dedifferentiate a social function that for 200 years has been increasingly differentiated, specialized, and professionalized. This is a major undertaking that will require very extensive changes in incentives, motivations and habits.

SCP may also be aligning itself with the dominant current of public opinion by adopting a 'victim-centered' perspective in contrast to the 'offender-centered' perspective of most post-war criminology. It responds practically and immediately to the public's demand for increased security. It also allows a form of local or even individual action that can be undertaken directly by

[3] And of course, SCP now feeds back into the private sector, advising, exhorting and organising preventive action on the part of commercial concerns and private householders.

those fearful of crime. Instead of the indirect and long-term promises of social engineering it offers the immediate returns of 'situational engineering'. Instead of extending compassion, help and support to offenders, it offers protection to the public. And of course it is by no means incompatible with punishments for those whom it fails to deter or prevent. In a political context in which the goals of social inclusion and social solidarity no longer dominate, it offers a more immediate form of security to potential victims, albeit one that is increasingly commercialized and may involve fortification, restricted access and social exclusion.

It seems clear enough, however, that SCP has no fixed ideological meaning or determinate political affiliations. It is quite conceivable that its crime prevention techniques could be provided at public expense to those in most need of them, such as repeat victims living in council housing schemes, or groups who are otherwise vulnerable to victimization, such as women and ethnic minorities. By the same token, a commitment to SCP could certainly help to further the development of a mixed economy of crime control wherein private security and measures of exclusion play a much larger role than they currently do, and where the state further reduces its commitment to the social provision of security. In terms of its practical uses, SCP is as much at home in 'Fortress LA' (Davis, 1990) as it is on the Kirkholt housing estate (Pease, 1991). But if SCP's specific political affiliations are loose and shifting, it has strong elective affinities with the generalized culture of control that has grown up in late modernity (Garland, forthcoming). And it will become increasingly attractive to governments of all stripes as they move further away from the grand projects of social engineering that once defined our modernity and seek instead to create order through embedded mechanisms of situational control.

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2

Benefits, Burdens and Responsibilities: Some Ethical Dimensions of Situational Crime Prevention

R A Duff and S E Marshall[1]

In 1997, Felson and Clarke found no previously published 'extensive ideological or ethical critique of the ethics of situational crime prevention' (1997: 199). What we offer here is not such an 'extensive . . . critique', but a prolegomenon to it – an initial exploration of some of the general ethical issues raised by various types of situational crime prevention (hereafter, SCP) measures.

SCP involves 'the management, design, or manipulation of the immediate environment . . . so as to reduce the opportunities for crime and increase its risks as perceived by a wide range of offenders' (Clarke, 1983: 225), or so as to 'reduc[e] the rewards of crime' (Clarke, 1995: 92). However, there are morally significant differences between the groups on which SCP measures impact, and between the ways in which such measures will prevent crime:[2] between, for instance, 'target hardening' measures (such as fitting steering locks on cars) which make it harder for would-be offenders to succeed in their crimes, 'access control' measures (such as road closures to keep cruising 'johns' out of red light districts) which exclude potential offenders from places where they might offend, and measures to 'deflect offenders' (such as the provision of graffiti boards, or alternative venues for teenage cruising) which offer potential offenders alternative, non-criminal ways of achieving their aims; or between measures that impact only on actual or intending criminals, measures that impact on potential victims of crime, measures that impact on those identified as 'potential' offenders, and measures that impact similarly on everyone.

The ethical significance of these differences will emerge in what follows.

[1] We are grateful to participants in the two Cambridge SCP conferences, and especially to Anthony Bottoms and Andrew von Hirsch, for helpful comments; we apologise to anyone whose comments we have used (or garbled) without due acknowledgement.

[2] Here and later we draw on the classification and illustrations of SCP measures provided by Clarke (1995: 109–19).

Section 1 deals with some general points about the structure and scope of a discussion of 'the ethics of SCP'; section 2 raises some issues about the allocation of the costs and benefits of SCP; and section 3 focuses on questions about the tones in which, and the force with which, SCP measures are urged on those who are to undertake them. But we should emphasise that our aim is to raise relevant questions, rather than to offer confident answers to them; and that, in order to make those questions clear, we focus on a limited range of simple examples of SCP.[3]

THE STRUCTURE AND SCOPE OF AN 'ETHICS OF SCP'

In this section we discuss the kind of normative perspective that should structure an 'ethics of SCP', and the aspects of SCP measures which require ethical attention.

Structures of Ethical Thought

Two familiar modes of ethical thought might be applied to SCP, but we will suggest a third possibility.

We might, first, take a strictly consequentialist perspective: we identify the goods which SCP measures can bring, and the harms or costs that they incur; and we then try to determine which SCP measures are cost-effective means to those goods. Such a perspective need not be crudely utilitarian, taking 'happiness' as the only good: it could adopt a morally rich account of the relevant goods and harms – for instance one that includes such familiar liberal values as freedom, autonomy and privacy as goods, and their loss or infringement as harms.[4] Thus our account of the benefits of SCP could include the protection of those liberal goods, which crime typically infringes; and our account of its costs could include both the material costs involved in implementing SCP measures, and the ways in which they impinge upon people's freedom, autonomy or privacy.

However, if our perspective is strictly consequentialist, we must see such goods and such costs aggregatively: our aim must be to maximise the extent to which such goods are enjoyed, and to minimise the extent to which such costs or harms are suffered. One implication of this is that we must be willing, in principle, to accept measures which deprive some of such goods in order to increase the extent to which others can enjoy them – to infringe the autonomy or freedom of some, for instance, in order to protect that of others (by preventing crimes which themselves infringe freedom and autonomy). This

[3] As should become clear, however, these questions are not peculiar to *situational* crime prevention; versions of them are raised by any 'crime prevention' strategy.

[4] Compare Braithwaite and Pettit (1990), on 'dominion' as a central good which a system of criminal law should serve.

generates the familiar kind of objection to any purely consequentialist perspective: that it allows individuals to be sacrificed to a larger social good. The objections offered in this volume by von Hirsch (2000) to some kinds of CCTV surveillance, and by von Hirsch and Shearing (2000) to some modes of exclusion from public spaces, are of this type: what raises moral doubts about the practices these authors criticise is not the question of whether a calculus of relevant costs and benefits would favour them, but the question of whether they do justice to the individuals whose privacy or freedom of movement they infringe.[5]

Implicit in such objections is a view of freedom, autonomy and privacy not just as *goods* which we must ***maximise***, but as *rights* which we must *respect* – and which can 'trump' the maximising claims of larger social goods (see R. Dworkin, 1978). This then points us towards a second familiar model of ethical thought: side-constrained consequentialism.[6] On this view SCP measures, like any social policy, must be justified as efficient means to a consequential good: but such consequentialist efficiency is not a complete justification, since our pursuit of those goods is also subject to the constraints set by certain *non*-consequentialist values; SCP measures are justified only if they are also consistent with those constraints. We might then, with strict consequentialists, posit the reduction of crime as the 'general justifying aim' of SCP; but add (as strict consequentialists would not) that the pursuit of that aim is constrained by the non-consequentialist requirement that SCP measures must not violate citizens' rights to freedom, autonomy or privacy, even when such violations might efficiently reduce crime.[7]

This is perhaps the most common perspective on the ethics of SCP: we must ask not only which SCP measures efficiently reduce crime, but also whether those measures are consistent with the rights (or other non-consequentialist values) that should constrain our pursuit of the goal of crime reduction.

There is, however, another kind of ethical perspective, with a different logical structure: one which denies the sharp distinction between 'ends' and 'means' common to the first two perspectives (see Duff, 1996: 8-9, 45-54).

Both strict and side-constrained consequentialists specify the 'ends' that SCP measures are to achieve in a way that leaves open the question of what 'means' we may use to achieve them. 'Crime prevention', as a specification of the end, means simply that crimes that would otherwise have been committed are not committed: the question of what means we should use to that end is then answered, for strict consequentialists, by working out which measures

[5] We leave aside here the question of whether or how such a calculus could be carried out, were it to include such values as freedom, autonomy and privacy.

[6] On side-constraints, see Nozick (1974: 28–9); Braithwaite and Pettit (1990: 26–36).

[7] Compare Hart (1968), on the consequentialist 'general justifying aim' of punishment, and the non-consequentialist side-constraints to which our pursuit of that aim is subject. Different side-constrained accounts will of course posit different normative constraints, and will differ on whether such constraints are absolute or defeasible.

will be efficient means to that end; or, for side-constrained consequentialists, by discerning which efficient measures are consistent with the appropriate side-constraints. Those constraints are, however, independent of the end: measures which violate important rights might efficiently prevent crime, but are ruled out because they flout that independent constraint. Analogously, if my end is simply to bring it about that someone acts as she should (that she pays a debt, for instance, or refrains from lying), this leaves open the question of what means I should use to achieve that end: I might simply look for cost-effective means; or I might recognise certain side-constraints which, for instance, forbid me to achieve that end by bullying or deceiving her.

The third perspective denies that we can always specify the end in a way that leaves the question of means thus open: what the side-constrained consequentialist sees as independent constraints should rather enter into our understanding of the end itself. If I bring someone to pay her debts only by bullying or deceiving her, the result is not that I achieve a proper end, but by improper means: I have not achieved a proper end at all. For the end that I should be pursuing, if I am to treat her (as we should treat each other) as a responsible moral agent, is not simply that she pays her debt, but that she does so *as* a responsible moral agent, because she sees that and why she should do so; and *that* end cannot be achieved by deception or by bullying. The demand that we respect others as responsible moral agents does not merely set constraints on the means we may use, but helps determine the ends we should pursue in our dealings with others. Those ends themselves then set limits on the means by which they can be pursued: what is wrong with bullying or deceiving her is not that these possibly effective means to my end are nonetheless improper, but that they are not possible ways of achieving my proper end.

What has this to do with SCP? It suggests that we should look more carefully not just at the efficiency of SCP measures as means to a presupposed end, or at their consistency with whatever non-consequentialist values constrain our pursuit of that end, but at the very ends which such measures should be designed to serve, in particular at whether we should take the end to be simply 'crime prevention'. Just as what matters in the moral case is not just that the person pays her debt, but how and why she comes to do so, in the case of crime what matters is not just that crime is 'prevented' (that people do not commit crimes they would otherwise have committed), but how and why they come not to commit them. This point clearly bears on criminal punishment, since it suggests a new objection to purely deterrent or incapacitative modes of punishment: that whilst they can prevent crime, they are not means to the ends that the criminal law *should* serve, since they are not ways of persuading citizens, as responsible moral agents, to refrain from crime because they see it to be wrong.[8] It also bears on SCP.

Consider, for instance, a shopping mall which excluded those under the age

[8] See Duff (2000: Chs. 1.2–3, 2.4, 3.1–3).

of 21, or the unemployed. Such a policy might efficiently reduce crime in the mall; and side-constrained consequentialists who objected that it infringed the rights of those who were excluded might agree that at least it brought about the legitimate good of reducing crime – and of increasing shoppers' security and convenience. But this is just what we should question. For assuming that the mall is or should be a public space, providing public goods,[9] to exclude these people from the mall is to exclude them from access to goods (to secure, convenient shopping and to the mall's other benefits) in which they should as citizens be able to share; and this is also to transform those goods from public goods, accessible to all citizens, into private goods from which some citizens are excluded. Now SCP measures which aim to prevent crime in public spaces should, surely, aim at the *public* good of freedom from crime and the threat of crime: but such an exclusionary policy does not then achieve, or even aim to achieve, an appropriate end or good. It is *intrinsically* inappropriate to the proper end of securing the *public* good of crime prevention, since it prevents crime only by transforming, and distorting, that public good into a private good.

Much more needs to be said about which ends are legitimate in public and social policy, and which means are or are not intrinsically appropriate to them, but our aim here has simply been to introduce this third kind of normative perspective, and to indicate the difference it can make to our understanding of the ethical dimensions of SCP. It requires us to attend carefully to 'ends' as well as to 'means', and to the intrinsic as well as to the contingent, instrumental relationships between 'ends' and 'means'.

Impacts and Meanings

Discussions of 'the ethics of SCP' often (rightly) focus on the *impacts* of such measures: the benefits they bring by reducing crime; the burdens they impose in material costs, in limiting freedom or in infringing privacy. We should also attend, however, to their *meanings*: to the attitudes, the conceptions of citizens and their mutual relationships, that they manifest. Two examples will illustrate this point.

The first concerns trust. It is commonplace that civil society depends on our ability to trust each other not to attack or harm us in various ways. That trust is very far from complete or unconditional; we take various precautions to protect ourselves against the possible malice or indifference of others, especially strangers. But some level of general trust of others, of our fellow citizens, helps distinguish civil society from Hobbes's state of nature.[10] SCP

[9] We realise that this assumption needs explanation, which we cannot provide here, but see von Hirsch and Shearing (2000). Similar points would apply to a neighbourhood which turned itself into a 'gated community' – which turned what had been public roads into private roads.

[10] See Kleinig (2000); also Dimock (1997) for an (over-) ambitious attempt to ground criminal law and punishment in the need to maintain trust.

measures typically manifest a lack or loss of trust: they are (seen as) necessary because we do not trust people not to commit the crimes that they aim to prevent. So, apart from empirical questions about the need for, the likely efficiency of, and the possibly damaging further effects of, such measures, we must ask about the moral propriety of the attitudes that they thus manifest.

Suppose that I take to locking my wallet away when I leave my office with colleagues or students in it, to make sure that they don't steal from me. Apart from questions about whether such a measure is cost-effective, we might question the attitude it displays: we might say that I *insult* my colleagues and students by taking such mistrustful precautions – even if I conceal what I am doing from them; or that such manifested lack of trust impoverishes or vitiates my relationship with them. Similarly, if an employer introduces a policy of searching employees as they leave work, we should question not just the cost-effectiveness of this measure,[11] but the attitude it displays towards her employees, and the conception it implies of their role in the enterprise in which she and they are engaged.

Bottoms suggests that we should see at least some kinds of SCP measure as manifesting not a *loss*, but a ***shift***, of trust, away from personal trust towards trust in 'abstract systems'.[12] Set in their proper context, such measures need not then be 'insulting', especially if they are imposed on everyone without discrimination – as when everyone entering a prison, even the governor, must be searched (see at n. 20 below). Now we agree that the meaning both of trust and of any SCP measure depends on the larger context of social structures, relationships and expectations in which they are set: what counts as, or is required by, trust between friends is different from what counts as or is required by trust between colleagues, or between citizens who may be strangers; and what any SCP measure says about or to those upon whom it is to be imposed is likewise context-specific. However, we can still note that a shift towards trust in 'abstract systems' is also a loss of trust in people; and that the ethical significance of SCP measures depends on their meaning as well as on their impact.

The second example concerns inclusion and exclusion, in relation to fellow-citizenship. Consider again a policy of excluding certain groups from a shopping mall; or a housing estate whose streets used to be a public space open to all, which is turned into a private estate that admits only residents and 'legitimate' visitors. 'Public' space is space to which all citizens have access, in which they can coexist and interact: to exclude some groups from such space (as from a mall) is to refuse to treat them as fellow citizens; it manifests a view of them as a 'them' who have no proper share in the goods that 'we' enjoy. Similarly, to turn what was a public space into a private space is to distinguish

[11] In both examples, the measure's long-term cost-effectiveness will depend in part on its effect on the attitudes and future behaviour of those affected by it.

[12] In his comments on an earlier draft of this paper: on such different forms of trust, see Crawford (2000).

a narrower 'we', whose space it is, from a 'them' with whom we are no longer willing to share this space as fellow citizens. Thus what raises moral questions about such measures is not merely their consequential impact on those who are excluded, but their meaning: their manifestation of an exclusionary attitude, denying a central aspect of fellow-citizenship, towards those who are excluded.[13]

In this section, we have suggested that an inquiry into 'the ethics of SCP' should attend not only to the cost-effectiveness of SCP measures, and to their consistency with independent moral side-constraints, but also to their intrinsic appropriateness to the ends that they should be designed to serve, and to their meanings. This is not to suggest that cost-effectiveness and consistency with side-constraints are not important (they clearly are), or that attention to these further dimensions of SCP will show all SCP measures to be morally dubious (it clearly will not): but it is to suggest that these are important ethical dimensions of SCP.

WHO PAYS, WHO BENEFITS?

Any cost-effective SCP measure brings some benefits (such as a reduction in crime and in the fear of crime, an increase in security and the sense of security), and imposes some costs (such as the material resources required to implement it, the degree of inconvenience it creates, and its possible deleterious impact on such interests as freedom, autonomy or privacy). We must therefore ask who gains, or should gain, the benefits, and who bears, or should bear, the costs.

Potential Victims and Would-be Offenders

Consider a simple example of target hardening: locking one's house when one goes out. The direct benefits of this measure accrue to those who undertake it – lower risks of burglary, and increased security in their homes and possessions.[14] The direct costs are of two kinds. First, there is the modest cost of buying and fitting the lock (if one doesn't yet have a lock), and the modest burden involved in using it – remembering to lock the door and take one's keys, etc.: this cost falls on the potential victims whom the measure protects. (Such measures might, for most of us, be now so routine that they do not seem burdensome:[15] but they impose a burden, as one who begins to take such

[13] But see Bottoms (1990: 11–12), for examples of crime-preventive measures which could be seen as manifesting and fostering – rather than denying – an idea of community.

[14] We ignore here the possible wider 'diffusion' of such benefits: see Pease (1991); Clarke (1995: 129–32).

[15] See Home Office (1993: 16), on making crime prevention 'part of the routine day-to-day practice and culture of all agencies and individuals'; quoted by Garland (1996: 454).

precautions for the first time finds.) Second, there is the cost which falls on those who would burgle the house if they could – would-be burglars who try to break in, and cannot; intending or opportunistic burglars who realise the house is locked, and abandon or never form the intention to burgle it. These people also 'pay' for the benefits that this measure provides: their criminal efforts or intentions are frustrated, or their opportunities are limited.

This provides one simple, and seemingly ethically unproblematic, model for 'Who pays and who benefits'. The costs are borne partly by the potential victims of crime, who also gain the benefits, and partly by those who would commit the crimes. As to the former, it seems *prima facie* acceptable that those who will benefit from such measures should pay for them. As for the latter, we surely do not *wrong* would-be offenders, or *violate* their freedom or autonomy, by taking target-hardening measures whose *only* impact on them is to make it harder or impossible for them to succeed in carrying through their criminal enterprises. Such measures manifest a lack of trust; and we might regret the lack, or impossibility, of such trust between fellow citizens (or its loss, if we believe in a past golden age in which 'no one locked their doors'). But that lack of trust is not focused on *particular* individuals or groups; nor does it utterly undermine the possibility of seeing others as our fellow citizens (contrast a case in which members of a family, or a group of cohabiting friends, take to locking their rooms within the shared home).

We have said that target-hardening measures impose 'costs' on the would-be criminals whose crimes they frustrate. This is indeed both how the would-be criminals would see such measures, and how they would figure in many standard calculi of costs and benefits: we must then weigh these costs, along with others, against the benefits in a justificatory calculus. We would in fact want to argue, however, that we should not count these as 'costs' at all: to call them 'costs' implies that they involve the loss of something of *value*, but there is nothing valuable in the opportunity to commit a criminal wrong.[16] We need not pursue this argument here, however: all we need point out is that even if they are 'costs' which should figure in the normative appraisal of such measures, they are not such as to cast doubt on either their cost-effectiveness or their justice.

Locking one's house is a simple example of SCP: we can see why it is ethically simple by contrasting it with other examples, which raise more difficult questions about who pays and who benefits.

Displacement and Differential Protection

Basic house locks are cheap; the protection they provide is available to almost everyone (but not to the homeless, or to some who live in ill-protected rented

[16] Compare the argument that freedom and autonomy, as values, are not enhanced simply by increasing the range of a person's opportunities, if those new opportunities are to pursue what is bad rather than what is valuable: see Raz (1986: chs. 14–15); G. Dworkin (1988: ch. 5).

accommodation or in squats). It is also, of course, rather inadequate protection: even unskilled burglars are not frustrated by mere locked doors. More adequate kinds of target-hardening are available: more complicated locks, double glazing and the like. We can also introduce measures which make targets less attractive by visibly increasing the risk of detection for those who would attack them: burglar alarms and patrols by security guards are obvious examples. Suppose then that such measures are provided (if at all) only privately by the potential victims, rather than publicly by central or local government: provided either by individuals for themselves, or by voluntary groups which form themselves to provide such protection for their members.

Such measures are more costly than basic house locks, and are thus not readily available to (almost) everyone: some can afford them, others cannot. We then face the phenomena of displacement and of differential protection.

Displacement involves shifting crimes from one set of potential victims to others: would-be burglars turn their attention from well-protected houses to others which are less protected; my increased protection is bought at the cost of your increased risk. Differential protection is, by contrast, simply a matter of some being better protected than others: it can, of course, lead to displacement, if those who would have burgled me burgle you instead; but even if it does not, those who lack the more sophisticated kinds of protection are less well protected and more at risk of burglary than are those who have them.[17]

Now differential protection is ethically unproblematic when (as with basic house locks) the protection is relatively unburdensome and available to all: the fact that you don't bother to lock your house casts no doubt on the propriety of my locking my house. It becomes more problematic when the protection is not thus cheaply available to all: not because the fact that you cannot afford to protect your house makes it morally dubious for me to protect mine, but because it requires us to ask whether such protection should be a private, or a public, matter. How far should it be for each of us (either individually, or through voluntary association with others) to provide such protection for ourselves; how far should it be for us collectively, as a community, to provide such protection for all members of the community?[18] We will not try to answer this question here, but would simply note one further point which implies a strong presumption in favour of the collective provision of at least a certain level of equal protection for all citizens.

On one reading of the notoriously problematic idea that crimes are 'public', rather than merely 'private', wrongs, their 'public' character consists in their being wrongs in which the political community as a whole should share: wrongs that should be seen not merely as 'his' or 'her' wrong, but as 'ours'

[17] This assumes that there is no very tight correlation between being able to afford such protection and having possessions which will tempt burglars.

[18] Such provision can take different forms, involving both collective and individual responsibilities: resources might, for instance, be provided by the community, whilst it is up to individuals to draw on them.

collectively (see Marshall and Duff, 1998). An implication of this conception of crimes is that they involve wrongs against which the political community must seek to protect its members: it should not be left to individuals to protect themselves as best they can; they should all have a claim to an equal level of collective protection. This does not tell us what levels or kinds of protection should be provided collectively: but it argues against any general presumption that it should be for potential victims to protect themselves against crime.

Displacement raises further problems. If I protect my house against floods in such a way that any flood will be diverted into your house, ethical doubts surely arise. I might quell them by arguing that you could protect yourself as easily as I can protect myself – so that it is up to you to do so, and your fault if you do not: but that, we have seen, is not always the case. With SCP measures, I might also argue that the displacement is not my responsibility, but that of the criminals who then commit their crimes elsewhere. That argument is plausible if, but only if, such protection is properly a private matter: I, who protect myself, could then argue that I do not *intend* that those onto whom crime is foreseeably displaced should be victimised; and that I am not responsible for that foreseen outcome. But if such protection should rather be a public or collective matter, however, it is harder to displace the responsibility along with the crime: for to say that it should be a collective matter is to say not just that protection should be provided, or ensured, by governmental agencies, but also that we should collectively look out for each other; and if I share in such a collective responsibility, it is hard to deny that I am responsible (in part) for the crime displacement which I realise will flow from my individual protective measures.

Both differential protection and displacement take on a different ethical character if the protection is provided collectively rather than privately. If it is provided by central or local government bodies, we need to ask what, if anything, could justify providing some citizens with greater protection than others, or displacing crime from some citizens onto others. Here again we want to raise such questions rather than to answer them – but also to warn against the temptation to accept too readily an aggregative consequentialist perspective on them. On such a view protection should be focused where it will do most good, i.e. produce the greatest overall reduction in the relevant type of crime at the lowest cost; displacement is acceptable, as a side-effect of such protection, so long as there is a net reduction in crime and its costs. Such considerations are, of course, relevant – but so too are considerations of equality (of the 'equality of concern and respect' that a liberal state owes its citizens) and of justice, which might conflict with such consequentialist concerns. Furthermore, once we ask whether it is just, as well as efficient, to provide differential protection or to displace crime, we must look at such crime-preventive measures in the context of larger issues of social justice: we cannot divorce crime-preventive justice, any more than we can divorce penal justice, from social or political justice.

Burdening Potential Victims

We have talked so far of SCP measures which might be financially costly, and so beyond the individual means of many potential victims, but which are not otherwise very burdensome for those whom they protect. Sophisticated locks and burglar alarms can be a nuisance; patrolling security guards might raise worries about intrusive surveillance: but such measures typically protect, rather than hinder, the ordinary lives and activities of those protected by them.[19]

In other cases, such as the screening of airline passengers and their baggage, protective measures are more burdensome. Such measures burden *everyone* indiscriminately: everyone travelling by air is subject to rigorous scrutiny; everyone using an area with CCTV cameras is subject to that surveillance. Such measures can be justified by the claim that the burdens they impose on all are a price worth paying for the protective benefits they bring to all (and in this context 'all' should be read as 'all collectively' rather than as 'each individually'): which is to say in part that though their immediate aim is to detect *offenders* (and thus also to warn off potential offenders), they can be seen as treating all those subject to them as potential *victims* who are to be protected. We must still ask whether such measures are justified – whether the benefit is worth the burden; whether the measures violate rights which should be respected. However, the point we want to emphasise here is that the acceptability of such measures also depends on their non-discriminating character, as imposing similar burdens on *everyone*, qua potential victims of crime:[20] for we want to contrast them with measures which raise moral doubts precisely because they impose special burdens on *some* potential victims.

Suppose, for instance, that women are advised not to walk alone in certain areas at night, or not to wear certain kinds of 'provocative' clothes in certain places; or that black men are advised not to visit certain pubs which are known to be frequented by racists. Much depends on the source from which, and the tones in which, that advice is offered (see s. 3 below), but our concern here is with cases in which the advice implies that it is up to the potential victims (that it is their responsibility) to take such self-protective precautions for themselves.

We have here a kind of activity – walking freely around a city, wearing what clothes one likes (within the constraints of decency), visiting what pubs

[19] We cannot discuss here the relevance of the nuisance that such measures can create for others: for a simple instance, consider the nuisance caused by malfunctioning burglar alarms.

[20] Measures like passenger screening can be discriminatory if focused on those judged to be potential offenders; on this kind of issue, see the following subsection. Even supposedly non-discriminatory measures can also in fact impose very discriminatory burdens: cash-less shopping impacts more severely on those who cannot get credit or debit cards, and removing public telephones from places used by drug dealers (see Clarke, 1995: 112) on those who do not have their own telephones.

one chooses – which is 'normal' or 'ordinary' for many citizens: a kind of activity in which many citizens in fact engage (it is *statistically* normal or ordinary), and which is rightly seen as a proper part of our social lives (it is *normatively* normal or ordinary). To say to women, or to black men, that they should not engage, or should not engage so freely and unrestrictedly, in such activities is then to say that they should partly exclude themselves from this aspect of the normal ordinary life of citizens. The aim of such advised self-exclusion might be to protect them – those who are burdened by this measure are those who benefit from it as potential victims protected by it; and such advice need not imply that if a potential victim who does not take these precautions is attacked, their failure mitigates the attacker's guilt – though it can all too easily lead to the thought that one who does not take such precautions 'provokes' the attack and must share responsibility for it. But this kind of SCP measure is nonetheless exclusionary: for it imposes the burden of self-exclusion from an aspect of normal life on a particular group of potential victims; it says to them that they cannot expect the kind of public or collective protection in going about their normal lives that others can expect – that any citizen should be able to expect.[21]

This should raise further doubt about any idea that the cost of SCP measures can always properly fall on those who are protected by them. The doubt is not now that those who cannot afford such measures will be unfairly disadvantaged, but that some such measures impose burdens on particular groups of potential victims which are unreasonable in that they exclude such groups from, or limit their participation in, 'normal' or 'ordinary' activities;[22] and thus, by implication, partially exclude them from the kind of collective protection against crime that all citizens should be able to expect.

Actual, Would-be and Potential Offenders

The impact of simple target-hardening measures like locking one's house is focused only on actual or would-be offenders – on those who try or intend to commit the relevant crimes; and that impact consists solely in making it harder or impossible for them to commit such crimes. Other kinds of SCP measures, however, are focused on *potential*, rather than actual or would-be, offenders, and have a larger impact than this.

Suppose that the owners of a shopping mall aim to reduce thefts in the mall by excluding those who can be identified as potential thieves.[23] Such a

[21] Does it matter that the groups on whom such advice is urged also suffer other kinds of unjust discrimination? Compare the advice that might be urged on those who are obviously English not to go into Scottish pubs whose clientele are prone to violent anglophobia.

[22] Since the notion of 'normal' or 'ordinary' activities is partly normative, there may be controversy about which kinds of activity should count as 'normal' and 'ordinary'; we cannot pursue this issue here.

[23] We are still assuming (see n. 9 above) that shopping malls should be seen as 'public' spaces. We are also concerned only with measures aimed at preventing *crime*: another issue which we

measure does not just make it hard or impossible for *would-be* thieves, who have already formed and are acting on the intention to steal, to succeed in stealing: it deprives *potential* thieves, who have as yet formed no such intention, of opportunities to form or act on such intentions; and it also deprives them of other opportunities and goods by excluding them from the benefits of the mall. The question then is whether such a measure can ever be justified, which is to ask whether we can specify criteria for identifying 'potential offenders' such that those who satisfy the criteria can justifiably be excluded from public spaces for crime-preventive reasons.

One question about any such criteria of potential criminality will concern their empirical reliability: how accurately do they identify those, and only those, who would commit relevant crimes if admitted to the mall; how large will be the proportion of 'false positives' – of those who are identified as 'potential offenders' but who would not have committed such crimes if admitted to the mall?[24] Our concern, however, is with the intrinsic moral legitimacy of such criteria rather than with their empirical reliability: with whether they provide the right *kind* of ground for such crime-preventive exclusions from public spaces.

The possible criteria of potential criminality are of two kinds. The first kind concerns the person's own prior and relevant criminal conduct – that she has in the past committed crimes of the relevant kind. The second kind concerns the possession of other characteristics, whether behavioural or non-behavioural, which are supposedly correlated with the commission of the relevant kind of crime: that this person engages in disruptive or 'suspicious' behaviour, that he is a young, unemployed male, that he is dressed like a tramp or a gypsy – and that there is a correlation between the possession of these characteristics and the commission of the relevant kinds of crime (for without such a correlation there could be no crime-preventive rationale for excluding those with such characteristics). We'll deal with the second kind of criterion first.

No such criteria, we suggest, can provide legitimate grounds for exclusion: for exclusions based on such criteria fail to treat, or to trust, those excluded as responsible fellow citizens.[25] To treat someone as a responsible fellow citizen is to treat her as someone who can determine her own conduct in the light of her own values, and as someone whom we should trust not to commit crimes unless and until she gives us good reason to qualify or suspend that trust. But to exclude someone from public space on the grounds of his possession of

cannot pursue here is that of whether and how far exclusions can properly be used to prevent offensive or annoying, but non-criminal, behaviour. Finally, we are concerned only with permanent, or at least long-term, exclusions – not with temporary, very brief exclusions; see Wakefield (2000), and von Hirsch and Shearing (2000).

[24] Compare von Hirsch (1986: Ch. 9) and Tonry (1998: 132–4), on 'false positives' in the context of policies of selective incapacitation aimed at high-rate offenders.

[25] For a more detailed explication of this line of argument in the context of selective incapacitation, see Duff (1998: 151–6).

some non-criminal characteristics is to treat him as if his behaviour is determined by those characteristics ('he is young, male and unemployed, so of course he'll try to steal'), or as if the possession of those characteristics itself makes him untrustworthy: it is thus to deny him the respect and the trust due to him as a fellow citizen. The *effect* of such a policy is to exclude him from what should be public goods, to which he should have the same access as other citizens; its *meaning* is to insult him, by denying him the trust that is accorded to other citizens.

What then of the first kind of criterion for exclusion, based on the person's own relevant criminal conduct? This seems a more appropriate kind of criterion, since we can now say that those excluded have defined themselves as untrustworthy by their own criminal conduct, and have thus brought their exclusion on themselves. A drunken driver cannot complain at being temporarily disqualified from driving; and a persistent drunken driver cannot complain if that disqualification is made permanent: she has shown by her own conduct that she cannot be trusted (that she is unfit) to engage in the normal activity of driving, and her disqualification is appropriate both as a punishment for her crimes, and as a way of protecting others against the danger that she has shown herself to present to them. Analogously, one could then argue, one who steals from shops or shoppers in the mall can justly be excluded temporarily, whilst one who persistently steals can justly be excluded permanently: he has shown by his own criminal conduct that he cannot be trusted to engage in this normal activity; his exclusion is justified both as a punishment for his crimes, and as a means of preventing the future crimes that he would predictably (given the pattern of his past conduct) commit if he could.[26]

Even here, however, there are serious questions to be asked: questions about proof (that the person to be excluded has been *convicted* of the relevant crime(s) is clearly sufficient, and we suggest should also be necessary, as proof that he committed them); questions about who should decide on the fact and the length of the exclusion (should this be a matter for the mall-owner, for instance, or only for the court that convicted the person?); and questions about the length of exclusion that could be justified – in particular whether *permanent* exclusion could ever be justified. We cannot pursue these questions here, but we suggest that while temporary exclusions can be readily justified in the way sketched above, and while permanent exclusion could *in principle* be justified for sufficiently persistent and serious offenders (so long as this does not deprive them completely of access to significant public goods), the requirement that such exclusions be justified by reference to the person's own past criminal conduct subjects them to demands of due process and proportionality which will radically constrain their use.[27]

[26] On 'civil disqualifications' resulting from criminal convictions, see von Hirsch and Wasik (1997); for this line of argument, see also Duff (1998: 157–9).

[27] We would thus go further than von Hirsch and Shearing (2000) in that we allow – at least in principle – permanent exclusions, but with appropriate safeguards.

In this section we have discussed various questions about how the costs (and benefits) of SCP measures should be distributed; we now turn, finally, to some questions about the way in which such measures may be urged on or recommended to those who are to undertake them.

ADVICE, RESPONSIBILITY AND OBLIGATION

For the sake of brevity, we shall focus here on SCP measures which individuals are to undertake for themselves, to protect themselves, but similar questions arise about measures to be taken by other kinds of agent or to protect other people. Recommendations of such measures might constitute simply *advice*; or ascriptions of *responsibility*; or ascriptions of *obligation*.

Advice – Informal and Formal

Car owners are advised to lock their cars, or to fit anti-theft devices; lone women are advised to avoid certain streets at night; and computer owners are advised to take precautions against hackers. What such advice means or implies depends on the context in which it is offered, on who offers it, in what tones, and on what follows from a failure to take it.

Suppose it is offered informally, by a friend, as a matter of simple prudence: given the existing inadequacy of other kinds of (collectively provided) protection against such crimes (a lack which the adviser is not committed to approving), the advisee would do well to take such precautions for herself. Such advice, as thus offered, is consistent with the thought that the potential victim should not have to take such precautions; and whilst the adviser might think it imprudent not to take them, she might sometimes rather admire someone who refused to follow the advice on the grounds that citizens should not have to take such precautions against each other.

Suppose instead that the advice is offered formally, by some official agency (by a crime prevention officer; through a government publicity campaign). It is then more likely, if not inevitable, that it will imply an ascription of responsibility: that it will say, or be reasonably heard as saying, that potential victims have a responsibility to play such a role in protecting themselves against crime. The message now is not: 'Since others won't protect you, you had better protect yourself', but: 'You should not expect us [the community in whose name the official speaks] to protect you to that extent; you are responsible for protecting yourself'.

Such ascriptions of self-protective responsibility are, of course, sometimes justified, but they raise again the question of what kinds of self-protective burden potential victims should be expected to bear (see text at pp. 27–28 above). We must also consider the force, and the implications, of such ascriptions.

Responsibilities and their Implications

If I fail to fulfil a responsibility, I may be criticised as irresponsible. Such criticism naturally also qualifies the sympathy I can expect if I am harmed or wronged as a result of my failure: if I am attacked, or my car is stolen, I still deserve sympathy for the wrongful harm I suffer; but that sympathy is qualified by the thought that I irresponsibly failed to take precautions which would have protected me. One question, then, is when is it appropriate to respond in this way to victims who did not take precautions that they were advised to take?

Failures to fulfil self-protective responsibilities can also have further implications. One concerns the allocation of responsibility for the wrong or harm which the person then suffers, and the victim's rights to compensation. In civil cases, the idea of 'contributory negligence' can play a significant role: if I suffer harm as a result of another's culpable conduct, but had myself failed to take precautions which would have averted or reduced that harm, I am held part-responsible for the harm, and must bear part of the cost of repairing it (the damages to be paid by the other party are reduced). Now responsibility which is shared is not *necessarily* diminished for each of those amongst whom it is shared: if two people join in committing a murder, the responsibility for it is shared, but each is fully responsible, and culpable, for it. Thus whilst someone who is victimised as a result of her failure to fulfil her self-protective responsibilities (because she failed to take precautions which it was her responsibility to take) must be judged part-responsible for her own victimisation, it does not necessarily follow that her assailant is less responsible or culpable. But ascriptions of self-protective responsibilities do open the way to such further judgements of 'contributory negligence' (judgements which have played a notorious role in some rape cases); we must ask when, if ever, such responses to victims of crime are appropriate.

To make this question more concrete, we could ask, first, whether and when it is proper that the amount of compensation a victim can claim from a criminal injuries compensation scheme, or from the offender through a compensation order, or through an insurance policy, should be reduced by the fact that he failed to take certain protective precautions; and second, whether and when it is proper that he should be able to expect less help from the community (most obviously from the police), either in protecting him or in detecting and prosecuting his assailant, if he fails to take such precautions. We will not try to answer these questions: our point is only that they are implicit in the question of what kinds of responsibility citizens should have to protect themselves against crime.

Responsibilities and Obligations

Responsibilities can easily be formalised or strengthened into obligations: in particular, in the context of SCP, into legal obligations. Such obligations might be imposed on governmental or private bodies, but they can also be imposed on individuals: so a legal requirement that all cars on the road be fitted with steering locks (see Clarke, 1995: 128-9) imposes an obligation not just on manufacturers to fit such locks on new cars, but on individuals to fit such locks on older cars that they already own.

The difference between responsibilities and obligations, as we use these notions here, is that failure to fulfil a responsibility can make me liable to criticism, and to the loss of kinds of sympathy, help and compensation to which I would otherwise have been entitled if I suffer harm as a result; whilst failure to discharge an obligation also lays me open to the possibility of being subject to some kind of civil or criminal sanction for that failure.

Such legal obligations to take crime-preventive precautions are most familiar, and most easily justified, when they aim to protect *others*, not just the agent. This is true, for instance, of the requirement on car-makers to fit anti-theft devices; and of requirements concerning the secure keeping of firearms – whose primary aim is, presumably, to protect not owners against the theft of their firearms, but others against the criminal use to which such firearms might be put if stolen. A requirement on car owners to fit anti-theft devices *might* also be thus justified: what justifies requiring me to fit a steering lock to my car is not that it protects *me* against the theft of *my* car, but that it is a contribution I should make to a general practice which protects car *owners* against theft, and others against the crimes that are committed by the use of stolen cars. We should ask, however, whether it can ever be right to impose legal *obligations* on citizens to take purely *self*-protective precautions.

One other possibility is worth noting. If self-protective precautions are made a matter of responsibility, or of obligation, for potential victims, it is still true that those who fail to take the precautions and are then victimised have been the victims of crime. However, one could instead so define the crime that it is not committed if the 'victim' failed to take the specified precautions: for instance, so to define 'auto theft' that it is committed only by taking a *locked* car without the owner's consent; or to declare that in law an owner 'consents' to her property being taken if she does not protect it in specified ways.[28] We do not suggest that this is a proper way to make potential victims part-responsible for their own protection, but we should ask whether it is ever legitimate, or if it is not legitimate, why it is not.

[28] Compare the hacking provisions in German and Norwegian criminal law, which proscribe hacking only when the victim's computer is protected by a security device; see Wasik (1990: 80–81).

CONCLUDING REMARKS

This paper has no neat conclusions. Its aim has not been to determine which particular kinds of SCP measure are, or are not, ethically acceptable; nor to lay down the principles by which SCP measures should be guided and judged. Its aim has rather been to offer a prolegomenon to a discussion of 'the ethics of SCP', by raising some of the questions that should be asked about SCP policies, by sketching the kind of perspective from which those questions should be asked, and by indicating some of the values by which answers to them should be informed.

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3

The Burdens of Situational Crime Prevention: An Ethical Commentary

John Kleinig

> "Potential victims have ethical responsibilities to reduce the risk of crime."
>
> (Felson and Clarke, 1997: 210)

INTRODUCTION

The purpose of this essay[1] is to draw attention to some *tendencies* in theorising about situational crime prevention (SCP), tendencies that are probably associated with attempts to legitimise and elevate SCP, but which, I believe, lead it to overreach its capabilities. I speak of tendencies, because in each case I think that SCP theorists also advance a more modest agenda. Further, this more modest agenda may help to explain the frustration that such theorists feel at the apparent lack of enthusiasm for their position. First I shall draw attention to the way in which SCP, in distinguishing itself from traditional criminological theory, could foster an unpalatable *social* vision. I suggest that SCP, to the extent that it distances itself from (what it characterises as) traditional criminological theorising, tends also to encourage an unpalatable *moral* vision. I look then at the theory behind cost allocations for crime prevention. This is applied to SCP theorising about responsibility for crime prevention. I next address the issues of opportunity, temptation, and fault, before making some concluding observations.

Although I characterise much of my discussion as a consideration of SCP, it needs to be remembered that SCP does not itself constitute a unitary set of practices or techniques. Target hardening is very different from access control; formal surveillance is very different from the removal of inducements; rule setting is very different from the deflection of potential offenders; and so on. Not every SCP measure is likely to be susceptible to the critical concerns I raise. For present purposes, it is sufficient that some of them, or the proliferation of some of them, and their incorporation into a general theory of crime

[1] For critical comments and helpful suggestions, I want to thank participants at the conference at which this paper was presented, and in particular Ron Clarke, Sandra Marshall, and Andrew von Hirsch.

prevention, trigger these concerns, for they do not seem to have been directly addressed by proponents of SCP.

SITUATIONAL CRIME PREVENTION'S SOCIAL VISION

A little ideal theorising

My concerns about the social assumptions that inform SCP are most easily brought out if I provide a crude schematic account of the kind of social world in which I think we would all like to live. At its heart, it would be a world in which we could trust our fellows to do the right thing by us – a world in which they would not prey upon us, a world in which our vulnerabilities would not be taken advantage of, a world in which, even if others were tempted to wrong us in some way, they would generally possess the moral fortitude to resist such temptation. It would be a world in which we could go about our lives, separately and with others, in the confidence that their regard for us, like our own regard for ourselves, was rooted in the notion of human lives as autonomous, guided by a conception of the good in which the autonomy of other lives was likewise acknowledged.

No doubt, for a world like this to exist, certain other conditions – economic, physical, and social – would also need to exist, and even if we could specify these conditions, the world so described would still be vulnerable to bad choices, lapses, and self-deception. It is, of course, an oversimplified world, one characterised by face-to-face interpersonal relations. The world that we live in is much more complex, since it is also criss-crossed by a multitude of formal and informal institutions, and these too, in a fuller sketch of my idealised world, would need to be trustworthy. But I stick for present purposes with the simplified version, since even the trustworthiness of institutions requires the trustworthiness of a significant number of those who 'populate' or 'administer' them.

With the dubious – and temporary – exception of the Garden of Eden, the world has never come close to the idealised sketch I have outlined, and there is little chance that it will. Nevertheless, there is something to this social ideal that we strive for not simply aspirationally but concretely, in the sense that fallings short are seen not simply as regrettable but also as unacceptable. That is, even though we do not expect complete success, we generally believe that we should do what we can to make our world one in which interpersonal trust is significantly implicated in our social relations. Interpersonal trust – a recognition *inter alia* that others will have competent regard for our good in their dealings with us – is important not only to our freedom but also to the quality of our social dealings with others. Let me be clear, though: this is not an argument for massive assaults on, or zero tolerance for, the sources of social distrust. Such a strategy would be self-defeating. I have in mind something

much more piecemeal and constructive, far more in keeping with the liberal pluralism that underlies my idealised schema.[2]

Most of us inhabit a social world that is vastly different from the one I have attempted to sketch. Not only do we lock our houses, but we fit them with special locks, often with alarm systems and, if we are urban apartment dwellers, there are probably security cameras and personnel watching over or out for us. We have become chary of walking home or using public transport at night. Security, once a relatively minor consideration for many of us as we went about our lives, has now become a major and expensive preoccupation. We are confronted with threats to our security, and require an array of complex strategies for shoring it up.

Although the idealised world I described is a distant and, I believe, unattainable hope, I think most of us are aware that some social environments have been – and are – closer to realising its central values than others. Some of us grew up in urban or suburban environments in which our doors could be left unlocked, the bicycle could be left unchained, we could play in the street without fear of abduction, and so on. It was not by any means a perfect social world, it was local or regional rather than universal, and may well have been achieved at an unacceptable cost to the autonomy and well-being of others socially remote from us. Nevertheless, it was an environment characterised by a greater degree of social trust than the one that many of us currently inhabit, and provides us with some reason to work for its recovery or at least for a more egalitarian analogue within today's less trustful environments.

In pointing to the eroded social trust that characterises a great deal of contemporary urban life, I am not suggesting that suspicion has replaced trust as the coinage of our interpersonal dealings. Were that to be so, we would suffer from a paralysis of initiative and creative activity. Along with an increase in suspiciousness there has been a substantial depersonalisation of our social trust. We have increasingly placed our trust in institutions, strategies, and mechanisms, and these now mediate our relations with others and help to secure us against the hazards and vagaries of social life. To that extent they secure space for us that is sufficient to enable us to be what we want to be and do what we want to do. And they may even offer a site or opportunity for renewed interpersonal trust. Nevertheless, as I shall soon suggest, this has not been a completely satisfactory social bargain. We have been left short-changed. Even though the somewhat idealised world I characterised will remain well beyond our reach, we have good reason not to settle for depersonalised trust, but to foster as much interpersonal trust as we can.[3]

[2] It might be asked what level of crime I would be prepared to tolerate. I think the question can only be answered procedurally and programmatically. We must tolerate whatever level of crime cannot be diminished without incurring unacceptable social/moral costs.

[3] For an extended discussion of this issue, see Adam Crawford (2000) in this volume, and the references therein.

The response of traditional criminologists

By focusing particularly, though not exclusively, on the dispositions that lead to criminality, traditional criminological theorists – at least in the view of major SCP proponents (e.g. Clarke, 1995: 94–95) – have sought to provide an understanding of why it is that some are moved to prey on others, and thereby to undermine interpersonal and social trust. Traditional explanations have variously focused on the inner dynamics of criminality or on a range of external influences that reputedly generate such anti-social dispositions and behaviour. By seeking proximate explanations of criminality in dispositional factors, traditional criminology has usually presented itself – like diagnostics in medicine – as an adjunct of well-being. Through an understanding of the sources of criminality, we hope to devise ways of reducing its social presence and thus of creating or restoring social trust.

SCP theory professes to be less ambitious in its goals, though it presents itself as more efficient in combating crime. It is less ambitious in that it takes the breakdown, absence, or depersonalisation of social trust as a given. If anything, it increases the depersonalisation. It is sceptical of attempts to change dispositions ('human nature'), seeing only failure or very limited success in past attempts to achieve such change. Instead, it seeks to foster (through informal and formal means) environmental changes that are designed to make criminal activity more difficult and less attractive. And this, its proponents believe, it does acceptably and efficiently.

Partnership, not rivalry

To the extent that SCP sees itself as "ethically superior" to, and thus seeks to replace, traditional criminological approaches to criminality (Felson and Clarke, 1997: 199), and to the extent that SCP accepts as given such criminal dispositions as are currently found in society, seeing poor returns for any attempt to change them, SCP has the potential to become socially divisive, fragmented, and/or erosive. Instead of seeking to sustain or recover significant interpersonal and social trust by grasping and tackling – better, perhaps, than much traditional criminological theory does – the social and/or other sources of criminality, such an approach would seek merely to prevent those sources from finding opportunities for expression. It is a nostrum for our social ills that addresses symptoms rather than diseases. In focusing on preventive measures without regard to the quality of interpersonal trust, it distances many of those who can be trusted.[4] In some respects it would "prisonise" society by replicating – on a large scale – a fundamental principle of prison organisation: structure the environment so that violations are designed out,

[4] The point is not, perhaps, that we put our trust in systems rather than people, but that our trust in people is mediated by systems. It is "thinned" rather than replaced.

deterred, or made less attractive. Prisons are built around the absence or territorialisation of interpersonal trust, and those who advocate SCP as the preeminent strategy for our crime problems foster a view of social life in which broad-based interpersonal trust is tribalised or reduced to gullibility or irresponsibility: "the best policy is to regard most strangers and even neighbors with a moderate dose of benign suspicion" (Felson, 1998: 43). Instead, much of what remains of our trust will reside in locks and alarms, CCTV, environmental design, and regulation, rather than in some conception of others as trustworthy.

The mistake here is one of dichotomisation. To the extent that we detach the kinds of strategies that SCP theorists advocate from the larger social purpose of addressing the dispositional sources of crime (and the factors feeding those dispositional sources), we divorce ourselves from much of what makes social life intrinsically (as against instrumentally) worthwhile. Much of the intrinsic value of social life resides precisely in the quality of the interpersonal associations we are able to enjoy. If SCP is to be at all acceptable as a strategy for our social ills, it must not construct itself as "a radically different approach to crime control" (Felson and Clarke, 1997: 197), a substitute for traditional criminological concerns, but at best as an adjunct or complement to such approaches and concerns.

SITUATIONAL CRIME PREVENTION'S MORAL VISION

In Plato's *Republic* (359d–360a; 612b), Glaucon argues that most people, if subjected to the Gyges' Ring Test,[5] would act immorally if not criminally should opportunity arise: our conformity with moral and legal standards is largely a function of external factors such as lack of opportunity, likelihood of getting caught, and access to facilitators. Socrates, countering Glaucon, says that a truly moral (or just) person would act well even were he wearing the ring. Something like the Glauconian view of human beings informs much SCP theorising. There is an unchallenged presumption that humans are essentially self-interested and, even though we may recognise the benefits of community life, the intrinsic value of community life and the interests of others have a tenuous grip on our decision making. We are kept in check not by acknowledging such value or by our respect for others' rights, but rather by the absence of, the deflecting of, or discouragements to, self-serving temptation.

This is, of course, a fairly cynical view of human nature and of social and moral bonds. It might be a bit easier to take were it a view about some rather than about most or all of us. But Felson and Clarke seem to see it as a general characterisation. "Human weaknesses are widespread and everyone falls prey to temptation to commit crime on occasion. The dichotomy between criminals

[5] Reputedly, Gyges' ring would make its wearer invisible.

and others [is] false" (Felson and Clarke, 1997: 216). "Nobody is exempt from the temptation to commit crime since human weaknesses are widespread, not confined to any one segment of the population" (ibid.: 200).

It may well be that we are all subject to temptation. But that does not mean that most of us are likely to succumb to the temptations that we experience, or are deterred from doing so only because of the difficulty of succeeding or the social consequences of being caught. The temptations, once reflected upon, are recognised as violative of the legitimate interests of others, and we do not take them further. Generally speaking, we do not need to design out occasions for temptation. For ourselves, perhaps, and others, what we need to design in is better socialisation, that is, a recognition of the rights of others and what is rightfully theirs. Felson and Clarke take it for granted that we aren't going to succeed in the latter, and therefore they settle for something less. Not just something less, but a whole lot less, an essentially calculative and self-interested view of the moral life.[6]

The picture of humans that is conveyed is that of essentially self-interested people – some perhaps more self-interested than others, all of us inclined to advance our personal interests, some of us more willing than others to curb our self-interest by reference to the rights of others, but many of us kept in check only by certain external constraints – the difficulty of succeeding in violating others' rights, the (felt) likelihood of our getting caught and not profiting, and so on. Were Gyges' ring available to us, we would be busily at work violating others for self-interested reasons.

That this view of human nature – and morality – infects SCP is further suggested by Felson and Clarke's discussion of the diffusion of benefits that SCP can produce. At one point they claim that "if one person's efforts against crime serve in this way to reduce the risk for neighbors, self-interest and altruism become bound together" (Felson and Clarke, 1997: 202). Not so, any more than in the trickle-down theory of capitalism. Altruism is not constituted by the mere benefiting of others, and certainly not by the accidental benefiting of others in seeking to benefit oneself. Altruism involves the intentional benefiting of others for their own sake. The only self-interest that can be involved in altruism is the interest one has in benefiting others for their own sake.

Perhaps they could argue that by designing out opportunity and temptation they will also restructure dispositions so that they will not remain self-interested. And sometimes they seem to move in this direction (Clarke, 1995: 122, 140). Others have suggested as much.[7] But to the extent that they move in this

[6] It might be argued that one of the attractions of SCP is that it sees crime as something of which we are all capable. Indeed we are. But the SCP version of human nature tends to be overly calculative in its explanation of why some of us do and others of us don't succumb to criminal temptation.

[7] John Elster, for example, has suggested that the disutility involved in satisfying a preference may make its otherwise desirable object less attractive (1983: 109–40; *cf.* Sunstein, 1986: 1146–50).

direction, what they consider to be relatively intractable will be acknowledged as not so intractable after all. In effect they will be arguing that though other well-tried techniques (those sponsored by traditional criminology) will fail to alter dispositions, their own are likely to be more effective. In that case, their theory becomes somewhat more consistent – in its goals, at least – with traditional criminological strategies.

ALLOCATING COSTS FOR CRIME PREVENTION

Having given an account of the sort of social world in which I think we would all like to live, let me now offer an equally schematic and crude theoretical picture of the social world which we now inhabit and which, I believe, is intended to take us in the direction of securing or ensuring as much as we reasonably can of the idealised social world I outlined. Its basic assumptions are probably not greatly different from those that inform Felson and Clarke's liberal democratic commitments and yet, because those authors fail to articulate and develop those assumptions, I think they are left without a rationale for allocating the burdens of SCP. I will address the latter contention below.

There are many alternative (and sometimes competing) ways of providing the kind of social ordering that I am suggesting here, but to cut short a very long debate I begin at a point that will be fairly recognisable and also recognisably related to some of the assumptions underlying the idealised picture with which I started. My account begins with a characterisation of individual human beings – at least those "in the maturity of their faculties" (Mill, 1869: Ch. 1) – as rational agents ("progressive beings"), both capable of and (by virtue of that characterisation) normatively entitled to choose for themselves the direction their lives should take, given their specific abilities, the resources available to them, and their acknowledgment that others are similarly entitled. On this account of human entitlements, it is understood that social freedom and recognition of the kind I have outlined are unlikely to occur spontaneously but must be created, fostered, and secured by a variety of social institutions, some formal and others informal.

As this story of institutionalisation unfolds, it usually incorporates some form of social contract theory. It posits a recognition by rational choosers of the reasonableness of their collective acceptance of political authority, whereby laws are established to provide a uniform basis for social conduct, a judiciary is instituted to ensure that such societal rules are fairly applied, and some mechanism for their effective operation is put in place (Locke, 1690: Ch. 9). This collective recognition of, and commitment to, a rule of law, its impartial administration and effective enforcement, is intended both to express (to the extent possible) and to help achieve the idealised social picture with which I started.

With respect to something like crime prevention, this account acknowledges that if left to individuals the task of crime prevention would be excessively burdensome[8] and therefore its proponents delegate to some form of broadly political structure a significant responsibility for ensuring that crimes are not committed, or, if committed, are then prosecuted and punished. Although individuals are not exempted from a continuing responsibility for minimising the likelihood of legal breaches, nevertheless crime prevention, no less than criminal prosecution and punishment, is understood to be a central function of some larger collectivity or political authority.[9]

How much responsibility for crime prevention should be ensured through some larger or centralised mechanism and how much should fall to individuals?[10] At this point the theoretical story tends to proceed in two broadly different directions (with variants in between). One fork of the story is usually characterised as libertarian, the other as communitarian. The characterisations are themselves complex and susceptible to many subtle variations, but I am going to ignore the subtleties in order to bring out two different ways in which the burdens of crime prevention may be allocated among the various institutions and individuals that comprise our society.

At bottom, the two broad traditions often differ significantly over the initial account they give of the human beings who accept some collective oversight, and hence differ about the prerogatives of the structure that such beings would accept.

Libertarian responsibility

The libertarian account takes our primary obligation to others to be that of non-interference (or non-aggression). An individual should be left to go about his/her life as he/she chooses as long as, and just as long as, in going about it, certain central concerns of others are not invaded. Exactly what those significant concerns are or should be is a bit unclear (or at least contested), though libertarians tend to draw them narrowly, focusing in particular on life, liberty, and property. (And these, too, tend to be interpreted narrowly rather than expansively.)

[8] In speaking of the "burdens" or "costs" of SCP, I have in mind not only economic but also social and normative burdens – costs to freedom as well as costs in resources. These, of course, are not totally unconnected.

[9] It is not an accident that modern policing – going back to Peel in 1829 – formally cast itself in terms of crime prevention: "It should be understood, at the outset, that the principal object to be attained is the Prevention of Crime" (Metropolitan Police, 1829: pt. I). *Ceteris paribus*, it is better to prevent crime than to mop up after it.

[10] The distinction here is a bit fuzzy, because collective or centralised mechanisms can be used to require that individuals bear a burden of crime prevention responsibility: those individuals who do not do enough might be fined or denied certain forms of compensation. What I have in mind is a distinction that refers to the allocation of costs: there will be varying degrees of sharing among broader collectivities and the individual.

Although this position tends to favour minimal government, the crime preventive role that it gives to government is central.[11] The function of government *just is* to secure fundamental interests against encroachment by others, and that is where governmental efforts should be directed. Placing the burden on innocents to ensure that their securable interests are not violated forgets the point of the contract and represents a serious dereliction of contractual responsibility. On this view, SCP – to the extent that it involves a burdening of individuals with the task of securing their own rights – would require an unacceptable shifting of (direct) responsibility from government to individuals. Not that the government should prevent crime at any cost: if the centralised prevention of crime will interfere significantly with the securable interests of innocent individuals, then it should stay out of providing it. Libertarians want as little government as they can get away with, but what they minimally expect is security.

One of the main challenges confronting the libertarian allocation of responsibility for crime prevention lies in its apparent failure to appreciate the extent to which individual life, and the securable interests of individuals, are products of, and dependent on, a relatively richly textured social life. This constitutes a failure to appreciate the extent to which the satisfaction of individual interests is a function of various forms of social coordination. There are deeper bonds of attraction and association that inform our relationships, and that pre-exist the language of contract, bonds that will themselves play a significant role in crime prevention. As I will later suggest, the intimate bonds of social life make a major contribution to SCP. If anything, the language of contract is erected upon the preexisting bonds of friendship, familial and tribal ties, social tradition, and so on, and it is through the fostering of these that crime prevention efforts will succeed. We do not start as libertarian individuals; nor, except in a substantially non-libertarian world, do we find our satisfaction in being such individuals.

Communitarian responsibility

The communitarian account begins from the view that libertarian individualism fails to recognise a continuing obligation we have to ensure that our social world remains unwelcoming of crime. A social world governed solely by (what are generally assumed to be) libertarian values would be harsh and undignifyingly divisive. Although it would not necessarily eschew the intimacy of noncontractual associations, it would make them inherently unstable and would fragment them to a point that would derogate from many of the satisfactions of human life (if not for all, then for many).[12]

[11] I am, of course, leaving out of the account those libertarians who see even minimal government as unacceptable, and think that all security arrangements – along with other governmental functions – should be privatised. That is another story, whose telling and criticism was imaginatively attempted by Nozick (1974).

[12] Ayn Rand's (1957) *Atlas Shrugged* is an attempt to characterise positively a world of that kind. *Res ipsa loquitur.*

Communitarian approaches reject what they see as the atomistic assumptions underlying libertarian individualism, and argue instead that the conception of autonomous personhood that underlies the libertarian position is essentially communal: it is communally or socially produced and sustained. We do not enter this world ready-made, but as people who are quite radically dependent on the nurture of others. Nor do we become what we are as the product of some natural maturation, as a tree might develop its full potential given only an adequate supply of nutrients, light, and water. Our coming to be what we are is substantially a function of our immersion in a social environment through which we interactively learn – in part through some form of directed program – the knowledge, habits, and understandings that are characteristic of an autonomous human life. Our individual projects, moreover, frequently involve the informal cooperation of others. Communities, and our close involvement with them, then, are the condition for our (continued) flourishing as autonomous beings.

Not every community of course is equally congenial to our well-being. Some communities will tend to suffocate their members even as they sustain them. Even so, the communitarian understanding is that there are forms of community – essentially diverse and richly textured communities – that need to be fostered and sustained if humans are to be able to live good lives. These communities will not be constituted solely by contractualised associations, even though 'contract' may figure in their public ideology.

Unlike the libertarian position, which recognises only duties of non-interference, or obligations that have been contractually entered into, the communitarian position recognises interpersonal duties of mutual assistance and aid along with those accorded to governmental and other authority. The task of central and corporate authorities is not simply to provide whatever assistance might be built into the 'formal articles of association' that reasonable people would draw up for themselves. By virtue of their communal embeddedness there remains an ongoing obligation of people to sustain the conditions of their association. Included among such obligations will not only be the obligation to assist the needy, but also an obligation to secure an environment in which violations of legitimate interests – one's own and others' – are minimised.

The communitarian approach, therefore, is likely to support a stronger ongoing individual obligation to engage in (situational) crime prevention than the libertarian one. It will, however, see the primary fulfilment of that obligation in the socialisation of each new generation into a respect for the securable interests of others, a care for others that will manifest itself in a recognition of their destiny as choosers of their own ways of life, recognising that we flourish best in a social environment which not merely tolerates but sustains a wide range of options. Crime prevention will first and foremost be a responsibility of socialisation – though not just the socialisation produced by families, but its communal expressions in schools and other nurturing social institutions.

Second, beyond the socialising role that groups and institutions will have in crime prevention, there will be a situational responsibility. That is, associations and their members – be they members of families, businesses, or community organisations – will be expected, as part of their communal or civic responsibility, to seek to ensure environmental conditions that will minimise opportunities for crime, consistent with the flourishing of their members.

Third, the communitarian approach, like the libertarian approach, will recognise that this will not be sufficient. It is a non-ideal world, and communitarians will recognise the need for some form of centralised protection against anti-social behaviour. There will be a need for law enforcement organisations of various kinds to deter crime and secure the prosecution of criminals. Like the libertarian position, the communitarian one will view crime prevention as an important function of political authority, albeit one that takes on and to some degree takes over a pre-existing responsibility of individuals and natural associations.[13]

Although the communitarian approach is likely to ascribe to its members a much greater responsibility for SCP than the libertarian one, it will not see this as a detached individual responsibility but as a communitarian one. It will, in other words, not unfairly burden its individual members, but seek to spread the costs. If the burdens of SCP are likely to be too great for individuals to be reasonably asked to bear – because too disruptive or too costly – the burdens will be assigned to organisations or collectivities that are better placed and more suited to bear them or to more centralised agencies such as municipal, state, or national government. Sometimes there may be some form of coordination between individuals, organisations, and government agencies: individuals might be expected to lock their cars in shopping mall parking areas, the managements of shopping malls might be expected to design and maintain their parking areas in such a way that crime is deterred, and this may be reinforced by occasional police patrols or by holding shopping mall managements responsible for failures of reasonable supervision.

ALLOCATING BURDENS IN SITUATIONAL CRIME PREVENTION

No doubt the foregoing sketches need a lot of filling in and refinement, but I think they indicate two lacunae in the account of SCP provided by Felson and Clarke.

The first is their fairly bland appeal to a 'liberal democratic' society, one that does not take adequate account of the spectrum of viewpoints that is indicated by the somewhat stylised alternatives I have been discussing. Failing

[13] By stating the communitarian position in this way, I am suggesting that something like individual SCP logically precedes civil society, and that civil authority not only assumes the burden of SCP but also reinforces it: it encourages a sense of civic responsibility that complements its own responsibility.

to attend to that spectrum (except, perhaps, as a foil for various ideological challenges to their position), they fail to recognise that very different constructions of individual responsibility for SCP will be suggested by different accounts of an appropriately liberal society. The kind of civic responsibility that they claim the members of a liberal society should observe cannot therefore be taken for granted.

I have suggested my own general sympathy for an account of liberal society in which some individual responsibility for SCP is borne. But the second gap in Felson and Clarke's account is to be found in their failure to indicate the extent to which individuals ought to be burdened with the costs of SCP. Should it be shared through taxes for greater law enforcement presence, or higher prices on goods so that their security can be enhanced, or through specific behavioural requirements imposed by law? Or through some combination, and, if so, what combination? Felson and Clarke need to show why individuals should be asked to bear a burden of (situational) crime prevention, and they need some criteria to enable the burdens of performance to be allocated among individuals, organisations, and more centralised agencies.

Distributing burdens

Reading Felson and Clarke's articles, one is bombarded with a plethora of practical suggestions about SCP, but without a clear procedure for determining whether (and if so to what extent) the costs in any particular case should be placed on individuals, or should rather be made the responsibility of manufacturers, businesses, or that of a central agency. They refer approvingly, for example, to a German requirement that citizens install column locks by a certain date, noting only what they call a "minor expenditure and inconvenience" (Felson and Clarke, 1997: 208), and suggest that for the carelessness of leaving keys in a car, it might not be unreasonable to fine a person (*ibid.*: 211). Here, individuals are not merely held to some degree responsible for SCP (perhaps by having claims diminished in the case of car theft), but are subject to penalties if they do not conform. Why should this be so? We need an account of the responsibilities for SCP that shows not only why and when individuals have such a responsibility, but also indicates what a reasonable burden might be.

From time to time, there is a suggestion of an underlying efficiency criterion: responsibility will be allocated in a way likely to be most effective in reducing crime. But if this is so, questions of distributive justice will need to be addressed: is it fair to place the greatest burden on those who are best positioned to prevent crime? And it then becomes necessary to determine what will be fair in matters such as this.

The lack of an adequately articulated theoretical reference point is shown by Felson and Clarke's table, "Degrees of responsibility for car theft and its prevention" (*ibid.*: 212). The person who is "least responsible" for his/her car

theft is the person who keeps an eye on the vehicle after parking it – a demanding and, in most cases, impractical suggestion.[14] Leaving that aside, the person next least responsible is the person who locks his/her car. At first blush, this does not seem unreasonable: most cars have locks, and it requires minimal effort to use the locking mechanism. But – as already noted above – in the body of their discussion, Felson and Clarke seem willing to hold car owners to a rather higher standard. Requiring that a column lock be installed is considerably more demanding, and I suspect that they would not be averse to similar requirements, such as the (purchase and) use of Clubs. Why should individuals be made to bear the costs of security and not manufacturers?[15]

Ideologically skewed distributions

Yet another factor may also be of relevance, particularly if our contractualised understanding of civil society is moderated by some recognition that social ordering is to some extent conflictual. That is, compromising the idealised view that we are all equally represented actors in social decision making, we might consider our social order to be tilted in the favour of a dominant class (of "haves") who, operating under the banner of democratic decision making, are able, in a way familiar to us in cases in which different parties have unequal bargaining power, to impose social solutions (on 'have nots') that reflect partisan or class interests. Shifting the burden of SCP to individuals may be construed as a 'societal' response to crime that addresses symptoms and not diseases. Perhaps it diverts attention from alternative 'solutions' to crime that would be thought too costly for those with social power. If there is any substance to an account of this kind, there is a strong likelihood that the individuals who are most likely to be burdened with responsibility for SCP will be those who are least able to carry this burden.[16]

The likelihood and longevity of benefits

As long as we focus on the successes of SCP there is a certain intuitive plausibility to the idea that individuals should be expected to be responsible for taking measures that may help to prevent crime. But, as Clarke acknowledges, not every SCP measure succeeds (Clarke, 1995: 119–22). It is not just that there

[14] To some extent the same may be said about parking in safer/riskier places. In urban areas one parks where one is able, not usually where one wants to. Or – albeit often at considerable cost – one may park in a private parking lot.

[15] Of course, manufacturers will, to some extent, pass on these costs. But they are likely to be considerably lower than those that would otherwise have to be borne by individuals. In fairness to Ron Clarke, however, I should note that in the conference discussion he was strongly supportive of systemic SCP rather than expecting the burden to be placed on individuals. What is still lacking is some ethically satisfactory method of allocating costs.

[16] This suggestion is reinforced if it is the case – as it is often claimed to be – that the victims (as well as the perpetrators) of crime are more likely to be drawn from the ranks of the disempowered.

will always be a percentage of victims even if a particular SCP measure generally lowers the incidence of a particular kind of crime, but that some SCP measures have turned out to have only limited effectiveness. Individuals and others have been burdened with costs but with little or no societal – let alone individual – return. We should be very careful about shifting burdens to individuals in cases in which the probability of their benefiting is uncertain.

Account should also be taken of a 'leapfrogging' factor. Over time, the strategies available to criminal opportunists as well as so-called career criminals are likely to change. The lock that bars a thief this month may not be an adequate disincentive next month. The steering wheel bar that provides me with security in May may no longer serve me in September. Burdening me with the purchase of a steering wheel bar that may protect me for only a short period of time is, at best, questionable protection. Of course, as Felson and Clarke (1997) argue, the leapfrogging need not be endless and, even if it is, the number of crimes is likely to diminish. Nevertheless, the burdening of individuals to ensure that such (potentially temporary) measures are adopted is troubling. There ought to be ways in which such burdens – insofar as they have to be borne – can be shared more broadly.

Evolving legal responses

There is an interesting evolution in the thinking of courts about the relative SCP responsibilities of various parties.[17] In a 1962 New Jersey case, a milkman who sued a public housing authority after being mugged in an elevator was told that he had no case. The landlord of the housing project was under no obligation to perform a task "that must be left with the duly constituted police forces. The job is theirs to prevent crime and to go wherever need be to that end. [T]he duty to provide police protection is and should remain the duty of government and not the owner of the housing project."[18] The court did, however, allow that a landlord might be held liable if an intruder gained entrance to the premises as a result of the landlord's "carelessness."[19]

[17] Here I draw heavily on Scheid (1997).

[18] *Goldberg* v. *Housing Authority*, 10 A.L.R.3d 595, at 607-08, 186 A.2d 291 (NJ, 1962). But note also the recent Minnesota case of ***Sulik* v. *Total Petroleum, Inc.***, 847 F.Supp. 747 (1994), cited by Scheid. In the course of arguing that "the prevention of crime is a governmental function that should not be shifted to the private sector," the court argued:

> It appears to this Court that the duty sought to be imposed by plaintiff is essentially to provide police protection, a duty traditionally vested in the government. The Court cannot gainsay the truth that we live in difficult times. If they ever were, the Twin Cities are no longer islands of respite from violent crime. These facts, however, do not undo the law of tort or reimpose the late-medieval need for private armies. Our municipalities are guarded by community police departments. Under the circumstances presented by this case, the law does not impose on a business owner/merchant the duty of employing protection beyond that provided by the community itself (at 751, 752).

[19] *Goldberg*, at 604. See further, ***Ramsay* v. *Morrissette***, 252 A.2d 509 (D.C., 1969).

In 1970, however – in *Kline* v. *1500 Massachusetts Ave. Apartment Corp.*– the courts began placing a more positive duty on the owners of premises.[20] In 1959, when the complainant in this case first moved into the apartment complex, there was a 24-hour doorman, an employee at the front desk, and two garage attendants. By mid-1966, however, there was no longer a doorman, the front desk was frequently unattended, and the garage was frequently unguarded and unlocked. Despite tenant requests, based on recurring crimes, the landlord failed to restore services. After she had been seriously injured and robbed in the common hallway outside her apartment, Sarah Kline sued the apartment corporation. The D.C. Court of Appeals accepted her complaint, finding that a duty of the landlord to provide protection in common areas under his control had been breached, because the landlord had exclusive power to take preventive action and had reason to expect crimes such as that of which she was a victim to occur. Although the reasoning of courts that followed *Kline* often relied on the implied warranty of habitability and other aspects of residential contracts, a more expansive tort rationale has come to prevail.[21]

Although judges do not generally lay bare their deeper reasoning, one of the things that is surely at work in the changing allocations of legal responsibility is an evolving recognition concerning the burdens/costs that individuals can be fairly expected to bear in regard to the maintenance of their safety and security. There appears to be a growing belief that there are good reasons for seeking to share that responsibility more broadly – if not by deployment of the agents of political authority (police officers), then with landlords, businesses, and manufacturers who in various ways profit from the presence or custom of potential victims.

In sum, we can suggest several considerations that bear on the issue of allocation: (1) civil society is founded on the recognition that for many – perhaps most – people, their flourishing is jeopardised if there is not some political authority to assume responsibility for securing various social conditions, including crime prevention; (2) a central purpose of the social contract is to share the burden of crime prevention – to ensure, as far as possible, that individuals will generally have maximal opportunity to flourish. To the extent that they have to devote their individual resources to crime prevention, they

[20] *Kline* v. *1500 Massachusetts Ave. Apartment Corp.*, 439 F.2d 477 (D.C., 1970):

> [I]n the fight against crime, the police are not expected to do it all; every segment of society has obligations to aid in law enforcement and to minimise the opportunities for crime (at 484).

Scheid notes that public attention on the issue was focused by the 1974 attack on Connie Francis in a Howard Johnson Motor Lodge: *Garzilli* v. *Howard Johnson's Motor Lodges, Inc.*, 419 F.Supp. 1210 (E.D.N.Y., 1976).

[21] Scheid cites Merrill (1985). A tort liability rationale enables the responsibility for crime prevention to be extended to other premises. See *Erickson* v. *Curtis Invest. Co.* 447 N.W.2d 165 (Minn., 1989), in which Ms Erickson was sexually assaulted in her car in a parking building whose management was deemed not to have taken sufficient precautions to ensure the security of its clientele.

will be disabled from devoting their resources to making use of social opportunities and realising their individual and joint projects;[22] (3) where private institutions intend to profit from the presence of individual citizens, they should – where feasible – accept a significant part of the burden of SCP. Once again, this will have the effect of spreading the burden, since the costs are likely to be borne by all clients (and perhaps others via insurance, etc.)[23]; and (4) although individual citizens certainly have a duty not to foment crime, they should be expected to bear the costs of crime prevention only where these are not too burdensome and cannot be efficiently borne by collectivities or some centralised political authority.

RESPONSIBILITY AND TEMPTATION

Beyond the issue of cost-bearing there are further questions about what is involved in coming to have responsibility for crime that is committed. There are several issues that need further consideration by SCP theorists.

Models of responsibility

More than one model of responsibility of criminal actors is discernible in Felson and Clarke's (1997) discussion of SCP. The first, an *accordion* model, sees responsibility for crime as something that may be extended without diminution. If one person commits crime *A* and two people commit crime *B* which is substantively the same, the involvement of the additional actor does not *ipso facto* diminish the full responsibility that each actor has for *B*. The point may be extended to the responsibility of crime victims. If *X* negligently provides *Y* with an opportunity for crime, *X*'s responsibility for failure to take precautions does not diminish *Y*'s responsibility for the crime.

For the most part, Felson and Clarke work with this model. They write that "the potential victim's responsibilities to society do not erase those of the potential thief" (Felson and Clarke 1997: 211), and that "the offender's

[22] In considering the ethical problems of SCP, Felson and Clarke (1997) focus on the objection that SCP shifts crime from the rich to the poor (because the rich can afford prevention measures that are beyond the financial capability of the poor). My point is a related but somewhat different one: SCP (particularly if it is institutionally demanded) may disproportionately burden the poor. It is one thing to ask that motor vehicle manufacturers build in steering locks – for then the burden is spread more thinly – it is another to require that individual vehicle owners fit them. Felson and Clarke do advert to the former option, and for the same reasons that I mention, but there is little attempt to sort out what should be the responsibility of manufacturers, and what should be required of individuals.

[23] A point acknowledged by Felson and Clarke (1997: 213). Scheid (1997: 173) cites a number of additional considerations that weigh in favour of businesses accepting a significant responsibility for crime prevention: business proprietors are usually in a better position to secure a police presence, are usually more aware of the potential for crime on their premises, and are usually better placed to take crime prevention measures (alarms, CCTV, etc.) or to provide security personnel.

criminal responsibility is in no way diminished by the bad judgment of the victim" (*ibid.*) On this view the fact that the victim failed to take adequate or reasonable precautions against victimisation should provide little comfort or relief for the victimiser.

Sometimes, however, they slip into what might be seen as a *hydraulic* model of responsibility. There is just so much responsibility to go around, and as the potential victim's responsibility increases, the actor's responsibility decreases. Near the beginning of their article, for example, they assert that "situational prevention introduces discrete managerial and environmental change to make criminal action more difficult and risky, less rewarding and less excusable" (*ibid.*:197). And later: "With situational prevention, invitations to crime are fewer and hence it is more difficult for those who do offend to escape responsibility" (*ibid.*: 212). The suggestion here is that failure to take SCP measures shifts part of the responsibility from the perpetrator to the victim. It is a strategically attractive suggestion, because it provides their position with something like a *moral* incentive for individual SCP: those who fail to take reasonable preventive precautions will have themselves partially to blame for what befalls them, and, moreover, will diminish the responsibility of those who have victimised them.

Although this appears to be something of an unspoken belief of Felson and Clarke, they seem reluctant to press it too explicitly. This is not, perhaps, surprising, since it does not comport with traditional moral or legal notions of responsibility. Nevertheless, it has a clear advocate in Alon Harel (1994), and it is instructive to consider his arguments for it.

Harel's starting point is the tort/contract principle of comparative fault, expanded to cover not only comparative fault but also contributory negligence (Harel, 1994: 1193). Moral symmetry requires that just as the victim in a tortious suit may find that his/her compensatory claim is diminished or even completely undermined by virtue of what he/she contributed to the harm suffered, so too should a perpetrator's liability to punishment be diminished or removed by a victim's "contribution" to the circumstances under which the crime occurred. It is Harel's belief that traces of this can already be observed in the criminal law of provocation, but he believes that it warrants more general acceptance in criminal law.[24]

Two considerations inform this extension – efficiency and fairness – both fundamental to law's *raison d'être*, and each is capable of grounding the incorporation of victim-related data in the determination of criminal responsibility.[25]

[24] Harel's argument is in fact more ambitious than this, since he wishes to claim that the principle is already latent in a good deal of criminal law, though his case for this – no less than his argument for its underpinning the law of provocation – strikes me as tendentious.

[25] Significantly, Harel concedes that the practicality of his claims will be determined in part by wider socio-political factors such as the reasonable capacity of crime victims to take precautions against victimisation. The disabled and poor might, therefore, claim exemption from the expectations of a comparative fault principle.

The social purpose of criminal sanctions is to guarantee the efficient production of protection and its fair distribution among potential victims (ibid.: 1182). Efficiency considerations would lead one to believe that the amount of criminal conduct would be lessened, and the social costs of providing protection from it would be minimised, were potential victims given an incentive either to be less careless or alternatively to take preventive precautions. The theory here is that potential criminals will have an incentive to avoid cautious potential victims and to pick instead on careless victims, and that otherwise careless victims will now have an incentive to be more careful. The incentive might be either to lessen the punishment of offenders [26] or to penalise victims.[27]

The argument from fairness begins from the premise that protection is not a pure public good. It is a limited resource that can be differentially provided and should therefore be fairly distributed. To the extent that vulnerability is a function of voluntary choice,[28] it is fairly distributed where the same amount of resources is expended on each individual.[29] This is fair because careless victims increase the costs of protection and unfairly divert resources to their own case.

Although Harel believes that both efficiency and fairness arguments point in the same direction, they differ in their demandingness: efficiency requires optimal precautions, whereas fairness requires only that precautions be reasonable. The latter should take priority – otherwise the more vulnerable will find themselves subject to unreasonable constraints. A woman who walks on the street at night will be seen as less justified in doing so than a man.

Whatever the attractions of Harel's position – and it does have some, at least in cases of grossly careless, reckless, or provocative behaviour – it also suffers from several deficiencies. For one thing, it fails to confront the public/private distinction to the extent that it operates in dividing criminal law from tort and contract law. The criminal violates a public norm in victimising another; the tortfeasor or violator of contract violates a private duty. If a criminal's punishment is lessened or the criminal is more likely to be acquitted if the victim has been careless, the offence is treated as though it were the violation of a private norm rather than of a publicly-upheld standard of conduct. For another, it is not clear why the careless need to be given a greater incentive for taking precautions than that which arises from the fact that they

[26] This of course assumes that offenders will have reason to believe that the probability of their getting caught is high enough to be affected by the alternative penalty structure.

[27] Other efficiency-based arguments might also be posited: those who pick on the cautious might be subject to increased penalties, and those whose victimisation results from their own "carelessness" might find their cases pursued less earnestly or find greater prosecutorial leniency displayed. On the counterintuitiveness of the economic perspective, see Seidman (1984: 340).

[28] Harel claims, however, that where increased vulnerability has great social value (e.g., social workers in ghettoised communities), an exception should be made.

[29] This is distinguished from and defended against a distributive model that would provide equal protection (rather than resources) for each individual. Only where vulnerability is not voluntary would equal protection be justified on grounds of fairness.

are more likely to be victimised. People do not generally want to become victims. Affecting the *compensation* for which they are eligible is not likely to add significantly to the incentive they have to avoid victimisation. And with regard to fairness, although it may be fair for burdens to be shifted in the direction of victims in tort cases, in criminal cases the issue is not about the fair allocation of burdens.[30] Mitigating the punishment of offenders does not shift its burden to victims, and Harel provides no reason for seeing the victim's fault as rendering the offender less blameworthy.

Situations arise, no doubt, in which one person's acts diminish another person's criminal responsibility, but they are not likely to be instanced in most of the cases that SCP theorists have in mind – in which mere 'opportunities' for crime are provided or created. There is no badgering, inviting, or provoking. Harel's thesis does not provide support for the hydraulic model of criminal responsibility.

Opportunity and temptation

SCP rhetoric is replete with talk of 'opportunities for' and 'temptations to' crime. But what is it to provide an opportunity? And is the mere provision of an opportunity a responsibility-incurring act? To what extent are temptations created as against experienced? Does the fact that *X* is tempted to steal my watch impose a responsibility on me to diminish the likelihood of *X*'s acting to take it, or do I acquire a responsibility only if I do something to tempt *X*? Is my mere having of a watch (about which *X* knows) sufficient to generate a SCP responsibility on my part?

Talk of 'providing an opportunity' for someone is vague at best. At bottom, the most that is implied is the failure to erect certain barriers with respect to that person. Even that may suggest too active an involvement: the very fact of my existence provides an opportunity for crime that would not otherwise have existed. Whether even the active provision of an opportunity also constitutes an omission (a failure) is a further question. Unless the provision can be shown to violate a negative duty, no omission will be involved.

Felson and Clarke frequently give opportunity provision a much more intentional cast, as though it involves responsibility in the event that a crime is committed. They speak of opportunities as 'extremely enticing,' of their 'creating temptation' or 'inducing' or 'inviting' crime (Felson and Clarke, 1997: 212, 214, 216). They speak of various services, products and modes of operation as 'spawning opportunities for a vast range of crimes' (ibid.: 197), of certain of our actions as 'assisting' our neighbour's children in becoming burglars (ibid.: 210). This kind of language needs to be used with great care. For the most part we now reject the view that the woman who frequents a bar

[30] Here I distance myself from a theory of punishment first advanced by Herbert Morris (1968), but developed at length by others. See the detailed and critical discussion in Duff (1986: Ch.8).

or wears a tight dress or walks alone at night is 'asking for trouble,' but SCP theorists tend to gravitate in that direction in seeking to advance their position.

If I close but fail to lock my car door, does that create an 'opportunity'? What if it is the door of my apartment? Someone must first 'try' the handle to find out that it is unlocked. What if it is the back door of my house that I fail to lock? In the latter case, someone has to trespass in order to discover that that is the case. At what point – if at all in these cases – does the 'opportunity' manifest a failure in civic (and moral?) responsibility?

What about 'tempting *X* to do *A*'? The phrase suggests some positive act on *Y*'s part that induces *X* to do *A*. It is traditionally believed that the serpent tempted Eve, and that Eve tempted Adam; but did God tempt Adam and Eve by putting an attractive tree in the Garden? Was it insufficient to forbid the eating of its fruit? Ought God to have fenced it in (or banned serpents)?

Felson and Clarke seem to require something less than a positive inducement for the creation of a temptation. My owning a Mercedes Benz will be enough to constitute a temptation for someone to break in and steal its Blaupunkt. My owning a car favoured by joyriders will constitute a temptation. Likewise my owning some fancy electronic equipment or valuable paintings or jewellery will constitute temptation for some. Does this impose on me a heightened responsibility to ensure that they are not stolen?

Perhaps we are misled here by passive and active senses of 'tempt.' From the fact that my possession of something constitutes a temptation for *X*, it does not follow that in having it I tempt *X*. But if *X* is tempted by my having a particular brand of car, does that mean I have some civic responsibility for securing it if I am not to tempt him? We might argue that a woman who flirts with a man tempts him, but if he is tempted simply by the fact that she is an attractive woman, does she have some responsibility to make herself less attractive or less vulnerable?

Felson and Clarke do not seem to have worked through these issues on their way to ascribing responsibility to the sources of 'opportunity' and 'temptation.'

Tempting opportunities and dispositions

Felson and Clarke write: "In our view, it is ethically more defensible to arrange society so that people are not readily tempted into crime, than to allow temptations to abound and then to visit punishment on those who fall" (Felson and Clarke, 1997: 215).[31] Whether temptations abound seems to be a

[31] *Cf.*: "Waiting for people to commit crime, trying to apprehend them and then denying them freedom for a long time – these steps are far more intrusive against civil liberties than any situational measure of which we are aware" (Felson and Clarke, 1997: 210). Are they right about this? Maybe there is less 'suffering' overall if we engineer society in the way that they suggest. But it is not only the totality but also the distribution of burdens that is at issue. It might be argued that burdening potential victims beyond a certain point with crime prevention responsibility is also unfair. One can make more sense of such claims only if one accepts the hydraulic model of responsibility that I have criticised.

function of dispositions as much as of opportunities, and perhaps the focus should be on the traditional criminological concern with the former as much as on the SCP concern with the latter. I see the sidewalk tables laden with their wares. An 'opportunity' for theft, no doubt, but I am not tempted. No one whispered in my ear that I could get away with taking something, and I had no inclination to take what was not mine to take. Or I am tempted, but think better of it: these things are not mine to take. Better that we attempt to develop a society of people who recognise the legitimate rights of others than that – in our failure to do that – we must constantly seek to diminish 'opportunities'— if not this one then that one – and with that imperative our freedom to live fulfilling social lives. If Glaucon is right, perhaps it is vain to hope for more. But if Glaucon is right, it is also a sorry day for human society.

CONCLUSION

It has not been my intention to claim that SCP should be rejected. As a cluster of strategies it has many merits and reflects an ongoing responsibility that we all have to create and maintain a world that is safe for, and conducive to, diverse forms of human flourishing. What I have argued against is the tendency of its advocates to set it against, rather than alongside, more traditional strategies of crime prevention. It should complement rather than supplant the longstanding concern to create a social environment in which public norms are accepted as authoritative and weighty rather than weakly supported barriers to victimising conduct. If proponents for SCP can accept that more modest role for their theory, they might be able to accept that the considerable use of SCP techniques already evident in our social life do not represent their half-hearted acceptance but a fuller recognition of their real but limited place.

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4

The Ethics of Public Television Surveillance

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INTRODUCTION

CCTV as a Surveillance Strategy

Ronald Clarke (1995: 113-14) describes surveillance as an important technique of situational crime prevention. Its functions are to deter potential offenders from offending because their activities are on view; and to facilitate detection in the event they do offend. The use of closed circuit television cameras (CCTV) is one method of surveillance, but there are others – including, for example, requiring employees to observe customers as part of their regular routines, or using special personnel such as watchmen.

CCTV surveillance has a wide ambit of scrutiny, because the cameras record the activities of anyone present in the location. This involves a substantial number of affected persons, including a majority of non-violators. A person cannot avoid having his or her activities observed and recorded by complying with a specified set of criminal prohibitions.

CCTV is now in extensive use in privately-owned shopping malls and similar facilities. In the UK in recent years, television surveillance is also being employed in public spaces such as downtown streets and shopping plazas. An example is the extensive scheme of television surveillance in the downtown streets and shopping areas of the City of Cambridge.

Types of Surveillance

Situational crime prevention refers, roughly, to strategies designed to reduce opportunities for offending within a given physical environment. A place is to be protected from crime by making it more difficult, or less profitable, to offend there. Television surveillance can perform this function, by making it

[1] I am grateful to the participants of the two Cambridge SCP conferences, in January 1997 and October 1999, for their valuable comments – and particularly to Paul Roberts, Michael Tonry, and Alison Wakefield. Thanks are also due to Beatrice Silva-Tarouca, Amanda Matravers, and Meena Bhamra for their suggestions and assistance with the research.

harder to offend with impunity in the space involved. Given this general function, there are three different types of surveillance which merit consideration:

- *Filmed Camera Sweeps*. A camera automatically sweeps a specified area, and records images of the activities of those present. The film provides a permanent record of those activities.
- *Filmed Surveillance with Focusing Capabilities*. This is a technique used, for example, in many downtown areas and shopping malls. The cameras are directed from a manned control booth, and can be trained upon, follow and record the movements of particular persons. More detailed scrutiny may be possible, through the use of zoom capabilities.
- *Audio Capability*. Surveillance could include overhearing and recording persons' conversations in public space. Because of cost and technical problems, this technique now is seldom in use, but it could become so in future.

In addition to these methods, public television surveillance can be used for various purposes that go beyond situational crime prevention. One such purpose is that of tracking suspects through an extended geographical area. The technology now exists to follow someone's whereabouts from place to place, through linked television cameras that are designed to respond to certain images or patterns. Such techniques, while raising formidable ethical problems of their own, do not involve situational crime prevention, strictly speaking: their aim is to track criminal suspects, rather than to protect a particular physical location against crime.

Regulatory Schemes to Date

In Great Britain, efforts on a national level to regulate CCTV surveillance have been virtually non-existent. No legislation exists on the subject. The House of Lords' Select Committee on Science and Technology (1998) recommended that the use of CCTV be regulated, but did not specify in what manner. The Government since 1998 has had under consideration a proposal to bar the use of CCTV tapes for public entertainment,[2] but no draft has been circulated, and the proposal is not expected to address other uses.

On a local level, regulatory efforts are uneven. Some municipalities operating their own systems of CCTV surveillance, such as Cambridge, have adopted relatively detailed codes of practice;[3] other municipalities have more

[2] The then Home Office Minister, Alun Michael, announced on February 2, 1998 that such a proposal was under consideration.

[3] See Cambridge City Council (1998). Some of the salient features of Cambridge's regulatory scheme will be discussed below.

limited regulatory schemes or voluntary codes of practice.[4] The private sector sometimes follows guidelines set up by an industry body, the CCTV Association, but as a rule subjects itself to little restraint.

Constitutional civil liberties law, such as that based on the European Convention on Human Rights, has not yet yielded much in the way of specific limitations regarding the use of public television surveillance. David Feldman (1997) has argued that Article 8 of the Convention, guaranteeing 'respect for [a person's] private . . . life', should be interpreted as calling for regulation of CCTV surveillance. This, however, would mean that the content of such regulation would have to be spelled out.

Topic of this Essay

Developing a regulatory scheme for public television surveillance requires consideration of when, and for what purposes, such surveillance may be deemed legitimate, and when not. Conceptualising CCTV surveillance and its proper uses and limits requires one to address two major issues. The first is that of *surveillance and privacy interests*. To what extent are there legitimate expectations of privacy or anonymity in public spaces, and how much does CCTV impinge on such interests? The second is *the legitimising role of crime prevention*. To what extent does crime prevention legitimise impinging on any interests of privacy or anonymity in public space? This essay addresses each of these issues in turn.

The essay does not rest its arguments on existing law (such as it is), nor on current constitutional civil liberties doctrines. It is believed, rather, that regulating public television surveillance adequately requires a coherent ethical conception concerning CCTV surveillance's proper use and limits. The aim of this article is to sketch such a conception.

To make the analysis easier, the essay focuses on CCTV in public spaces such as streets, publicly-owned shopping areas, parks, and transit facilities. In Britain, as just noted, this kind of surveillance is becoming common. I then address briefly some questions involved in surveillance in 'mass private space' such as shopping malls.

PRIVACY INTERESTS IN PUBLIC SPACE

The Expectation of Anonymity in Public Space

Public television surveillance involves scrutinising ordinary people's comings and goings in open, publicly-accessible space. In such spaces, ordinary people expect to remain anonymous – to be able to go about without being identified,

[4] See Thames Valley Police (1998), which has only cursory references to privacy, and no provisions regulating access to CCTV tapes by police personnel.

and without having their activities subjected to special or prolonged scrutiny.

When abroad in this fashion, a person may expect to be exposed to *casual* scrutiny: if I decide to walk in the park, I cannot object to others seeing me and taking perfunctory notice of my activities. Moreover, if I act in certain ways that attract attention (such as screaming or disrobing), I properly may become the object of closer attention.

If I do not thus call attention to myself, however, scrutiny of more than a casual character would seem to offend reasonable expectations of being able to remain anonymous. If I walk in the park and talk with a friend, others might properly take brief notice of us or overhear snatches of our conversation. But various kinds of closer observation would seem inappropriate, such as walking closely behind us to listen into our conversation, trying to join in, or videotaping or audio-taping us. Such scrutiny would seem inappropriate, even if our activities were not of a particularly intimate or sensitive nature. If my friend and I chatter about the weather and the football scores on our walk, we still would assume that we are entitled not to be followed, or to have our conversation listened to.

What Underlying Privacy Interests?

With regard to this expectation of being able to remain anonymous, what rights or liberties are involved? In certain circumstances, various traditional political freedoms may be affected. Surveillance in public spaces may, for example, have a 'chilling effect' on freedom of speech or assembly. The extent to which this is so, however, depends on the character of the behaviour being scrutinised. Filming the participants in a political demonstration may discourage the free expression of political views, but not necessarily filming persons strolling in shopping streets or parks.

Intimacy Concerns. An important privacy-related interest concerns the protection from scrutiny of ***intimate*** activities.[5] Intimacy is involved, for example, in various activities within the home, such as sexual, familial and personal relations. It is this concern with protection of the intimate sphere that helps account for the limitations imposed on police searches or seizures of the home.[6]

But does the interest in protecting intimacy extend to the public domain? To some extent, it does. Public television surveillance can touch upon people's interests in intimacy, in a variety of ways. Examples are:

- Audio recording of conversations conducted in public. People often discuss intimate, personal matters when walking in a public place out of earshot of others; indeed, this may be a preferable method, when the office or home is unsuitable or inconvenient.

[5] See essays on intimacy collected in Schoeman (1984); see also Inness (1992).

[6] See Ashworth, 1998: 57, 136.

- Use of manned cameras with 'zoom' capabilities to undertake detailed scrutiny of certain persons' physical characteristics. Young women are usually the targets, but others may be affected as well (for example, persons with physical disabilities, etc.)

The foregoing, however, involves only certain uses of surveillance. It does not appear that CCTV surveillance in public spaces *generally* intrudes upon privacy interests that are related to intimacy.

Privacy and Control over Presentation of Self. A broader notion of privacy, capable of applying beyond the intimate aspects of life, concerns protecting a person's ability to affect how he presents himself to the world. The conventions of privacy, in this view, are an important way of keeping under a modicum of control whose expectations a person needs to respond to, and whose curiosity he or she needs to satisfy.[7] The reason, for example, that I should not have to account to my employer about my life outside the office is not just that some of these might involve personally sensitive aspects of my life; it is, rather, that I should be allowed to perform my professional functions at the office without having to respond to or be concerned about my employer's preferences and attitudes regarding the remaining aspects of my life. A tolerable existence is one in which not all one's activities, even of a quite routine nature, are everyone else's business.

Privacy, in this conception, may be seen as affording differing kinds of protections to different, concentric circles of activity. The narrowest circle concerns the person's inner and intimate life, where there should be a broad entitlement to resist demands for disclosure of any kind: his intimate life is something he should be able to keep to himself or reveal only to chosen others. Within the next concentric circle of social and working life, the disclosure that may reasonably be demanded should be germane to specified aspects of the business at hand: my employer is entitled to know when I wish to take my holiday and for how long, but not what my planned activities will be when I am away from work. Here, however, determining what information should and should not be protected from disclosure is a difficult issue to resolve, both theoretically and practically, because this second circle concerns relationships with chosen working and social associates who have certain legitimate matters to transact with the person involved.

It should be evident that there also is a third concentric circle which should have its own protections against disclosure – namely, that relating to activities in public. It is in public that a person has the least control over whom he will encounter, and such other persons may have different (and possibly uncongenial) commitments, values and attitudes. It thus becomes critically important for the person to be able to limit the extent to which he may be called upon to respond to the expectations, or even to satisfy the curiosity, of such unchosen

[7] This general conception of privacy is drawn from Thomas Nagel (1998); Alan Ryan (1983); David Feldman (1994); and Ferdinand Schoeman (1992).

others. The entitlement of non-disclosure is more straightforward in this third circle, because it concerns *strangers* – those with whom the person has not undertaken dealings of any kind.

Privacy and Anonymity in Public Space

The notion of this third circle of privacy, applicable to public spaces and activities, provides support for the everyday conventions concerning anonymity in public places.[8] Thus:

- The convention that there should be only *casual* and *momentary* scrutiny means the person can go about his or her business with little reference to the expectations of other observers. If an eccentric academic colleague likes to compose his lectures by walking in the park and reciting them under his breath, others might briefly notice the odd person who talks to himself. But he need not be particularly concerned about the attitudes of others who might find such behaviour silly or irritating. The same convention, on the other hand, allows others with such different attitudes to go about their own business. Those passers-by who dislike eccentric behaviour may simply give the person a brief (perhaps disapproving) glance, look away, and go on.
- The observability of the casual observer is also important. If one walks in a downtown street or public park, one can see whether others are present who might observe or overhear; and thus temporarily alter one's behaviour if one wishes. If our academic is a bit more conventional, he may recite his lecture to himself only when he is out of close sight and hearing of others. He need not worry about the hidden observer watching and, perhaps, laughing at his expense.
- Closer scrutiny by others may occur, however, when the person calls attention to himself by manifestly aberrant behaviour (say, by shouting out his lecture). Others need not have to pretend disinterest, when the behaviour strongly would impinge on an ordinary person's attention.

None of this has anything to do with the intimate or otherwise sensitive character of the activities involved. The anonymity conventions of public space should leave free from intensive scrutiny even the most innocuous forms of activity. Our mumbling academic should be protected from such scrutiny, even if he is speaking not of his love life but of this month's trade statistics.

Why CCTV Surveillance Intrudes on Anonymity Interests

CCTV surveillance, I submit, infringes these anonymity conventions, and thus intrudes on privacy in the sense just referred to. It does so in the following respects. Firstly, the scrutiny is not casual or momentary, but focuses more

[8] For an alternative rationale for such anonymity conventions, based on notions of autonomy, see Roberts (2000).

closely on the activities in public of particular individuals. This is readily apparent for CCTV surveillance of the more concentrated kinds – such as that involving zooming-in on particular individuals. But it is true also for the commonplace CCTV surveillance that sweeps and records activity in a given area automatically – since the tapes may then be reviewed to examine more closely the activities of a particular person. It is not just apparent criminal behaviour that may thus be subject to scrutiny, but *any* behaviour that is recorded and that happens to interest those in possession of the tapes. The behaviour involved does not need to be of the kind that ordinarily would call attention to itself.

Second, the observer may be unobservable. Often, the presence of CCTV is unannounced, and the cameras are concealed. But even if the cameras are unconcealed, the fact that they are mechanical, positioned above people's line of vision, and blend in with other features of the physical environment makes them easily overlooked. A camera is likely to be ignored in a way that a police officer present is not. And even if the presence of the cameras is discernible, the identity of those reviewing the film is not. It is like conducting one's activities in a space with a one-way mirror: while one may know that someone is watching behind the mirror, one does not necessarily know who they are or what they are looking for.

Having such targeted, and unobservable, surveillance is troublesome, even if the person is engaged in perfectly innocuous activities. Our mumbling academic may be deeply humiliated if a tape of his walk is aired for public entertainment, or shown to neighbours or potential employers. And the intrusion on privacy persists, even if the viewers are limited to law enforcement personnel. Perhaps, in the latter instance, that intrusion can be justified by overriding interests in law enforcement (see discussion next). But a group of uninvited strangers still are poring over activities which the person could reasonably have expected to be free from scrutiny.

CRIME PREVENTION'S LEGITIMISING ROLE

Let us suppose, as has just been argued, that public television surveillance does infringe anonymity expectations that have their basis in important privacy interests. The question remains whether surveillance can nevertheless be supported on crime prevention grounds.

What Crime-Preventive Effects?

CCTV is said to be a useful instrument of crime prevention. It serves, assertedly, to deter potential offenders from committing crimes, and to aid in detecting crimes already committed. There is evidence that the use of CCTV, in certain settings and for certain kinds of crime, is accompanied by decreases

in crime rates, or increases in clear-up rates. The extent of those associations, however, is quite variable; the causal links involved far from clear; and the extent to which crime has been 'displaced' to other areas also difficult to assess (for a review of the evidence, see Skinns, 1999; Phillips, 1999).

For present purposes, however, such issues of effectiveness need not be resolved. Our question concerns the ethics of CCTV surveillance *if it were shown to be effective*. Thus for the sake of the argument I shall be assuming that CCTV can have significant crime-preventive effects; and then ask whether and to what extent such effects would justify its use, notwithstanding the intrusions on privacy and anonymity involved.

To What Extent Do 'Rights' Constrain Crime-Prevention Aims?

In order to address the possible legitimising role of crime prevention, it may be useful to consider briefly the logic of this role generally. Why should crime prevention ever be reason for restricting various rights or liberties?

Here, we should begin with the Harm Principle. That principle holds that state-imposed restrictions on freedom of action may be warranted *prima facie*, for the purpose of preventing harm to other persons. An actor's options of acting as he chooses may be restricted in order to prevent him from hurting other persons – because such injurious conduct would restrict or threaten to restrict the choices and interests of those injured (see Feinberg, 1984).

This harm-based justification for state intervention, however, may be superceded or narrowed in scope when that intervention would intrude on certain rights – that is, certain interests warranting a special degree of protection.[9] The state ordinarily should not, for example, be entitled to restrict free speech even where that might eventually involve some risks of harm. The reason is that a person's interest in being able to express his or her views is deemed to have a sufficiently high degree of importance to restrain the pursuit of ordinary societal objectives, including crime-preventive ones (see, for example, Schauer, 1982: 141-45).

The standard account of this kind of reasoning is Ronald Dworkin's 'rights as trumps' thesis: that the function of rights is to override or 'trump' ordinary societal objectives (Dworkin, 1977: Ch. 7). To say that I have a right to do *X* implies that I should remain entitled to do *X* even if preventing me from doing it would provide societal benefits or prevent possible injury. Speaking of 'trumps', however, may be somewhat confusing because it suggests an absolute and either-or character: that when a right is involved, it overrides virtually any societal objective;[10] and that when it is not, societal concerns may be pursued with no ulterior constraints.

[9] For discussion of a right as a specially protected interest, see Dworkin, 1977, Ch. 7.

[10] Dworkin does concede, however, that certain extraordinarily urgent social purposes, of an 'order of magnitude' in importance beyond ordinary social costs and benefits, may be the basis for intruding upon (at least some) rights; see Dworkin, 1977: ch 7.

The role of 'rights' in limiting crime-preventive interventions is actually more complex, and should depend on the nature of the protected interests involved. Certain interests, such as that in not being tortured, are of such importance that they should *never* be infringed for crime prevention aims: suspects should not be mistreated in order to obtain confessions, no matter how heinous the crime or urgent the need to forestall future offending (see Murphy, 1980). Other specially protected interests, however, do not appear to have quite so high a degree of importance – so that certain crime-preventive justifications for intruding may be permissible, at least to a limited extent. An example concerns freedom of speech. Generally, criminal legislation should not restrict free speech, but an exception may be made in situations of 'clear and present danger', where the speech involves immediate risks of seriously harmful consequences (see Schauer, 1982: 141–45). The idea here is that speech, while it should be deemed a specially protected interest, has a somewhat lower ranking of importance than (say) the interest in not being tortured; so that intrusions are permitted for the most immediate and urgent crime-preventative purposes.

With respect to interests in privacy in public spaces, therefore, there are two kinds of questions that need to be asked, in deciding the appropriate scope of crime-preventative interventions. First, *what degree of priority should be given to such privacy interests?* That degree of priority might vary, depending upon which underlying rationale for privacy is involved: concerns about intimacy, for example, might be given a somewhat higher priority than concerns about anonymity. Second, *how urgent are the crime prevention objectives involved?* Preventing immediate criminal harms, for example, might be treated as having a higher degree of urgency than identifying persons who merely *might* offend in future.

The Model of Searches or Private Premises – What Relevance?

It may be helpful, at this juncture, to consider a model that exists already – that governing searches of private premises. According to this model, a person's home may be entered, upon a showing of reasonable grounds for suspicion that he or she has been criminally involved.[11] This doctrine thus gives crime prevention significant scope: where grounds for suspicion exist, the privacy of the person's home may be breached to obtain additional evidence of crime. However, the doctrine limits the potential extent of such privacy invasions, by barring them where proper grounds for suspicion have not yet been established. The police may not enter someone's home or tap his or her telephone on a hunch, or conduct a sweep search of dwellings in a neighbourhood in the hope of uncovering evidence of possible crimes. This restriction is designed to protect the privacy of apparently uninvolved third parties.

[11] Ashworth, 1998: 122–23.

This model cannot, however, directly be extended to cover CCTV surveillance. Searches of private premises can be targeted to a particular suspect; it is possible to assemble other evidence to support reasonable grounds for suspicion, before invading the privacy of the suspect's home. Public television surveillance, however, is not limited to particular targets: it sweeps whole areas, and draws within its ambit all persons present. If I enter a surveyed area, my behaviour will be recorded even if I have done nothing to attract suspicion; and if the police review the tapes in order to uncover evidence of crimes, they will observe my behaviour, and not just the suspicious behaviour of suspected perpetrators. A major forensic use of CCTV, moreover, is precisely to help identify suspects, not just that of developing further incriminating evidence against already-identified suspects.

Notwithstanding its lack of direct applicability, the search model may have some broader relevance in principle. What it suggests is that privacy interests should limit the *manner* in which criminal investigations are pursued, but not necessarily rule out such investigations entirely. In that sense, privacy is treated as a right or specially protected interest that has an intermediate protective role. Its 'trumping' effect is not so strong as the right against torture (which should bar torture-based investigations entirely) or the right of free-speech (which should permit prosecutions only when immediate and serious risk of criminal harm is involved). However, privacy should retain a significant protective effect in limiting how surveillance is carried out. The question then becomes, how can such intermediate-level protection be provided?

WHAT LIMITATIONS ON CCTV SURVEILLANCE?

With the foregoing general framework in mind concerning interests in anonymity in public spaces and the possible legitimising role of crime-prevention, it is time to consider how this analysis might help resolve questions of regulating CCTV surveillance. What kinds of limitations on CCTV surveillance might be imposed, in order to protect anonymity? I can offer no confident answers to this question but can, on the basis of the preceding discussion, suggest a mode of analysis. This analysis will address various aspects of privacy and anonymity affected by CCTV, and propose possible ways of dealing with them.

The Unobservable Observer Problem: A Bar on Covert Surveillance

One way in which CCTV surveillance can infringe the entitlement to privacy and anonymity in public space is through covert observation. The conventions on anonymity in public space, as noted earlier (p. 64), call not only for no more than casual but also for ***observable*** observation. When going about in a public street or park, one should at least be able to see who is watching. This

enables the person, to the extent that he is sensitive to the reactions of others, to adjust his behaviour when others are present. Our mumbling academic can, if he wishes not to appear foolish, stop reciting his lecture under his breath when passers-by approach. Hidden observation is problematic for two reasons: first, it takes the person unawares: he may think that he is free from scrutiny when he is not. Second, it can exercise a chilling effect: once people become aware of a practice of covert surveillance, they may feel under constraint when they go about in public. To say potential offenders ought to feel constrained about committing crimes in public is no answer to these objections, for the surveillance extends beyond criminal suspects to anyone present under the cameras' gaze.

To deal in part with this problem, CCTV coverage should not be covert. Surveillance cameras should be visible, and areas under observation should be required to have signs indicating that CCTV is in use. The Code of Practice for Cambridge's CCTV scheme already contains such a requirement.[12] The person thus will at least be able to know when he is being watched.

Protection against Intimacy Intrusions: Audio Surveillance, etc.

Privacy interests that are related to intimacy, I have suggested (pp. 62–63), are not generally affected by CCTV surveillance, but they are so in certain contexts – such as audio surveillance and certain kinds of detailed physical scrutiny of those viewed. On the analysis of privacy sketched earlier (pp.63–64), intimacy concerns the 'first circle' of privacy interests, and relates to matters of particular sensitivity that should have broad protections against non-consensual disclosure. If intimacy is given this degree of protection, then there should be special safeguards, including a prohibition of surveillance with audio capabilities (which the Cambridge scheme already has adopted[13]). There should also be safeguards against misuse of surveillance capable of detailed physical scrutiny of persons, such as that potentially involved in staffed surveillance cameras with zoom capabilities.

Use of CCTV Tapes for Law Enforcement – What Limitations?

In terms of impact on anonymity in public spaces, what counts most is not the operation of the cameras but the uses that are made of the resulting tapes. It is through re-running and reviewing the tapes that a particular person's activities can be focused upon, and subjected to prolonged and repeated scrutiny. To

[12] Cambridge City Council (1998). The Code of Practice, in para. 1.3, provides: '[A]ll cameras are sited so that they are clearly visible . . . Publicity will be given to the system by clear signing within the area . . . . This will ensure . . . that the public are clearly aware when they are in the monitored area.'

[13] Cambridge City Council, 1998. The Code of Practice, para. 1.3, provides that 'the System will not record sound in public places.'

what extent, then, should CCTV tapes be accessible for law enforcement purposes? There are three options to consider, in order of increasing permissiveness. (1) The tapes could be reviewable only to assist in the detection or prosecution of a suspected offence at a location and time for which a complaint has been received. (2) The tapes could be used also to identify possible violations in certain restricted settings in which risks of offending are higher than in immediately surrounding areas, and the potential for scrutiny of uninvolved third parties is reduced. (3) The tapes could be used for law enforcement purposes generally, without the foregoing limitations. I shall argue in favour of the first and possibly the second option, and against the third.

(i) A problem with CCTV surveillance at present is that often it may be used, and its recordings reviewed by law enforcement personnel, anywhere in public space, without the need to point to ulterior grounds for suspicion. Conventional 'probable cause' requirements will not work, for reasons explained earlier (p. 68). But it may be desirable to impose somewhat analogous restrictions, designed to limit the ambit of scrutiny tapes to places and times where there already exists reason for suspecting that a crime may have been committed.

This could be accomplished by permitting CCTV cameras to operate anywhere in public space, but restricting access to and review of the resulting tapes by law enforcement personnel to locations and times for which a complaint concerning commission of a crime has been received. If a robbery or a break-in has been reported at time x and place y, the tapes for that location and approximate time could be reviewed to help determine whether the crime occurred and who the perpetrators may be. The City of Cambridge's Code of Practice has adopted such a limitation. The Code provides that camera recordings are not to be used to monitor the progress of persons through public space, and monitoring may occur only where there is reasonable cause to believe that an offence has been committed. The police thus are required to specify the time and location of a particular incident and ask the municipal authorities for permission to view the appropriate recording.[14]

This limitation would preclude 'fishing expeditions' – browsing through tapes for an extended time and broad area, in the expectation of spotting someone committing a crime. Such a practice would have lower law enforcement priority, in any event. Ruling it out would also significantly reduce the extent of intrusions into anonymity interests in public space. A person could wander at will in public streets and parks, without fear of his activities being scrutinised; this could occur only if he happens to be present at a time and place at which a crime has been reported. Where that occurs, his activities

[14] See Cambridge City Council (1998). Code of Practice, para. 1.2: 'Cameras will not be used to monitor the progress of individuals in the ordinary course of lawful business. . .'; 'Individuals will only be monitored if there is reasonable cause to suspect that an offence has been committed' (para. 1.2).

would be subject to scrutiny even if he were only an innocent bystander; but the spatial and temporal limitations much restrict the ambit of the scrutiny.

(ii) What of the second option, of permitting also the monitoring of high risk locations? It would seem reasonable to allow continuous monitoring of places such as cashpoints, in view of the apparent greater risks of crimes being committed in such places. Risk, however, is not the only relevant factor here; two other factors seem important. The first is the restricted geographical location involved: if narrowly circumscribed places such as cashpoints are subjected to more extensive scrutiny, ordinary persons retain a scope for moving anonymously elsewhere. The second factor relates to something referred to by Antony Duff and Sandra Marshall (2000) in their article in this volume: the degree to which the persons burdened by the intervention are also its beneficiary. Ordinarily, the persons who are present and being observed at cashpoints are those drawing money, not mere bystanders; and those persons are specially at risk of being robbed of the money they withdraw. This is not a case of monitoring the public activities of one group in order to protect another group from victimisation. Our friend the mumbling academic thus would continue to be free to traverse public spaces without fear of close scrutiny. The police, in monitoring tapes, will see his image only if he goes to a cashpoint to withdraw money, when he himself has special interest in being protected. Continuous monitoring of tapes should thus be authorised, only where both of the factors just mentioned are present.

(iii) Restricting monitoring in the manner just suggested – to times/places for which suspected criminal activity has been reported, and possibly to specified high risk locations – would have two kind of advantages. The first is that the law enforcement grounds for intruding upon anonymity would be stronger. It is, for example, a more urgent matter for the police to be able to review CCTV tapes at places where they have grounds for suspicion that a crime has been committed, than to be allowed to trawl through tapes of wider areas in order to uncover new crimes. The second is that the impact on anonymity interests is reduced. If tapes may be reviewed only in the restricted situations just discussed, there is considerable remaining scope for anonymity in public. If, however, the police are entitled to review tapes without restrictions, then we need fear always being watched whenever we enter public space.

A Ban on Collateral Non-Crime-Preventive Uses

Because CCTV surveillance of public spaces is now so little regulated in many local jurisdictions, data ostensibly obtained for crime prevention may be used for ulterior purposes. This includes making CCTV tapes available to parties in private disputes – for example, to private firms seeking evidence of employee absenteeism, or to detective agencies for use in matrimonial proceedings. It also includes dispositions for entertainment use. It is not only possible criminal behaviour that could thus be the object of scrutiny, but also a variety

of non-criminal conduct involved in potential civil disputes (e.g. being seen with a person of the opposite sex not one's spouse); and even, in the case of entertainment use, entirely legitimate conduct.

It is a truism that if the purported justification for a potential intrusion into privacy is crime prevention, then the use at issue should be crime preventive and not one serving ulterior aims. This point is clearest with regard to tapes' disposition for entertainment purposes. If CCTV stands in need of justification in virtue of its intrusion into privacy/anonymity interests, and if the claimed basis of the intrusion is the prevention of crime, that creates no warrant whatever for selling tapes for use in commercial TV programmes.

Surveillance tapes therefore should be accessible only for the *criminal justice* uses just discussed, not ulterior purposes. Uses that should be ruled out include, most obviously, making the tapes available for public entertainment. Excluded also should be the turning over of tapes to parties in private disputes: for example, in eviction proceedings, proceedings to discharge truant employees, or matrimonial proceedings. Not only are such uses unsupported by a purported crime prevention justification; but they seem less warranted in their own right. Where the cause-of-action in private disputes is not also a criminal offence (as it is not in most contract, employment discharge, tenant eviction, and matrimonial disputes), the public interest involved appears to be less urgent, thus suggesting a weaker case for overriding citizens' interests in anonymity in public space. Cambridge's Code of Practice has such limitations on dispositions to private parties: CCTV materials may be released only 'in connection with law enforcement processes'.[15]

A bar on such collateral, non-law-enforcement uses of the tapes is warranted for a reason that goes beyond the lower priority that such uses have as grounds for overriding privacy and anonymity concerns. It is also warranted because, by extending permissible audience for the tapes, privacy interests themselves become more seriously compromised. Those interests, according to the previous discussion (pp. 63–64), relate to keeping under a modicum of control whose curiosity we need to satisfy and whose expectations we need to respond to. If only law enforcement personnel are entitled to inspect the tapes, and only for evidence of criminal activity, then one has less reason for concern about their possible expectations concerning other kinds of conduct. If, however, the tapes can be made available to others – to employers, colleagues, possible litigants, and perhaps the public at large, then not only can larger numbers of persons view one's conduct, but their possible expectations and interests may have a much wider scope. In going about in public, one then needs not only to avoid conduct that gives rise to legitimate suspicion of criminal activity, but also to think twice about conduct that an employer might disapprove of, a disaffected spouse might wish to utilise in a matrimonial proceeding, or a bored TV viewer might find funny or ridiculous.

[15] Cambridge City Council (1998), **Code of Practice**, para. 6.1 and 6.2.

Limiting disposition of CCTV materials to crime-prevention uses also raises the question of what kind of crime prevention should be involved. According to standard criminalisation doctrine, conduct should be criminalised if it either involves harm (or risk of harm) to others, or certain forms of grave offence (see Feinberg, 1984; Feinberg, 1985; von Hirsch, 2000b). Recently, however, a variety of exclusion strategies are developing, designed to keep out from public places persons who are deemed socially undesirable, or are thought to represent risks of offending in future.[16] These strategies may involve exclusion orders backed by criminal sanctions. In another essay in this volume, Clifford Shearing and I (von Hirsch and Shearing, 2000) describe some of these strategies, suggest why they may involve inappropriate restriction of people's freedom of movement in public space, and recommend limitations on their use. If such limitations are not adopted, however, then the question arises whether CCTV tapes should be admissible in criminal prosecutions based on such exclusion orders. I would suggest not, because the harm to be prevented is more contingent: we are speaking not of actual commission of acts doing or risking harm but rather, of keeping persons out of public places who merely *might* do harm in future. The contingent character of the harm weakens the case for compromising privacy and anonymity concerns.

CCTV SURVEILLANCE IN MASS PRIVATE SPACE

The present essay addresses the use of CCTV surveillance in *public* space. CCTV surveillance, however, also is in extensive use in mass private space. There, as Alison Wakefield (2000) indicates in her essay in this volume, the surveillance has broad uses, including uncovering evidence of actual crimes such as shoplifting; identifying undesired (criminal or non-criminal) conduct, whose perpetrators can then be expelled; or spotting 'blacklisted' individuals whose previous conduct provides supposed grounds for exclusion.

Mass public private space constitutes facilities that are owned by private organisations, but offer themselves as being generally available for public use

[16] Under the Anti-Social Behaviour Order provisions of the Crime and Disorder Act 1998, a local or police can obtain a court order against persons who engage in 'anti-social conduct' that causes or is likely to cause 'harassment, alarm or distress' in one or more other persons. A court order may issue against such a person, directing him to cease from engaging in the conduct involved, or from *any other* conduct described in the order – so that the order may include an exclusion directive. The order is to run at least two years, and violation of it may attract criminal penalties of up to five years' imprisonment. The legislation thus permits someone to be excluded from specified public or semi-public space, on the basis of non-criminal conduct that is deemed 'anti-social'. Once imposed, however, the exclusion need no longer be conduct-dependent: the person may be barred from re-entering the space, even were he to desist from the kind of conduct that initially triggered the order. These provisions have recently been used to ban two disruptive boys for a period of two years from the centre of a small city, Weston-super-Mare (*Times*, 17.ii.00). For a critique of this legislation, see Ashworth, Gardner et al. (1998); White (1999).

without restriction of specific purpose. Often, the facilities involved resemble in their physical layout and uses traditional public spaces: a large downtown shopping mall may operate in many respects like a traditional shopping street.

English law now treats mass private space much like purely private property; American law has important qualifications of that approach, relating for example to racial discrimination: whereas a purely private organisation (such as a small social club) may discriminate, a privately owned facility that is generally open and available to the public may not do so (Gray and Gray, 1999). The situations we are discussing are somewhat harder to deal with: whereas racial classifications are manifestly suspect, the ethical considerations involved in public television surveillance are of a more complex character (as we have seen), and a purported law enforcement justification is involved. Nevertheless, the public character of the space and its uses would appear to warrant regulation comparable to that appropriate for publicly-owned space with similar functions. Underlying this view is the notion of property as constituted by a bundle of rights held by the property-owner: some of these may be restricted while preserving others (Gray, 1991). The owner of mass public space thus should be entitled to operate and seek to make a profit on it much like other private investment. But if the facility's use is comparable to that of public space, there should be restrictions on practices that infringe the privacy of its users comparable to those that should be applicable to public spaces.

Extending the foregoing analysis concerning CCTV to mass private space would necessitate criteria for determining when privately-owned property should qualify as mass public space. The problem here is that the uses involved represent a spectrum – at one end of which is a small atrium operated by a few shops or restaurants for the enjoyment of their customers; and at the other are general-use mall facilities which may even involve the incorporation of formerly public downtown areas. It would need to be decided where on this spectrum use becomes sufficiently public so that the principles applicable to the public forum should apply. But in any event, large, multi-purpose shopping malls, to which members of the public are invited without regard to performing any particular activity, should qualify as having a 'public' use (see von Hirsch and Shearing, 2000).

In public areas, one can establish a principle that CCTV tapes should be available only for specified law enforcement purposes such as detection and providing court evidence; and that it should not be supplied to ulterior private uses (see pp. 71–72). A shopping mall, however, is itself a corporate enterprise and its security personnel are the enterprise's employees. It thus would be necessary to decide to what extent a mall may use CCTV tapes – supposedly obtained in the interests of crime prevention – in order to admonish, discipline or fire lazy or inefficient employees. The problem is, of course, that it is not only those employees whose activities are being filmed, but other visitors to the site who have no employment link to the corporation.

Questions of enforcing restrictions on surveillance will need to be addressed. Difficult as the problems of enforcing restrictions on public law-enforcement authorities are, securing compliance from private firms operating malls and similar facilities is a still more formidable task. It would be necessary to develop mechanisms for monitoring compliance. (Would it be helpful, for example, to establish publicly-appointed monitoring groups or a local or regional *ombudsman* for the purpose?) It also would be necessary to specify what steps should be taken against those who infringe the applicable restrictions. Addressing questions such as these would call for further reflection and analysis.

Until appropriate limitations on surveillance in such mass private spaces are adopted, there will need to be limits on information-sharing between public authorities and the security operations of private malls. As Wakefield (2000) points out, it now has become customary for large, privately-owned malls to exchange data with public authorities operating CCTV schemes. Security operations in malls do have significant crime prevention functions. But such private organisations today may use surveillance information for all sorts of other purposes – including the disciplining of erring employees, and the exclusion from the mall of persons who are deemed 'undesirable' for a variety of reasons. Were free interchange allowed, then CCTV tapes from a downtown street site, showing a person engaged in eccentric or erratic behaviour, could be used by the mall to exclude the person from its space. The appropriate remedy would be to bar facilities from obtaining CCTV tapes from public facilities, unless the mall is willing to subscribe to specified restrictions on the disposition of such materials.

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5

Exclusion from Public Space

Andrew von Hirsch and Clifford Shearing[1]

EXCLUSION AS A SITUATIONAL CRIME-PREVENTION STRATEGY

Exclusion Strategies

Ronald Clarke (1995) characterises '**access control**' as an important technique of situational crime prevention (SCP), **aimed at** reducing criminal opportunities. This refers to 'measures **intended to exclude** potential offenders from places such as offices, factories, and **apartment** buildings.' (*ibid.*: 110). One type of access control consists simply **of making** access less easy. Clarke cites a road-closure scheme for a former **red-light district** in North London, aimed at discouraging potential customers **from soliciting** sexual favours of local women from their cars. The scheme **did not prohibit** anyone from entering the district, but merely made access **less simple by** putting up impediments to automobile travel. Another type of **access control**, however, involves true exclusion: the person is barred **entirely from** entering the area, and faces sanctions of some kind if he enters. **It is this latter** kind of strategy which most plainly raises questions of freedom **of movement**, and it is this strategy which our essay addresses.

Exclusion is now being used **extensively in privately-owned** spaces that have public functions, such as shopping **malls. In her** chapter in this volume, Alison Wakefield (2000) describes the use **of exclusion** in three such facilities. Recent legislation permits exclusion strategies **to be** extended further, to publicly owned spaces. Notable **in this regard is the** Anti-Social Behaviour Order (ASBO) legislation, passed as part **of the** Crime and Disorder Act 1998 **(discussed below).**

Exclusion may be invoked on a variety of grounds. One is exclusion at will: certain persons are simply denied entry, for no stated reason. English law now permits the private owner of a shopping **mall to keep undesired entrants out,**

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without reasons having to be provided. Another is exclusion of 'nuisances' who commit or are deemed likely to commit petty annoyances that are not criminal in character, such as begging. Robert Ellickson (1996) recommends the zoning of such persons out of large areas of urban space. While we touch on these practices to provide perspective for our discussion, we shall concentrate on access control as a *crime prevention* strategy. This includes (1) 'profiling' – the exclusion of persons who are believed to represent a risk of future criminality; and (2) exclusion of persons who have been found to have committed crimes, and who therefore are deemed to be 'bad risks'.

Harmful, disruptive, or grossly offensive behaviour in public spaces has long been proscribed by the criminal law. The criminal law, however, operates through the volition of its intended audience: the potential offender is warned against violations, and needs to be motivated to comply. To be so motivated, the potential offender must be aware of the penalty, must fear it sufficiently to desist, or else feel morally obligated to observe the prohibition (see more fully, von Hirsch, Bottoms, et al., 1999: 4-9). If a violation occurs, that must be proved beyond reasonable doubt. The resulting sanction must bear a degree of proportionality to the seriousness of the crime – so that minor offending ordinarily may not draw substantial penalties.[2] After the penalty is imposed and is served, the person is permitted to return to the space involved.

Exclusion seems a simpler and more effective strategy. It *forecloses* harmful or disruptive behaviour: the person is just kept out. There will be no need to induce the person to behave properly while present, since he no longer can be there. Exclusion also is easier to administer. True, the person still needs to be induced to comply with the exclusion directive. But this is no longer a matter of having to observe and prove actual criminal misbehaviour. If the barred individual is merely found present, that suffices to have him penalised.

Exclusion seems capable of dealing more easily with the recidivism problem. The offender no longer just serves a proportionate penalty (usually brief, in cases of public order offences); he now may be excluded for a long period, or even permanently. The ASBO legislation, for example, contemplates that anti-social behaviour orders (which may involve exclusion) would operate for a minimum of two years.[3]

[2] The Criminal Justice Act 1991, in §§2 and 6, imposes such a requirement of proportionality. For the uncertain implementation of these requirements by English courts, however, see Ashworth and von Hirsch (1997).

[3] Under the Anti-Social Behaviour Order provisions of the Crime and Disorder Act 1998, a local or police authority can obtain a court order against persons who engage in "anti-social conduct" that causes or is likely to cause "harassment, alarm or distress" in one or more other persons. A court order may issue against such a person, directing him to cease from engaging in the conduct involved, or from *any other* conduct described in the order – so that the order may include an exclusion directive. The order is to run at least two years, and violation of it may attract criminal penalties of up to five years' imprisonment. The legislation thus permits someone to be excluded from specified public or semi-public space, on the basis of non-criminal conduct that is deemed "antisocial". Once imposed, however, the exclusion need no longer be conduct-

In this essay, we examine the ethical issues that arise with respect to such exclusion strategies. Attractive as exclusion might seem as a device for preventing crime, we shall suggest that its use in areas having public use entails serious losses of personal liberty. We concentrate our attention on the normative issues. Devising remedial steps to protect public access, especially for privately-owned spaces having public uses, raises also complex issues of property law and issues of practical implementation. We leave these latter issues for further exploration.

Changing Understandings of Public and Private Space

Before proceeding with our analysis, it may be worth commenting briefly on some changes that appear to be taking place in prevailing understandings of public and private spaces, and of their functions. Public space has traditionally been conceived of as a space of freedom, in which people are entitled to move about at will. So long as their behaviour does not violate specified conduct regulations (principally sent forth in the criminal law), they are at liberty to proceed as they please. These spaces are 'public' in the sense that they are supposed to be available to any member of the public; such persons, it is assumed, need not be required to account for their presence in such spaces to anyone. Private spaces offer another kind of personal freedom to their owners: a wide ambit of choice not only regarding their own behaviour, but also regarding who may and may not enter and share the space. Owners thus are entitled to exclude others from these spaces and have government back this up through coercive means. All citizens thus are seen as having a right to share in public space; and those who have the means to obtain ownership of private spaces may also regulate the use of their own spaces. Within liberal democratic societies, this distinction between public and private space has been thought to be essential to liberty. Any development that undermines this distinction, and the freedoms it provides for, thus appears to threaten liberty. But these are precisely the kinds of developments that are happening today, and it is this threat and the appropriate response to it that is our focus.

It is worth noting that the organisation of space into the public and private spheres that we take for granted today is a comparatively recent invention. Public space arose as the sovereignty of monarchs; as kingdoms developed, so did the concept of the King's Peace. While this peace initially applied primarily to the royal domains (for example, royal estates and forests) it gradually came to include the King's highways and other spaces. Gradually the King's Peace swallowed up the peaces of more local sovereignties. The result was the emergence of what we now recognise as a public physical

dependent: the person may be barred from re-entering the space, even were he to desist from the kind of conduct that initially triggered the order. These provisions have recently been used to ban two disruptive adolescent boys for a period of years from the centre of a small city (*Times*, 17.ii.00). For a critique of this legislation, see Ashworth, Gardner et al. (1998); White (1999).

domain, along with a public peace guaranteed by governments. This public domain came to constitute the network of locations (roads, parks, public squares, and the like) that we now recognise as public spaces. As this happened the common areas that existed within 'private domains' (for example feudal manors and corporate spaces such as those of the Dutch and British East India Companies and the Hudson's Bay Company) became public space, and new private spaces emerged in contrast to them. As space became 'public' and 'private', the older common spaces faded away. Unlike the earlier common spaces, which were only 'common' to a local community, public spaces became available to all citizens of an emerging state.

We are now, however, beginning to witness the emergence of new forms of collective space that bear some resemblance to the 'common' spaces which public space had swallowed up. Those new collective spaces, like their forebears before the development of public space, are common to some but not common to all; they include many persons but they also exclude some others – and it is through these exclusions that they put in question the inclusive nature of the public domain. Some of these new realms are contractual spaces, in the sense that they establish collectivities on the basis of explicit contracts.

These new forms of collective space are blurring the public-private distinction. These spaces, while 'public' in the sense that they are common places in which daily life is carried out in the public view, may at the same time be private in the sense that they are legally private property. The consequence of this has been that rules that define the rights of property owners – rules that had developed when both well-defined private and public spaces existed – are being applied to the regulation of these new common areas. This is eroding public space as we have come to know it, namely as spaces which people are entitled to frequent simply because they are citizens. In the new emerging 'common' spaces – in the form of malls, industrial parks, recreational domains, residential communities and the like – property owners under existing law have broad entitlements to exclude undesired entrants, and to do so with the backing of state authorities. As these new quasi-public domains swallow up public spaces, liberty of movement is impeded. It is now not difficult to find throughout America and Western Europe areas that once had vibrant public spaces but are now organised primarily and sometimes exclusively around malls, industrial and office complexes, and even gated communities. Simultaneously, even public spaces operated by public authorities – parks or downtown areas, for example – are beginning to adopt restrictions on entry, making them also common to many but not to all.

It may well be that current trends concerning ownership and organisation of common spaces are difficult or impossible to reverse. This, however, does not mean that we must be quiescent while the freedoms we value are eroded. The task facing us is that of rethinking our regulatory framework in ways that recognise these new styles of ownership and management, while at the same time preserving important values and liberties. What is required, in particular,

is development of a normative framework that will give adequate recognition to rights of free access in the newly-emerging common spaces and in the spaces still in possession of public authorities.

LIBERTY AND THE PUBLIC-SPACE/PRIVATE-SPACE DISTINCTION

The foregoing sketch has suggested that there may be important liberty-preserving functions in having private property with restricted access but also public space with free access. Let us examine these functions more fully.

The Public/Private-Space Distinction

The landlord's power to exclude has been central to the conception of private property; indeed, Kevin Gray (1991) has persuasively argued that it is that power which principally defines private real property as such. Characteristically, permission to enter may be denied by the owner for any reason, and previously permitted entry may be revoked for any reason. While the space is thus deemed private, exclusion may be enforced by *state* action, via the trespass laws.[4] Where exclusion is permissible, it may be *permanent*: no time-limit is necessarily involved.

In public spaces, however, the widest liberty of movement has been assumed to exist. A person should be able freely to come and go, without need to justify his presence. Order is maintained through the public order provisions of the criminal law. The disruptive individual may thus be arrested, and undergo the applicable punishment. But permanent or long-term exclusion has not ordinarily been assumed to be an option: once the disruptive individual has completed his punishment, he may return to the same space.[5]

Granted, there have been a variety of official and unofficial exceptions to this understanding of public space. The police could invoke vagrancy laws, or newer variants thereof, to expel undesired entrants. Such measures, however, were considered suspect – and indeed, certain kinds of vagrancy statutes have been ruled unconstitutional in the US.[6]

[4] Whereas trespass itself is a crime under German law (German Criminal Code §123), it is not so under English law. In England, however, a trespasser who remains on private land after having been asked to leave by the owner may be deemed to have committed a breach of the peace if he resists the owner's efforts to expel him.

[5] The disruptive individual may be escorted away from a public place at which he is being disruptive, as part of the police's arrest and enforcement powers. But this involves only temporary exclusion, to 'defuse' the disruptive incident.

[6] Papachristou v. Jacksonville, 405 U.S.156 (1972) (striking down a broadly worded vagrancy statute); Chicago v. Morales, 119 S.Ct. 1849 (1999) (striking down a statute authorising police officers to order to disperse persons 'reasonably believed to be . . . criminal street gang member[s] loitering in a public place').

Function of the Distinction in Preserving Liberty

Maintaining an exclusion power in private but not public spaces has certain important liberty-preserving functions. In private space, the exclusion power creates an expanded ambit of personal choice. It permits the owner to decide with whom (if anyone) he wishes to share his space, and for what purposes and activities. There is no need to share the space with others who are unknown to him, or whose manner or interests are not congenial. The saying that 'A man's home is his castle' has this kernel of truth: at home, one can be at home, to do what one likes and be with whom one likes.[7]

In public space, by contrast, the absence of an exclusion power assures free entry and movement. This assures everyone of access to the common facilities and the social goods that such spaces provide: the public park is a place which we *all* should be able to enjoy. The public space provides also a 'corridor' function: it permits movement from one private space to another. If I am barred from public thoroughfares, I cannot visit my friends in other places, even if they invite me.

On this understanding of public space, order is maintained primarily through the operation of the criminal law. This law operates *through the volition of the subject*. Prohibitions are stated in advance, with prescribed penalties. It is up to the person to decide whether to comply or to risk the legal consequences. This serves interests in liberty in several important respects:

- It treats the addressees of the prohibition as self-governing persons. The sanction deals with them as rational moral agents, in that it conveys blame for the conduct which an agent might consider, and creates a disincentive to make the temptation to offend easier to resist.[8]
- It ensures that the addressees of the prohibition have access to the space, so long as they choose to comply. The person himself thus is in control of his ability to secure entry. There is no prior restraint.
- In case of a violation, the person may be subjected to a criminal sanction. That sanction may contain exclusionary elements: in case of a serious violation, he may be imprisoned – which sharply curtails his movements and access; for intermediate violations, he may be placed on probation, and the probationary order may limit his entry to places which are deemed likely to give rise to offending. But criminal sanctions should be subject to proportionality requirements, based on the seriousness of the offence.[9] Thus sooner or later, such restrictions must end.

[7] Naturally, private space has this liberty-preserving function only if ownership of property is distributed with some degree of equity. The right to one's own home has little value to those forced to live on the streets. Jeremy Waldron (1988) makes this point: that any liberty-based justification of private property presupposes that everyone has some minimal assurance of being able to have it.

[8] For more on this conception of punishment and why it is respectful of persons' agency, see von Hirsch (1993: ch. 2).

[9] *Ibid.*; Ashworth, (1995; chs 4, 9, 10); Criminal Justice Act 1991, §§ 2, 6.

- After the completion of the punishment, the person has the right to return to the public space in question. He has renewed freedom to use and enjoy the space – and any further loss of access would depend on a subsequent choice on his part to offend again. His initial disruptive conduct thus would not result in permanent exclusion.

Why Is Freedom of Access to Public Spaces Important?

While it is commonly believed that citizens have a broad entitlement to move freely in public space within their own country, this has received surprisingly little attention in law and legal scholarship. Constitutional provisions and doctrines concerning free movement, to the extent these exist, have been focused on movement across national borders. Free movement *within* state boundaries has been offered less protection.[10] Statutory or common-law guarantees of free movement in public space are also scant, in Britain[11] and many other Western countries. And purported rights of free movement have not received the kind of attention from legal philosophers as have other kinds of rights, such as those of privacy, speech and assembly.

A number of reasons may be offered, nevertheless, for considering free movement in public space to be an important interest for denizens of a free society, and one that should be accorded a special degree of protection.

When we think of liberty of movement in the present context, we should bear in mind that it is freedom of *access* that is at issue: that is, the freedom to enter places at which a person wishes to be present. Loss of the freedom to travel to Slough may not seem much of a deprivation, if one has no desire to visit that city. But exclusion sanctions do not just affect such hypothetical destinations; they preclude entry into public or semi-public spaces to which the person *does* wish to gain access.

One reason why freedom to enter such spaces is important is to make use of the social resources available there. If a person cannot enter common spaces in his area, he may be barred from access to important goods and services, and also may be excluded from the variegated aspects of social life that take place at such locations. Depending on what remaining space is available to him, this may entail loss of access to places at which to purchase food or other necessities, or to purchase non-essential goods that nevertheless are important to an adequate quality of life; to recreational facilities, and (particularly for young persons) to opportunities for social interaction. A dramatic illustration may be

[10] The Fourth Protocol to the European Convention on Human Rights, in its Article 2, provides that everyone lawfully within the territory of a signatory shall have 'the right of liberty of movement'. However, the right is made subject to broadly worded exceptions, including that for the maintenance of *ordre public*. Moreover, the right may be restricted 'in particular areas' if warranted by the public interest. Britain has not subscribed to this Protocol.

[11] See Feldman (2000).

drawn from the facts of *Rawlins*[12], decided by the Court of Appeal in 1995. The shopping mall involved in the case occupied the greater part of the former downtown shopping area of the city of Wellingborough, and serves as the city's principal shopping and congregating space. Those excluded were unemployed youths who had not been found guilty of any offence, but were deemed nuisances by the mall owner. Exclusion meant that the youths involved were barred from the locality's primary shopping and recreational area.

Other, less consequentialist arguments support also this interest in free access. One such consideration relates to personal liberty. Freedom requires place: to be free to do something, one needs a place at which to do it.[13] A person has, as noted, a wide ambit of choice within the confines of his own property. But most persons' properties (usually, consisting just of their dwelling-places) offer only limited geographical space and few facilities, and some people (the young, the homeless) lack any spaces of their own at all. This makes public space all the more important as the *locus* of free choice.

In public space, a person's options are ordinarily constrained to a modest degree by prohibitions of the criminal law. Such prohibitions, however, generally leave a wide residual ambit for free choice. The person still may freely enter and leave the space without prior permission, and still would be free to perform any activities that do not impinge on other persons' liberties through their harmful or offensive character.

If restrictions on access are imposed, however, liberty is drastically curtailed. When access is denied, the person is debarred from *all* options at that place. If access is made to depend on discretionary permission to enter, then liberty is also lost: he might be able to enter and to engage in various activities – but he is no longer *free* to do so, as permission to enter or remain may be withdrawn at any time.

Denial of access to a particular place, it might be objected, still leaves the person free to engage in his preferred activities elsewhere. The person who is barred from entering Shopping Mall *X* may still go to other malls in the area, to shop or window-shop on downtown streets, or to meet friends in the local public park. Sometimes, however, Shopping Mall *X* may be the only place in the area with adequate shopping, recreational, or congregating facilities, (as seems to have been the case in Wellingborough). And, more fundamentally, if exclusion from public and semi-public spaces is permissible, then access can be denied at those other locations also. Suppose, for example, that Shopping Mall X may keep out persons with previous criminal histories. The facility may then share its information with comparable facilities in the area (indeed, such information-sharing is becoming increasingly common; see Wakefield,

[12] CIN Properties Ltd. v. Rawlins (1995) 2 E.G.LR.130. For discussion of the case, see Gray and Gray (1999).

[13] Waldron, 1993: Ch. 13.

2000); and those facilities may use the same information to bar the person. The ASBO legislation,[14] for example, authorises exclusion not just in the specific location where the supposed anti-social conduct occurred, but from the entire local government or police district – or, under certain conditions, from neighbouring districts.

The interest in being able to move about freely in public space may also rest also on ideas of membership in a free community. To move about unhindered in public spaces seems a basic entitlement of community membership: that if it is one's own country, then one should be able to go about in it and to observe and enjoy what its public spaces have to offer. To be restricted in one's movements, in this view, imposes something like the status of second-class citizenship (see Duff and Marshall, 2000). This view would need fleshing out – and depends, ultimately, on political theory.[15]

Where do these arguments about the importance of the interest in free movement lead? They suggest that that free movement is an interest of a very considerable degree of practical and moral importance. If it has that importance, then the sanctions used to enforce public order in public space should be ones which help preserve such an interest. Our argument in this paper is that sanctions addressed to persons' volition can be made to comport reasonably well with liberty of movement, but that exclusion sanctions – especially those of certain kinds, to be discussed below – may not.

SEMI-PUBLIC SPACES: THE STATUS OF MASS PRIVATE PROPERTY

In the foregoing discussion, we have treated spaces such as shopping malls as 'semi-public' areas, to which a right of access should exist. This raises the question of the moral and legal status of such places.

In the 1995 *Rawlins* case, the Court of Appeal held that the owner of a shopping mall may exclude persons from entering for any reason.[16] This was so despite the fact that the facility clearly constituted semi-public space to which members of the public were invited without restriction of purpose. The claimed legal basis of the exclusion was a landowner's unrestricted entitlement to exclude others at will.

[14] See n 3, above.

[15] A fleshed-out account would need to furnish a fuller rationale of why free movement is a central feature of full membership in a community. It would also need to confront who should qualify for membership. Citizens and legal residents only? Visitors?

[16] See n 11, above. The American cases prohibit mall owners from barring visitors on racially-discriminating grounds (see Gray and Gray, 1999), and the coming into force of the Human Right's Act may lead English courts to adopt similar prohibitions. The Rawlins doctrine of exclusion at will has now been questioned in a concurring opinion by Lord Justice Sedley in *Porter* v. *Commissioner of Police*, decided by the Court of Appeal on 20 October 1999.

A full analysis of the defects of this decision is ably developed by Gray and Gray (1999). Briefly stated, the mall performs the functions of public space – namely, of a downtown shopping area. Exclusion means serious loss of access to important social goods and services, including shopping, employment, and recreational opportunities. What is more fundamentally objectionable here is that the exclusion sanction – which can serve to *enhance* liberty in functionally private spaces – is being used to *restrict* liberty of movement and access to social goods in functionally public space. The exclusionary regime of private space is being extended to swallow up the inclusive regime of public space. The Grays' suggested solution is to recognise that such 'mass private space' is functionally public; and that in public space, the power to exclude should be limited by public interest concerns. Such concerns, they suggest, can be safeguarded by a requirement that exclusions be subject to a 'reasonableness' test. Exclusions at will, for no stated reason, clearly would not satisfy such a test, and should be impermissible.

Such semi-public spaces should be distinguished from privately-owned space that is offered for public admission, but only for particular uses. Instances are shops and restaurants. All are invited to enter, but only for the stated purpose. A person thus may enter the shop to 'browse', but not for too long. In a restaurant, the person must order food; he may not sit at the table just to take notes on his newest research project. Semi-public space, for present purposes of analysis, constitutes space to which the general public is admitted without reference to specific uses. Shopping malls thus qualify, because members of the public are invited to come there without regard to performing any particular activity. While it is hoped visitors will shop there, they are encouraged to wander about the place or meet friends – in hopes that such casual presence and exposure to goods on display might encourage them to shop.

The extent of the public character of such privately-owned retailing spaces actually represents a spectrum. At one end of the spectrum lie facilities that are primarily designed for specified uses: say, a small atrium in front of a few shops, meant for the convenience of customers but not for general use. At the other end, is the large shopping mall which contains numerous retail outlets, restaurants, recreational facilities, and parking spaces – and which is meant for general public use. Where, along this spectrum, privately-owned property comes to have sufficient general public uses to qualify as 'semi-public' is a matter that would call for further analysis. For present purposes, however, it suffices that we treat as public in character those spaces that clearly are designed for general public use, such as a large downtown shopping mall replacing a traditional shopping area.

It might be objected that restricting an owners' power to exclude would be unfair, because it could adversely affect the profitability of the enterprise. If a mall is not permitted to expel undesired entrants, it might be less able to attract more respectable paying customers, and thus sustain financial losses. Certain kinds of businesses, however, offer essentially public services; and when they

do, they may legitimately be regulated to ensure that the service is made fully available to members of the public and not just to preferred segments thereof. If a group of entrepreneurs purchase and operate a formerly state-owned railway or airline, or if they invest in a newly-organised bus line, they are permitted to profit from those activities; but they will be required to assure that all members of the public can have access. The possible effect of such requirements on the profitability of the enterprise is one of the business risks to consider, when deciding whether to invest in such an enterprise. Our argument is, essentially, that a large privately-owned mall that invites the public to enter without specification of purpose is likewise offering a public service, and thus may be called upon to ensure that all members of the public have proper access.

MINOR (NON-CRIMINAL) NUISANCE AS GROUNDS FOR EXCLUSION

If unlimited powers of exclusion should not be permissible in public or semi-public spaces, as has just been suggested, what, if any, should proper grounds for exclusion be? A possible exclusion ground is the prevention of minor (but non-criminal) nuisance conduct. Let us consider this briefly.

A variety of measures have been undertaken or proposed, that would permit the exclusion of persons from public space (even that which is publicly owned) for conduct that is not criminal but nevertheless is deemed obnoxious. Robert Ellickson (1996) proposes a zoning scheme whereby 'chronic street nuisances' could be zoned out of most of a city's downtown space. He defines a chronic street nuisance as a person who, without necessarily infringing the criminal law, "persistently act[s] in a public space in a manner that violates prevailing community standards of behavior, to the significant cumulative annoyance of persons of ordinary sensibility who use the same spaces" (*ibid.*, 1185). An example he gives is persistent acts of polite begging. He suggests a strict-liability test: no intention to annoy would be required. The aim of his proposal would be to bar such persons from most areas of a city, in order to make those areas more attractive for ordinary persons.

It is far from clear whether 'obnoxious' conduct, so broadly defined, constitutes a legitimate basis for coercive state intervention at all. Mere 'significant annoyance' would not be a sufficient intrusion to satisfy the Harm Principle.[17] It is also doubtful that it could satisfy a reasonably formulated Offence Principle.[18] The Ellickson proposal, for example, relies on the sensibilities of

[17] The Harm Principle holds that harm to others – involving a setback of interests of such persons – is a legitimate *prima facie* grounds for prohibiting conduct; for a fuller discussion of the principle, see Feinberg, 1984.

[18] The Offence Principle holds that offensiveness to others may, under specified circumstances, be *prima facie* grounds for prohibiting conduct. For formulations of the Offence Principle, see Feinberg 1985; or, for a somewhat different perspective that emphasises the normative reasons underlying claims of offensiveness, von Hirsch (2000b).

ordinary persons, without regard to how intrusive into the actor's life the measures to protect those sensibilities would be, or to whether there are any persuasive normative reasons why such sensibilities should be spared.

In any event, this kind of exclusion cannot be defended as a *situational crime prevention* strategy. A crime prevention rationale for exclusions assumes that it is *crime* that is to be forestalled. Here, however, the exclusions are based on behavioural standards that are considerably more stringent than the criminal law's public order rules; they are meant to maintain a higher level of public decorum. To the extent that is so, crime prevention cannot sustain such exclusion practices.[19]

The Ellickson proposal, at least, is conduct-based: the city is to be zoned so as to preclude in most of its public space certain kinds of 'obnoxious' conduct, and persons who engage in such behaviour may be punished. After completion of their (presumably rather modest) punishments, however, such people could presumably return to the space, provided they then desist. The recently-enacted ASBO (Anti-Social Behaviour Order) legislation takes matters a step further – to bar even this possibility of return. A single act of 'anti-social' conduct may result in the person being banned for a lengthy period from a specified area.[20]

LONG-TERM EXCLUSIONS FOR CRIME PREVENTION

Let us turn, then, to our primary topic of exclusions designed to promote *crime prevention*. Here, there are two kinds of strategies which strike us as being of a questionable character: profiling exclusions, and those based on prior offending. In both cases, we are speaking of exclusions that are permanent or of substantial duration.

Profile-Based Exclusions

One of these suspect strategies is *profile-based* exclusions. The idea here is to bar from entry certain persons whose characteristics are deemed indicative of a heightened risk of criminal offending. It is not present unacceptable behav-

[19] Ellickson (1996: 1171) does invoke crime prevention in support of his scheme by citing the Wilson/Kelling thesis that non-criminal incivilities, when permitted to become frequent in a neighbourhood, will lead to the locality's decay and eventually to higher crime rates (Wilson and Kelling, 1982). But empirical support for this latter thesis is far from unequivocal (Taylor, 1997). And it involves the further problem of 'remote harms': the persons targeted by the measure are not committing crimes at all, and their conduct is merely said to have effects on the area's environment that may prompt *others* to commit crimes. This raises questions of whether it is fair to hold those committing mere incivilities responsible for others' eventual criminal choices. See more fully, on 'remote harms', von Hirsch (1996).

[20] See n 3, above.

iour that is the concern here, but ***potential*** for future criminal offending. These profile-based exclusions may be of two types:

- Profile-based exclusions may dispense with any prohibited conduct, and base the exclusion simply on the excludees' having certain characteristics associated with higher risks of criminal offending. An example is airlines' former practice, before the present metal-detecting devices were installed, of barring from flights certain individuals who fitted the profiles of potential hijackers.
- Profile-based exclusions may adopt conduct-related requirements that function actually as pre-emptive exclusions: persons considered bad risks are kept away by prohibiting conduct that is deemed to typify them. For example, groups of male teenagers, or persons dressed in a certain manner, are kept out of a shopping mall because their presence is thought to bode risks of potential disruption or theft.

Profiling of these two kinds differs from the exclusion strategy discussed earlier (pp. 87–88), in that its aim is to prevent *criminal* conduct. The profile is used as grounds for exclusion, because of its utility in predicting subsequent criminal behaviour. Thus persons are not being barred from public or semi-public space *merely* because they have certain characteristics or engage in possibly irritating but harmless conduct; rather, the claim is that persons who have those characteristics or engage in such conduct are more likely than others to commit crimes in future; and are being kept out in order to prevent such crimes from occurring. Profiling is thus a genuine *situational crime prevention* strategy.

It should not suffice, of course, merely to claim that possessing a given profile or having given behaviour-patterns is predictive of the person's propensity for criminal behaviour; this would need to be supported by empirical evidence[21]. But *if* evidence of this link to subsequent crime can be established, should this kind of exclusion be permissible?

We think not. The persons thus profiled substantially lose access to public spaces which formerly were accessible to all. The exclusion may substantially restrict their access to publicly-available resources and services, and involves a drastic curtailment of their liberty of movement and access to public space. The profiling criteria relied upon are problematic because they bypass the actor's agency: the person is being kept out of public or semi-public space, without regard to any choice on his part to engage in harmful or seriously offensive conduct. Indeed, profiling represents an extreme version of bypassing volition: the person is excluded before he has any chance to show whether he is willing to behave properly. What counts is not his actual

[21] The evidence in question would need to show the profile is predictive of criminal conduct in the near future on the part of the persons to be excluded. Valid evidence of this kind might be obtainable, albeit with a great deal of 'overprediction' – that is, with most of the persons fitting the profile not engaging in the predicted conduct.

criminal choices, but his membership in a class of persons considered to represent higher risks.

This bypassing-of-the-agency objection holds most obviously for 'pure' profiling strategies, where the exclusion is based on the person's having certain characteristics that are deemed predictive of future misconduct. The person loses his freedom of access to public or semi-public spaces, without *any* opportunity whatever to demonstrate that he would have conducted himself properly were he permitted access. The person is being treated not as an agent capable of choice, but much as a dangerous animal, which may not be brought into a public places (even on a leash) because it is the sort of creature that is known to bite.

The objection holds also, however, for profiling exclusions based on current conduct of a non-criminal nature, as in the example of excluding groups of male teenagers. True, there is a choice involved here: for example, the teenagers must choose to congregate, in order to trigger the exclusion. Because of that conduct requirement, volition is not wholly foreclosed: if the teenager wishes access, he can have it by going in alone. The difficulty remains, however, that there is here no requirement of *wrongful* choice: there is nothing illegal, or even morally questionable, for a young man to go about with his friends. The absence of wrongfulness means that the person has no independent normative inducement to refrain from the conduct involved. Unless the person gives up something he would otherwise be entitled to do, his moral agency is still bypassed: he is being excluded not because of any wrongful choice he has made, but because he is (or more accurately, people who resemble him are) deemed more likely to engage in such choice in future; and the exclusion is meant precisely to preclude that choice.

Exclusion Based on Previous Criminal Offending

This is probably the most common type of exclusion. Many shopping malls do not operate with profiles, but use exclusions against persons found already to have engaged in illegal acts (see Wakefield, 2000, in this volume). The Anti-Social Behaviour Order[22] may also be employed in this fashion: against disruptive neighbours whose conduct does violate criminal statutes prohibiting assault, threatening conduct or disruption. What the ASBO then permits, however, is imposing a long-term exclusion order on the person, once he has been found to have engaged in such behaviour.

A threshhold objection relates to the possible unfairness of the procedure for determining that a criminal violation has occurred. A mall operator may simply decide *ex parte* that a criminal violation has taken place, with no opportunity granted for the suspect to have his case heard impartially, or to

[22] This measure is described briefly in n 3, above.

present a defence. Or with the ASBO, a neighbour who engages in violence or illegal threats is not convicted of this conduct; rather, he is simply found to have engaged in 'anti-social' behaviour under the much looser standard of conduct and lower proof requirements that the ASBO legislation permits.

Suppose, however, that a criminal conviction were properly obtained against the person, and it is desired to exclude him from the space thereafter. What objection can there be to that? This way of proceeding *seems* to be a volition-based sanction. The person must have made a culpable choice to offend, before he can be excluded. Should he have wished access, he could have refrained from criminal offending.

A crucial difficulty remains, however: it lies in the permanence of the exclusion. Unlike punishment, the response is not 'over' when a proportionate sanction has been carried out. Once found to have committed the proscribed conduct, the person may not return – or may not return for a lengthy period – to the space involved. So this sanction still involves the bypassing of the person's agency because he loses the crucial 'second bite' which the criminal law permits: he is denied the opportunity of re-entering the space after completion of his punishment, even if he were subsequently willing to comply. Since so many people, especially young persons, have at one or another time been found to have committed petty thefts or lesser acts of disruption,[23] a very substantial class could thus be denied the freedom to utilise public spaces.

It might be asserted that the exclusion is not meant to be a punishment but rather a reasonable 'civil' response to the misuse of public space. If viewed as a civil response however, the pre-emptive character of the sanction becomes all the more apparent. Persons are being denied access to public or semi-public space on grounds of risk of future offending; and the prior criminal conviction serves merely as evidence of the risk involved. By denying the person the opportunity of returning, the sanction still bypasses the will: the person, once identified as a risk through previous conduct, no longer has the option of returning to the public space provided he subsequently is willing to comply with legal requirements.[24]

[23] According to 1987 Home Office statistics, it is estimated that 34% of males born in 1953, and 8% of women born that year, were convicted of a standard list offence before age 40 (Home Office, 1997: 199-200).

[24] Von Hirsch and Wasik (1997) have defended a limited use of civil disqualifications from professions – to bar from further practice, for example, a solicitor convicted of dishonest dealings with clients. These situations involve, however, established professions with entry qualifications, services having a fiduciary character, and a clientele that is vulnerable to abuses of trust. In the situations of which we are speaking here, no such factors are present. Access to public space is not a matter for which one needs or should need special qualifications – indeed, it should be available to all. No special vulnerabilities or interests of a fiduciary character are involved: the user of public or semi-public space does not entrust his interests to other users, in the manner that a patient or client entrusts his interest to his or her doctor or solicitor.

Exclusion of Convicted Persons – Any Exceptions?

Might there, however, be exceptional cases where permanent or long-term exclusions should be permissible? A possible exception involves cases where the environment is especially 'sensitive' to certain kinds of misconduct, involving potential harm of an unusually grave character in the circumstances. If a person starts fighting in a park, that involves the normal risks of assaultive conduct; but if he starts fighting on an airplane or joins in a riot in a crowded stadium, that creates the risk of a crash or a stampede in which many lives may be lost or endangered.

How would permitting such an exception comport with our basic thesis, that access to public space is an interest of fundamental importance, and thus requires special protection? This raises the question of the extent to which 'rights' constrain the pursuit of crime prevention claims – a matter discussed more fully in another essay in this volume (von Hirsch 2000a). To treat access to public or semi-public space as a 'right' or interest worthy of special protection involves giving it a degree of priority over the pursuit of ordinary social aims including those of crime prevention. One may give the interest in public access such priority under ordinary circumstances, and yet accede to the pursuit of crime preventive objectives when these are of unusual urgency. It is thus arguable that in the specially sensitive environments just referred to, where disruptive conduct can lead to seriously harmful results, that such a degree of urgency is established. We think, however, that this type of exception should be drawn narrowly.

BRIEF, CONDUCT-RELATED EXCLUSIONS

The reservations we have just outlined concerning permanent or long-term exclusions still leave open the possibility of *brief* exclusions based on current behaviour. A person who misconducts himself is kept out or invited to leave, while he is engaging in the behaviour. This approach leaves volition intact, since the person can enter the facility by deciding not to misbehave; and if he does offend, he may be removed for the particular occasion but is not subsequently barred from returning.

The intervention may involve denial of admission: the conspicuously inebriated individual is prevented from entering the public park or mall. Additionally, it may involve expulsion: the rowdy youngster is escorted out of the facility and told not to return until he has calmed down. These are common practices in mass private spaces such as malls (see Wakefield, 2000). In public facilities such as streets or parks, the police may exercise a similar function: the drunk is escorted home. On the basis of the preceding argumentation, such strategies seem less problematic, because bypassing-of-agency is less clearly involved. The person has no business engaging in his current

misconduct. Once barred from entry or expelled, he still may re-enter at a later time, provided he then avoids that kind of behaviour. His liberty of access to public space has not been permanently curtailed.

In public streets or parks, the expulsion function has traditionally been performed by the police: the officer informs the person that he had best leave, if he does not wish to be arrested. But even such public facilities are, to varying degrees, turning this function over to private security – which may lack full arrest powers. In semi-public spaces such as malls, this function is left chiefly to private security personnel, who have more limited arrest powers than the police.[25] Given the fact that police enforcement and prosecution are costly and relatively scarce resources, it does not seem practical to insist that only the police may expel.

Extending the expulsion power beyond criminal justice agencies, however, raises another problem: that of the evidentiary standards for establishing that a criminal violation has actually occurred, that would support the decision to expel. When the police are involved, this ordinarily is less of a problem: the officer directs the person to leave, and warns him that if he does not comply he will be arrested for the misconduct he is committing. Should the individual wish to contest the latter claim, he may challenge the officer to perform the arrest – in which event the question of whether the misconduct has occurred will be decided in court.

Once private security personnel lacking arrest powers are involved, however, this procedure ceases to be available. The security agent makes his own determination, on the spot, that criminal misbehaviour is occurring; there ordinarily is no independent forum for determining whether the individual has actually misconducted himself. If the problem is primarily one of establishing fairly that a criminal violation occurred, however, ingenuity may offer some possible procedures or remedies. One possibility (although one of limited practical effectiveness) is to provide a wrongly-expelled individual with a cause of action in tort. Another would be that if the person refuses to leave, the police are called in and he is charged with disorderly conduct, then conviction would require a demonstration that he was conducting himself improperly (and not merely remaining present) when he was asked to leave. There may be other possibilities, but some procedure is needed for establishing fairly (even after the fact) that a violation has actually taken place.

[25] Private security have ordinary citizens' arrest powers, that relate to indictable offences committed in their presence; and also the somewhat expanded arrest powers of property owners, that relate to other crimes committed in their presence on their property. This includes the ability to hold a suspect until arrival of the police or a deputised person. However, private security seldom have the full arrest powers of the police.

WHAT LEGAL CHANGES ARE NEEDED?

How much change in existing law would be required to implement the suggestions we have made in this essay? The extent of such changes would depend, of course, on the state of law of the particular jurisdiction involved. In England, the required changes would be quite extensive. Current law treats the owners of mass private spaces like private landlords, entitled to expel at will (see p. 85). Suitable limitations on the expulsion power would have to be imposed – for example, to restrict profiling exclusions, and long-term exclusions imposed on the formerly convicted (see pp. 88–92). Indeed, changes in England's law relating to public property may also be required – as publicly-owned land is now treated in significant respects like private land, with substantial powers to exclude persons other than those present for specified purposes.[26] We thus leave this topic for those more versed in land law and public law than ourselves to consider.

CONCLUSIONS

In the foregoing pages, we have sketched a conceptual framework regarding when it should be permissible, in the interests of crime prevention, to exclude persons from public and semi-public spaces. Our analysis has been designed to preserve the liberties and freedoms associated with and made possible by conceptions of a public spatial domain. We recognise this to be a somewhat cautious way of argument, in that it seeks to retain – and extend to mass private space – freedoms and entitlements that traditionally have been associated (at least in theory) with that public domain.

Perhaps this strategy will ultimately prove to be too limiting, because it retains the values associated with existing conceptions of space, and tries to apply them to rapidly changing forms of space ownership and management. It thus views the newer forms of collective space, and the collective life they express and make possible, through an established normative lens. A more radical approach could be to take advantage of the new possibilities made available by these newer spatial forms to rethink the normative framework itself. This is not something that we feel equipped to undertake at present, although we recognise it as a possibility. Doing so would require novel ways of thinking that might leave currently-conceived distinctions between public and private spaces behind, rather than trying to adapt these conceptions to the newer forms of collective space. Possibly, we might stop thinking of the new emerging spaces as either quasi-public or quasi-private and develop new spatial categorisations and a new normative framework appropriate to them –

[26] Feldman (2000).

this, after all, is how the public/private framework emerged in the first place. Were this possibility realised, our proposals might subsequently look like transitional developments in the rethinking of how liberty should be maintained in common spaces. But any such reconceptualisation should maintain and emphasise certain values – those of liberty, and of wide access by members of the public to common goods and spaces.

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6

Situational Prevention, Criminology, and Social Values

Ronald V. Clarke

INTRODUCTION

Advocates of situational crime prevention have claimed that the systematic reduction of opportunities for crime would lead to substantial reductions in a society's crime rate. Critics have responded that this claim gives too little importance to the social and psychological determinants of criminal motivation. Unless motivation is also reduced, they argue, the removal of opportunities will simply result in crime being redistributed, not reduced.

In buttressing their position, advocates of situational prevention have helped to develop theories portraying crime as the outcome of an interaction between motivation and opportunity. Perhaps the three most important of these theories, which David Garland (1996) has described as 'the new criminologies of everyday life', are the routine activities approach, crime pattern theory and the rational choice perspective. These are complementary theories but each has a slightly different focus (Felson and Clarke, 1998). Routine activities theory deals with the ways that opportunities arise (and decline) in society. Sociologists would describe it as a 'macro' theory because it seeks to explain broad social trends. Pattern theory deals with the ways that offenders encounter or seek out opportunities for crime. Because it considers offenders in the context of the neighbourhoods where they live, it provides explanations at the 'meso' level. The rational choice perspective provides accounts of the various situational influences – motives, desires, emotions, justifications – that result in offenders deciding to take advantage of particular criminal opportunities. Because it focuses on the immediate setting for crime, it could be called a 'micro' theory.

Taken together, these theories show how crime is generated by the interaction of motivational and situational variables. They explain how opportunities for crime draw people into criminal conduct just as much as criminal dispositions lead people to seek out crime opportunities. This helps in making the case that reducing opportunities is as important as reducing criminal motivation. At the same time, advocates of situational prevention have been engaged in applying opportunity-reduction on the ground. More than 100

documented examples of successful situational prevention now exist[1]. Early applications were focused on opportunistic property offences, but situational prevention has been used more recently in preventing a much wider range of offences, including street prostitution, drunken brawling, obscene phone calling, domestic violence and various forms of commercial robbery (Clarke, 1997). In these evaluations of situational prevention, displacement effects have been found to be much less common than often assumed. No evidence of displacement was found in 22 out of 55 situational prevention projects recently examined in a review for the Dutch Ministry of Justice, and only partial displacement was found in the remainder (Hesseling, 1994).

The methodology of many of the evaluations can be criticised, but taken together they suggest that situational prevention can be effective across a broad range of crimes at both a societal and local level. In addition, many studies are discovering that the benefits of situational crime prevention have diffused so that there was not only a reduction in crimes targeted by the measures, but crime supposedly outside the direct reach of the measures (Clarke and Weisburd, 1994). For example, when CCTV cameras were installed on the top deck of three buses in one city, vandalism was reduced not just on those buses, but on the entire fleet (Poyner, 1988). In another example, improved lighting of the streets in one housing estate not only reduced crime in that estate but also in an adjoining one (Painter and Farrington, 1997). It seems that offenders respond to reduced opportunities in a variety of ways, sometimes by shifting their attention elsewhere, but often by reducing their offending as a result of a real or perceived increase in the risks or effort entailed.

As a result of these developments, situational prevention has now gained a place in the crime control policies of many countries, but it is still viewed with little enthusiasm by most criminologists. Some of them continue to question its effectiveness[2], but more now concentrate on its supposed detrimental social consequences, and on its 'conservative' values and politics (O'Malley, 1997; O'Malley and Sutton, 1997; Crawford, 1998; Hughes, 1998). This paper focuses on these more recent lines of criticism. It argues that the harmful consequences of situational prevention can often be anticipated, and with care can also be avoided or ameliorated. As for the criticism of values, it argues that this reflects the preferences of most criminologists for social reform over

[1] Clarke (1997) and Sherman et al. (1997) provide overlapping reference sources to these case studies.

[2] Despite this record of success, important questions about the effectiveness of situational crime remain to be answered. For instance, little has been written about implementation difficulties and about why some measures fail. Nor is much known about how long measures retain their effectiveness before offenders find ways round them. Further, it is not clear how situational prevention can be used to reduce some important categories of crime such as sexual assaults, hate crimes, organised crime and corporate crime. Most important, it is not yet clear whether the piecemeal elimination of specific kinds of opportunities for crime can make a substantial enough impact on the overall level of crime in society to justify an increased government investment in the approach.

opportunity reduction; they need to be persuaded, however, that opportunity reduction equally demands their attention.

HARMFUL SOCIAL CONSEQUENCES

The potential harms of situational prevention are difficult to discuss in the space of a single paper, for reasons that include the following:

1. Situational prevention has come to mean different things. In particular, it now has both a broad and a narrow meaning. In its broad meaning, it encompasses any attempt to manipulate the environment to reduce opportunities for crime. In its narrow meaning, it refers to a specific problem solving approach, developed by criminologists, which is the subject of an extensive technical and theoretical literature (Clarke, 1995; 1997). The present chapter is focused on this narrower definition, whereas many other chapters in this book deal with situational prevention defined more broadly. As explained below, the narrower form has more built-in ethical safeguards.
2. Even when narrowly defined, situational prevention encompasses many different techniques to reduce opportunity. In the latest classification, 16 of these techniques are identified under the four general headings of increasing the difficulty of crime, increasing the risks, reducing the rewards and removing excuses (see Table 1). Each of these techniques varies in its potential drawbacks. For instance, 'access control', one technique for increasing the difficulty of crime, has more 'exclusionary' costs than, say, 'target hardening', another such technique. Moreover, specific applications of a particular technique may be more problematic than others are. For instance, improved lighting and 'neighbourhood watch' are both means of improving natural surveillance (one of the ways to increase the risks of crime), but the latter carries more ethical risks because it may encourage vigilantism.
3. Both private and public agencies engage in situational prevention projects. Those undertaken by private agencies may have more injurious consequences than those undertaken by government, because the latter must take a much broader range of interests into account.
4. Harm can be considered from an individual or community perspective as well as an overall societal perspective. Depending on which perspective is adopted, there will be differing assessments of harm[3].

In addition, there seems to be no generally accepted classification of the possible harmful consequences of crime policies to guide the discussion of the ethics of situational crime prevention. Felson and Clarke (1997) have proposed

[3] As noted by Joanna Shapland in her commentary at the Cambridge conference, this paper adopts a 'top down, government' perspective.

Table 1. Situational crime prevention: examples of the main approaches

INCREASING PERCEIVED EFFORT	REDUCING ANTICIPATED REWARDS
1. Target hardening • Strengthened coin boxes in telephone kiosks • Steering column locks on cars • Anti-robbery screens in banks	9. Target removal • Removable car radios • Women's refuges • Phonecards to eliminate cash in public pay phones
2. Controlling access • Fencing around car parks • Entry phones • Concierges	10. Property identification • Property marking • Vehicle licensing • Cattle branding
3. Deflecting offenders from targets • Segregating rival soccer fans • Pub location • Closing streets to stop cruising for prostitutes	11. Reducing temptation • Gender-neutral phone listings • Off-street parking • Rapid repair of vandalism
4. Controlling crime facilitators • Photographs on credit cards • Toughened glasses in pubs • Passwords for mobile phones	12. Denying benefits • Ink merchandise tags • Graffiti cleaning • Disabling stolen mobile phones
INCREASING PERCEIVED RISKS	**REMOVING EXCUSES**
5. Screening entrances and exits • Automatic ticket gates at stations • Baggage screening at airports • Merchandise tags in shops	13. Setting rules • Customs declaration • Harassment codes • Hotel registration
6. Formal surveillance • Speed cameras • Burglar alarms • City guards	14. Alerting conscience • Roadside speedometers • 'Shoplifting is stealing' signs • 'Idiots drink and drive' signs
7. Surveillance by employees • Locate pay phones where employees can see • Park attendants • CCTV systems	15. Controlling disinhibitors • Laws controlling drinking age • V-chips in TVs to block violent programmes • Breathalyzers in pubs
8. Natural surveillance • 'Defensible space' designs • Improved street lighting • 'Cocoon' neighbourhood watch	16. Encouraging compliance • Easy library checkout to discourage book theft • Public lavatories • Litter bins

Source: Adapted from Ekblom (1998)

that three general principles deriving from the ethical standards of a liberal democracy should govern crime prevention policy: it should provide crime prevention equally to all social strata, it should show respect for individual rights, and it should share responsibility for crime prevention with all sections of society. However, it is too early to say whether these principles will be accepted as an adequate framework for discussing the ethical questions raised by situational prevention. While they inform the discussion below they do not govern its structure. Rather, the discussion is focused on some specific claims about the harmful results of situational prevention. In each case, it will be argued that ways to avoid the harms can be found and that the criticisms often take no account of the countervailing benefits of situational prevention.

1. Displacement resulting from situational prevention can lead to crime becoming worse.

This is not simply the criticism, which is incorrect, that situational prevention achieves little net benefit as a result of displacement. Rather, it is that displacement can sometimes result in an escalation of harm so that more serious crimes replace less harmful varieties[4]. For instance, when token booths in the NYC subway system were target hardened, some thieves attacked them by pouring petrol under the doorway and threatening to set the booth alight (Dwyer, 1991). The subway authorities quickly installed fire extinguishers in booths to counter this threat.

In fact, the idea of escalation does not comport with the circumstances of many forms of crime. For example, it seems unlikely that if casual shoplifting were made more difficult, those denied this opportunity would feel compelled to find some other way of getting the goods – such as grabbing the shopping baskets from pensioners. Even so, those implementing situational prevention must be prepared to respond if the threat of escalation becomes a reality (as in the case of the petrol attacks on token booths). This is a recognised part of situational prevention's action-research methodology, which requires an examination of actual outcomes after the implementation of opportunity-reducing measures.

Another version of the increased harm hypothesis is that situational prevention can result in crime being displaced from the rich to the poor. Thus the rich man's burglar alarm may displace burglary to his poorer neighbour. The possibility of this kind of displacement should be considered whenever governments conduct publicity campaigns to get people to safeguard their

[4] It is equally true, as Barr and Pease (1990) have argued, that even if displacement were complete – in the sense that equally many, though different crimes, occurred after the measures than before – this might still result in a net benefit for society. The new crimes might be less serious than the old (what might be called de-escalation) and crimes may be diverted from repeat victims to be shared more equally among the members of a particular community.

property. In fact, there are few documented examples of crime being displaced from the rich to poor, though, for a time, vehicle-tracking devices to prevent car theft carried this risk. These devices are expensive and would not be worth fitting to most cars. They also require a receiver to be installed on police cars to pick up the signals from stolen vehicles. As a result, police attention could become concentrated on stolen cars fitted with tracking devices at the expense of those without the devices. Consequently, many municipalities in America now make it a condition of police cooperation that cars fitted with the tracking device do not use decals to advertise this fact. Thieves therefore do not know which cars have the devices and which do not, which may help to produce a more general deterrent effect. Indeed, a recent econometric evaluation of the use of these devices in the Northeastern United States suggests that they have helped to bring down overall levels of a car theft in the communities concerned (Ayres and Levitt, 1998). If so, poorer car owners would have collected 'free rider' benefits from the preventive efforts of more wealthy owners. Felson and Clarke (1997) have argued that similar benefits may diffuse to poorer communities as the result of more effective crime prevention in more wealthy neighbouring communities.

2. Situational crime prevention reinforces a harsh, uncaring fortress society, of which gated communities are the most recent manifestation.

When first introduced, situational prevention, especially in its 'target hardening' varieties, fed fears about the imminence of a fortress society in which citizens terrified of crime locked themselves in their homes, shunned their neighbours, and emerged only for work and other essential business. The result, it was feared, would be a growing alienation of the population and the gradual destruction of community life. In fact, much situational prevention practice has had exactly the opposite objective of strengthening community ties and reinforcing social controls, by enabling people to keep an eye on the neighbourhood around their homes. Essentially, this is the purpose of the 'defensible space' designs that Oscar Newman (1972) proposed for public housing estates in the early 1970s.

Nevertheless, the criticism has lingered on, though in different forms over the years. Currently, it is focused on the 'gated community', where access is restricted to those residing there on the assumption that much crime is the result of offenders cruising in neighbourhoods, looking for crime opportunities. Access is controlled by walled or fenced perimeters, by gates and by barriers. In many cases, the residents of these communities are seeking protection from crime, but they are also hoping to avoid traffic, litter and other incivilities of modern life. The number of these communities has increased rapidly in America in the past fifteen years. A recent estimate puts the numbers of American families now living in some form of gated community at about 2.5 million (Blakely and Snyder, 1998).

It is not clear whether the ethical considerations surrounding gated communities are much more troublesome than those relating to restricted entry into apartment blocks, many of which house just as many residents. Nor is it clear how these considerations differ from those concerning walled country estates belonging to the very wealthy. Some of the criticism of gated communities certainly assumes that they are only for the rich. In fact, many of these neighbourhoods recently built in the United States, perhaps most of them, are intended for middle-income residents (Blakely and Snyder, 1998). Gated communities also have their analogues in poorer parts of the city where residents have demanded that street barriers be installed to keep drug dealers and criminals out of their neighbourhoods. Some inner city public housing estates in America have also in effect been turned into gated communities.

No careful study has been made of whether gated communities do protect wealthy and middle-income people from crime. They might do so if the community is located in a high crime area and if security is tight. However, many of the new gated communities do not fulfill these conditions. They are being built in the outer suburbs where crime is already low. Where they began with manned gates, many quickly give these up because of the expense. On the other hand, several studies in poorer neighbourhoods have shown that street barriers can be effective in reducing crime. For example, Matthew's (1986, 1993) work in London suburbs has shown that street closures have been an important component of the successful efforts to reduce street prostitution. Lasley (1998) has recently shown that street barriers installed in an impoverished area in Los Angeles reduced a variety of crimes including homicide committed in drive-by shootings by gang members.

As so often turns out, the truth about gated communities is more complex than portrayed by the critics. Gated communities are not merely for the rich and may not be widely resented by the poor. They do not simply consist of walled residential neighbourhoods with guarded entrances. Barriers to entering can often be more symbolic than real, and may inconvenience rather than prohibit entry. If their development has been encouraged at all by situational prevention, this is in poorer rather than in wealthier neighbourhoods. It is in these poorer neighbourhoods that their benefits may be most obvious and direct. They may strengthen community bonds rather than weaken them, and they might enhance rather than impede informal controls. Because they might help to reduce fear, they may even reduce the perceived need for other, more harmful forms of self-protection such as purchasing guns. In any ethical assessment of gated communities, however, these and their other possible benefits need to be balanced against their possible harms in limiting public access and freedom of movement (see von Hirsch and Shearing, 2000).

3. The use of situational crime prevention results in the exclusion of so-called 'undesirables' (vagrants, the homeless, minorities and unemployed young people) from public places such as shopping malls, parks and entertainment facilities.

The use of technology or police and security guards to control access always carries the danger of exclusion, even when exclusion is disavowed as an objective. In fact, this danger is smaller in situational prevention projects than in some of the newer forms of policing. This is because situational prevention (at least as defined in the narrow sense of this paper) seeks to use access control in a more closely targeted manner. Rather than being used to restrict access to public facilities such as shopping malls or downtown districts, it is used to keep people out of private facilities, such as office blocks or factories, who have no business to conduct there. It would tend to focus less on specific groups of 'undesirables' because situational prevention assumes that any stranger might exploit opportunities for crime in these facilities. Where the purpose is to exclude perceived 'troublemakers' from public and semi-public spaces such as downtown districts and shopping malls, it is more likely to be served by 'order-maintenance' policing undertaken by public police forces, or private policing undertaken by security companies. While these forms of policing might fall under a broader interpretation of situational prevention, they are not encompassed within the narrower focus of this paper.

'Deflecting offenders', another of the situational prevention techniques listed in Table 1, also carries some exclusionary potential since its purpose is to keep likely offenders away from suitable targets. For example, the coordination of last buses with pub closing times, an example of deflecting offenders, is designed to get late night drinkers out of the city centre before they get into trouble. Another example would be closing off cut-throughs and alleyways near high schools to prevent pupils from vandalising cars or stealing items left in back gardens on their way to and from school. As these examples again show, however, the use of this situational technique is targeted to particular problems and settings and is less likely to involve a general attempted exclusion of 'undesirables'.

4. CCTV surveillance of public space, speed cameras, and Caller-ID are just three recent examples of the threat to civil liberties posed by many situational crime prevention measures.

Any new technology used in law enforcement and crime prevention poses possible new threats to civil liberties. CCTV raises the spectre of being spied upon as we go about our daily business. Speed cameras can give the authorities information about where we drive and when. Caller-ID can remove our anonymity when making casual enquiries over the phone or can reveal where we are calling from when we wish to keep this private.

These threats need to be exposed, subjected to critical evaluation, and resisted where they might result in harmful intrusions on freedom. Unfortunately, in their zeal to be the guardians of liberty, the critics of new technology often fail to ask questions about the reality of the threat and about the possibility of it being averted (other than by banning the technology). If some infringements of liberty seem unavoidable, they often fail to consider whether these costs are outweighed by the benefits of crime reduction.

In fact, ideals of freedom and suspicions of technology combine to make it unlikely that situational prevention will result in significant infringements of individual liberties. Rather, the danger is that valuable technologies will not be used, or their introduction delayed, by unrealistic fears about their effects. Several examples of this can be cited:

- New technology making it impossible for anyone but the owner to fire a handgun is being resisted by the gun lobby in America.
- Towns and cities throughout America are resisting the introduction of CCTV in downtown areas and other public places, despite some positive evidence from Britain and elsewhere of its preventative effects (Brown, 1996; Painter and Tilley, 1999). Fears of CCTV are fuelled by stories of the inappropriate use of cameras by security officers to entertain themselves by inspecting passing women or by the inappropriate sale of video footage. These stories less frequently discuss the limitations commonly established on the deployment of CCTV or ways of supervising operators and protecting tapes to reduce the dangers of inappropriate use (for fuller discussion of possible safeguards on use of CCTV, see von Hirsch, 2000).
- The New Jersey State Senate has banned speed cameras on the grounds that these will result in impersonal policing or in raised insurance costs (resulting from the accumulation on driving licences of 'points' for speeding).
- Despite its value in deterring obscene and other unwanted calls, the introduction of Caller-ID in many states in America has been accompanied by the requirement that callers can selectively block the display of their numbers on Caller-ID devices. This puts a premium on the privacy of the caller – which was made possible only by the development of automatic telephone exchanges – at the expense of those called.

The democratic process that produces these outcomes can in time also lead to their reversal. Open discussion about the threats posed by preventive technology may lead to its greater acceptance. In some cases, such discussion may also result in modifications to the technology that lessen its harms without impeding its effectiveness. For example, in the latest technological twist, Caller-ID devices are now being marketed which reject all calls from blocked numbers. This restores some of Caller-ID's preventive benefits and gives more privacy to those called. As a further example, it does not seem unlikely that, as a result of the extensive public discussion of gun controls, the

United States will soon accept significant restrictions on the numbers and the kinds of lethal weapons in private hands.

5. Situational crime prevention leads to a regimentation of society and achieves its results by requiring law-abiding people to endure irksome and inconvenient precautions.

Many situational prevention measures are entirely unobtrusive or can even improve the quality of life. Most people are unaware of the steering column locks on their cars, while 'defensible space' ideas have helped rid public housing of tower-block designs. In some cases, however, situational prevention does result in greater regimentation and inconvenience. It can certainly be irksome to undergo the security checks now required when checking-in for airline flights. It is also inconvenient to use a PIN with one's bankcard and to remember the PIN or keep its record secret. It is particularly galling that these costs paid by everyone are due to the criminal conduct of a minority. On the other hand, baggage screening and other measures introduced in the 1970s have made terrorist bombings of airliners very rare and have largely eliminated hijackings. Similarly, without PINs, bankcards would quickly become unusable, and the conveniences of carrying around less cash and of obtaining money at any time of the day or night would be forfeited.

People generally accept the need for security, but in some cases they are subjected to inconvenience or annoyance without any compensatory benefits. Other people's car alarms sounding at night is an example of this. Nobody should have to endure this kind of cost (see Duff and Marshall, 2000). In fact, car alarms have been banned in some cities and they could be replaced by alarms that rouse only the vehicle owner. Another example of unwarranted inconvenience is provided by the procedures to prevent fraud imposed on people by insurance companies or by government bureaucracies collecting taxes and dispensing benefits. In the world of commerce, competition will help ensure that irksome and unnecessary precautions will quickly be eliminated. In state-run or public enterprises lacking competition, other avenues exist for procuring change in tiresome regulations and requirements, including elected representatives, the press, complaint lines, ombudsmen and other devices of a democratic state. The process of change may take longer, but the problem of bureaucratic roadblocks and delays is not unique to crime prevention. At worst, a higher price will be paid for security, for longer than needed, but there is no reason to be saddled with unnecessary regimentation forever.

6. Situational crime prevention promotes 'victim blaming'.

It is indefensible to blame rape on short skirts and other 'sexually provocative' conduct. Nonetheless, there is a place for giving people information about behaviours that put them at risk of crime. Hence, the popularity of guides to

good crime prevention practice. For example, tourists often ask whether it is safe to use the local taxis or to walk in the streets at night. It is also useful for car owners to know, as the British Crime Survey has shown, that if they put their cars away overnight in their garages and do not leave them on the driveway, they can reduce by twenty-fold their risks of vehicle crime (Clarke and Mayhew, 1998). They can then decide whether the reduced risk is worth the effort of putting the car away.

In general, if people decide to take a known or easily knowable risk, they must bear some of the responsibility for the consequences. Where risks are taken in blatant disregard of the consequences for others, responsibility can shade into blame, as in the case of shopkeepers who refuse to alter practices – such as displays to encourage impulse purchases – that they know increase the risks of theft. Despite this, they may continue to expect the police and the courts to deal firmly with any shoplifters. Blaming and shaming them may be a way of getting these merchants to change.

Other business victims deserving their share of blame include insurance companies which skimp procedures in checking claims and thus make it easier for policy holders to commit fraud, the costs of which can be passed on through increased premiums. Some managers of rental apartment complexes fail to establish codes of conduct and consequently increase the risks of crime, not merely to their own property and persons, but to that of their other tenants (Clarke and Bichler-Robertson, 1998). Some pubs create conditions that lead to drunken fights by failing to serve alcohol in a responsible manner or by employing aggressive bouncers (Homel et al., 1997). And some convenience store owners save money, but raise their risks of robbery, by employing inexperienced and young clerks to staff their stores at night (Hunter and Jeffrey, 1997).

Blame as a tool of crime prevention can be used legitimately not just against these business victims, but also against those who produce criminogenic products. Many cities in the United States are currently engaged in suing gun manufacturers for the irresponsible overproduction of weapons, which has led to enormous criminal justice and healthcare costs. Under the Tories, the government in Britain tried to shame car manufacturers into improving vehicle security by publishing league tables of the most stolen cars (Houghton, 1992). Under New Labour, this approach is being broadened as outlined by Pease (1998) to include a wider range of criminogenic products.

'CONSERVATIVE' VALUES AND POLITICS?

It has been argued above that the harmful consequences of situational prevention are often overstated. These can often be anticipated and averted and, where this is not possible, more acceptable alternative measures can usually be found. This is particularly the case for the narrower form of situational

prevention discussed here, which is specifically located within the value system of a liberal democratic society (Felson and Clarke, 1997; Seve, 1997). It is carefully targeted to specific problems, which facilitates an assessment of the costs and benefits of intervention. It is focused on criminogenic situations and not on 'criminal' people. It includes a wide repertoire of alternative ways to reduce opportunities that can be selected to minimise harmful consequences in any particular setting. Finally, its action-research methodology includes (1) pre-implementation assessments of the costs and harms of proposed measures, (2) post-implementation evaluations of the actual costs, and (3) a subsequent phase of corrective action where this is needed.

Despite all this, it seems unlikely that situational prevention will be given more than a peripheral role in official policy. This is because much informed opinion believes that the only truly effective way to reduce crime in society is by attacking its 'root causes' – discrimination, disadvantage, poor parenting, unemployment, etc. Many criminologists certainly see the mission of their discipline as being to improve society through exposing the deep-rooted causes of crime. This goal is not assisted by the thesis that crime results from choosing to take advantage of tempting opportunities. Nor does it sit well with situational prevention, which seems in danger of turning criminology into a technical discourse, more compatible with the security industry than with academia. Moreover, by delivering 'quick fixes', situational prevention diverts society's attention from the need to remedy the inequalities and discriminations thought to be at the heart of the problem.

The existing evidence of its effectiveness has therefore done little to garner support for situational prevention from substantial numbers of criminologists. Many continue to criticise its focus on the situational aspects of causation. Others are suspicious of its origins in 'administrative criminology', which they believe is aligned with conservative values and politics. They find evidence for this in situational prevention's neglect of crimes against women and of white-collar and corporate crimes. In fact, not just situational prevention, but criminology in general is focused on predatory crime, perhaps for the reasons given by the Left Realists – this kind of crime causes such direct hardship and fear to so many ordinary people. It can also be difficult to obtain data about the less familiar forms of crime. As Gilling (1997) has noted, however, the pertinent question is not what crimes *have been*, but what crimes *could* be the focus of situational prevention. The answer is that all forms of crime are open to situational prevention since all are dependent on opportunity.

Anyway, there is little evidence that situational prevention appeals to conservative values. True, there is a superficial fit between situational prevention and conservative ideas of 'small government', value for money, individual responsibility and so forth. Many conservatives might also agree that crime is a choice, but for them it is a *moral* choice not an economic or instrumental one. Consequently, conservatives generally have little sympathy for the opportunity-reducing goals of situational prevention. Instead, they regard it as a

fundamentally irrelevant response to crime because it neglects the need for punishment or incapacitation of those responsible for the harms caused.

CONCLUSIONS

Despite its improved theory and its growing record of success, situational prevention still meets with indifference from many criminologists. Why should this lack of a criminological constituency matter? After all, situational prevention has already achieved a place in crime policy in Britain and elsewhere. David Garland (1996) has shown that it has been widely applied as a consequence of the devolution of crime control to local agencies and private institutions. It has been implemented by a broad range of public and private agencies and has attracted the interest of the security industry and the police. Some commentators have even described it as the fastest growing method of crime control in the world. Surely these facts demonstrate that situational prevention can prosper without the support of academic criminologists?

This argument ignores some other equally telling facts. Situational prevention and other forms of environmental crime prevention have made little headway in the United States since 'defensible space' and 'crime prevention through environmental design' (CPTED) concepts fell into disfavour at the end of the 1970s. In Britain, where situational prevention originated, it is regularly de-emphasised when a new set of politicians comes into power. In government-supported projects, it is subordinated to other preventive approaches such as multi-agency partnerships, safer city initiatives, community safety action, crime reduction strategies, and now risk management.

Situational prevention, at least in its narrower form discussed in this paper, is therefore a somewhat fragile enterprise. Without the support of criminologists, it will lack the scientific and research basis so vital to its successful application and its future development. Equally important, it will lack the kind of philosophical and ethical scrutiny that the papers of this volume have begun to provide. Absent such efforts, it could easily degenerate into a set of techniques applied without much thought, and therefore with increasing ineffectiveness and insensitivity, by agencies unacquainted with its rationale and origins. This seems already to have happened to problem-oriented policing, a closely related approach. Because so few researchers have been involved in the latter strategy's recent applications, most of the work undertaken in its name is inferior to the pioneering efforts in Newport News, Virginia (Eck and Spelman, 1988). In particular, the problem-oriented focus has often been lost in misguided efforts to combine it with underdeveloped notions of strengthening community ties and improving police-community relations (Clarke, 1998).

Situational prevention may need criminology, but there are reasons for thinking the need is reciprocal. First, situational prevention's focus on

opportunity and situational variables is helping to improve criminological theorising, which has neglected these important determinants of crime. Second, its emphasis on specificity has encouraged research into particular forms of crime, which has extended the range of criminological knowledge. Third, concepts associated with situational prevention, such as crime hot spots, crime displacement, diffusion of benefits and repeat victimisation, have led to new directions in research. Fourth, situational prevention has helped to stimulate the development of newer research techniques such as victim surveys, crime audits, crime mapping and Geographical Information Systems (GIS) applications. Fifth, it provides a natural link with other disciplines, such as economics and social geography, which have an important contribution to make to criminology.

Finally, and most important, situational prevention gives criminology a direct and practical role in crime control, which substantial numbers of students entering the discipline would find attractive. Properly trained, they could enjoy absorbing and rewarding careers helping to deal with crime problems, and improving both the lives of ordinary people and the functionality of many social institutions. At the same time, they would be helping to provide a credible alternative to the extremely expensive and intrusive deterrence afforded by the criminal justice system – the centre-piece of current crime policy.

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7

Situational Prevention: Social Values and Social Viewpoints

Joanna Shapland

Ronald Clarke starts his paper in this volume by indicating firmly that the heart of situational crime prevention is the claim that 'the systematic reduction of opportunities for crime would lead to substantial reductions in a society's crime rate'[1]. I entirely agree with Ron Clarke that situational crime prevention (SCP), meaning the 'systematic reduction of opportunities for crime', can have substantial effects in reducing crime in particular situations – provided, of course, that the opportunity reduction measures are properly targeted to real crime problems and reviewed regularly.

The evidence for such substantial reductions has been seen not only in North America, but in Great Britain and in Europe more widely[2]. It is obvious that if opportunities for crime are removed (such as replacing cash in gas or electricity meters with tokens) or made far less visible (locking property left in cars away out of sight), offending of that kind will decrease. If offending opportunities start being perceived as being more difficult to undertake, those offenders with less skills or less need are likely to be induced to desist. It has been argued that crime will not be reduced, but displaced. However, any idea of complete displacement presumes a perfect hydraulic model of crime – that if you squeeze at one point, exactly the same amount of crime (or in the hydraulic analogy, water) will pop out at another. Complete displacement ignores 'wastage' (leaks in changing from one offending locus to another, or one offence to another) and 'friction' (the effort in moving the crime to another point). The findings of environmental criminology – that most crime is localised to the areas where offenders live, work and undertake their leisure

[1] Clarke (2000), p. 97.

[2] Clarke (2000) refers to the standard reviews of such evaluations, notably Clarke (1997) and Sherman et al, (1997), but further examples can be found within the Home Office Crime Prevention Unit Papers and Reducing Crime series for England and Wales. Our own experience of such reductions is illustrated by measures taken against theft from cars and burglary in a London police division (Johnston et al, 1993).

pursuits and the areas they find familiar and feel at home[3] – tend to suggest that frictional effects will be large. Displacement, as Clarke (2000) argues, is unlikely to be anywhere near complete displacement, or even a major factor, for bulk crime.

Whether the effects of SCP techniques on crime are sufficiently large so as substantially to reduce a society's crime rate, however, depends not only on the effectiveness of SCP itself, but also very much on the extent to which the techniques are used, whether the crimes at which they are directed are volume (bulk) crimes, how well actual crime patterns are targeted, and whether initiatives are regularly reviewed and renewed to fit crime patterns as they change. The effectiveness of SCP in practice depends upon the extent to which people are prepared to use it, as well as upon its theoretical integrity and practical vigour.

In this commentary, I shall explore both the theoretical basis of SCP and its acceptability in use. Ron Clarke has set out, in his paper, a number of criticisms of SCP which he attempts to answer. One of these concerns is the potential effect of displacement. As indicated above, I would agree with him that the evidence and, indeed, the theoretical basis for displacement is that, though a real phenomenon, it is likely to be far less extensive than many have feared. The other criticisms of SCP, which he attempts to answer, however, essentially relate to societal perceptions of the likely effects of SCP and of the mechanisms which some would use in implementing SCP initiatives. Essentially, the critics say that some SCP practice and some SCP effects are normatively unacceptable. Hence, the second criticism is that SCP will reinforce (or even produce) a harsh, uncaring fortress society. The third is that SCP will result in the exclusion of people labelled 'undesirable'. The fourth is that SCP measures include CCTV, speed cameras and Caller-ID and these are a threat to civil liberties. The fifth is that SCP measures are inconvenient in use for the law-abiding. The sixth, and final, criticism is that SCP promotes 'victim blaming'.

The difficulty I have is not with the validity or otherwise of the criticisms, but that, in responding to these criticisms, Clarke has introduced balancing considerations which do not themselves flow from the original SCP theoretical considerations, but from entirely different theoretical sources. Moreover, I will suggest that these balancing mechanisms, which stem from human rights and ideas of equity, reflect the different perspectives of those involved in SCP, and that the lack of such mechanisms within SCP explains the reluctance of criminologists to take SCP into their bosoms and promote it vigorously, which Clarke bemoans. The failure of SCP by itself to provide answers to these social criticisms, more importantly, may also explain the diffidence of policy makers and of ordinary people in their everyday lives in implementing SCP

[3] See Bottoms and Wiles (1997) for a review of this literature, also Brantingham and Brantingham (1984).

measures to the extent that they can have a significant effect on the crime rate of a society. I shall start by discussing the theoretical basis of SCP and why I think it does not contain the social and ethical elements needed to counter the criticisms, and then turn to look at the relationship between the theory of SCP and the likelihood of its effective implementation.

DIFFERENT PERSPECTIVES ON SCP

Ron Clarke (2000) explains that SCP has come to mean many things to many people. It has been used to imply any attempt at opportunity reduction, through whatever mechanisms. He, however, focuses on a narrower definition and problem solving approach, which emphasises careful examination of the actual crime problem and selection of the appropriate technique for opportunity reduction (and, he argues in his paper, further observation of the consequences of the implementation of the techniques and preparedness to act to counter any unexpected crime-reinforcing outcomes). I am adopting this narrower viewpoint in this discussion.

Antony Duff (2000), in his paper in this volume, has provided a very clear and, to my mind, convincing, exposition of the major philosophical and ethical issues concerning SCP. I would, however, wish to suggest a further complexity. If the burdens and benefits of a particular technique for preventing or controlling crime (such as SCP) fall on different parts of society, then I think we need to examine what SCP looks like from each perspective.

Ron Clarke's perspective seems to be a 'top-down' one, though it is not problematised in his paper. He is looking down on a whole society from what seems to me the perspective of government. He looks at particular neighbourhoods from the position of an outsider, considering one neighbourhood in relation to another.

If we consider SCP from such a top-down, governmental perspective, then SCP offers the benefit of lower crime rates, and lower levels, possibly, of some government expenditure. However, government, at least in Western countries, has been trying to encourage others to bear most of the cost burden. Hence potential individual victims are exhorted through publicity campaigns and advice from official agencies (such as police crime prevention visits to householders) to purchase stronger locks and bolts and to watch out for suspicious strangers in their neighbourhood[4]. Potential corporate victims are enjoined continuously to re-evaluate their security precautions and to install security devices such as CCTV and monitored alarms. Manufacturers (as well as consumers) are being urged to improve security alarms for more valuable

[4] Neighbourhood Watch is perhaps the most organised form of such increased surveillance by private individuals, but television programmes (such as Crimestoppers) and moves by governments (such as the Dutch government) to restore or create the use and acceptability of guardians (doormen, concierges) in residential premises reinforce these trends.

products such as cars. If this privatisation of security expenditure occurrs and if the SCP measures are well targeted and effective, governments could reap the rewards in lower criminal justice expenditure and so SCP could result in a net benefit.

If we consider SCP now from the perspective of a gated community, then the benefits and the burdens will fall on that community's residents and landlord – and presumably they will only take on the burden of cost and restrictions if it is outweighed by the benefits of less crime. However, if we consider poor neighbourhoods near that gated community, it is clear that the burdens/benefits equation does not work to their advantage. Ron Clarke has himself, in his paper, indicated that it has been necessary in the US to take government action to prevent the affluent from protecting their cars from theft and directing thieves' attention, by implication, onto the poor. He shows on p. 102 that many municipalities in America make it a condition of police co-operation with tracking devices on cars that the cars fitted with the tracking device do not advertise this fact. Of course, such lack of advertisement probably adversely affects the SCP effectiveness of the tracking device as preventing the car being stolen initially (though its potential effectiveness as a car recovery or thief catching mechanism will remain).

My point is that SCP theory by itself does not explain how to prevent the creation of an increasingly unequal society. This must stem from the ethical standards of implementing SCP measures in a liberal democracy. Clarke (2000) refers to the general principles which Felson and Clarke (1997) have proposed to govern crime prevention policy, which include that crime prevention should be provided equally to all social strata and that responsibility for crime prevention should be shared with all sections of society. However, it is the ethical standards of liberal democracies, rather than the ethical standards of SCP, which directly prescribe these limits to crime prevention action. Another example is that of gated communities. Clarke argues that gated communities (or in UK terms traffic calming measures and town planning to create the appearance of neighbourhoods which keep strangers out) are even more effective in poorer areas. My point is that it will require differential government investment in poorer areas to institute this.

The more general conclusion from this rapid discussion is that we need to consider theories not only from what they will necessarily produce, but from the way in which they are likely to be used. It is not intrinsic to SCP that it will create displacement from the rich to the poor (an inverse Robin Hood world) or lead to fortress societies where those that have barricaded themselves from those who have not. But if one applies SCP in a democratic society with disparities of resources and offence rates between communities, then benefits and burdens will not be distributed equally either. It will require positive action from outside the communities which are suffering excess burdens (i.e. government action, from either national government or local government) to redress the exacerbating effects of pure SCP application. Any such positive

government action will need to be based on principles other than utilitarianism seen from top-down. It is possible to imagine such action being based on a bottom-up form of utilitarianism, which states that action must lead to benefits outweighing burdens for each and every strata of society, or, at least, those sections of society which have fewer resources to mitigate injurious consequences. Alternatively, it might be based on equity principles stemming from human rights, which abjure the benefits/burdens equation for a more universalistic view – about the least injurious ways in which we can treat all sections of the population and all individuals.

EXCLUSION SEEN FROM COMMUNITIES

Secondly, I want to look briefly at exclusion when seen from different perspectives. From top down, one can possibly justify the amount of the overall burden of exclusion from, say, shopping malls, on the basis of the benefit it brings in reduced crime and disorder to the larger number of people happily shopping in the malls, compared to the small number of excluded persons. From a top down government view and certainly from a shopping centre management view, the burden/benefit equation may come out as positive for benefit.

But if one looks at the burden/benefit balance from the point of view of local communities near the mall, I think the balance changes. Here is this huge emporium of possible delight (as advertised) on their doorstep. But are they welcome in it? It is, as Andrew Costello's research is suggesting[5], the local young people that are being excluded. The local population gazes in envy at the shopping mall, but is barred from it and disconsonantly has to trek miles to what are proclaimed to be inferior facilities in the city centre.

Clarke (2000) argues that widespread use of exclusion is not SCP in the narrow sense at all, but involves 'order-maintenance' functions which are not part of SCP. He also says that properly targeted SCP would only lead to the use of access control for private facilities, to keep people out who have no right to be there (p. 104). There would be no point in using access control against specific groups of 'undesirables', he argues, because SCP theory would suggest that, in such public or semi-public space, anyone, not just a particular group of people, would have an equal likelihood of committing offences. Hence targeted SCP would not use exclusion as a means of crime control – though, he agrees, 'order maintenance' policing might.

However, it is contradictory to argue that targeted SCP is not suitable for public pedestrian areas, but entirely suitable for the public roads to prevent car theft (as discussed above). Moreover, an effective, targeted SCP strategy

[5] Ongoing PhD research. Contact Andrew Costello at the Department of Law, University of Sheffield. See also Shapland (1999a).

for semi-public space, such as shopping centres, is one which will act against the most common offences in that centre. The most common crimes, as shown by Alison Wakefield's (2000) research reported in this volume, and my own study of two shopping centres (Shapland 1999a), are shop theft and theft from and of cars – though the latter offences are not always acknowledged by management as crime linked to the shopping centre. So an effective, targeted SCP strategy might well aim at these offences. Another problem in semi-public space is minor disorder by youths – jostling others, scuffles, loud calls. Targeted action against this is surely a form of SCP, not just order maintenance by the police.

What type of SCP action would be most effective against these forms of offending? The most effective utilitarian-based SCP in terms of reducing opportunities in shopping centres is not to make the goods inaccessible (since this might stop crime, but also drive the centre out of business), but to keep offenders from goods. The most likely culprits, from centres' own statistics and police statistics, quantitatively speaking, are young people. The easiest/economically most effective technique is hence to keep out all such young people there on their own (as Shearing and Stenning (1987) and Shapland (1995a) have pointed out). Young people by themselves have low purchasing power. Targeting known offending individuals is very difficult because of the potentially large number of people visiting shopping centres and because of the large number of known offenders from some distance away – because shopping centres draw from a wide regional population (and that is necessary for their economic success). It is much easier to bar those who look wrong. Unfortunately, that is likely to be the local young people, who, in England and Wales, often come from the poorer areas next to the shopping centres — that have been built on the previously industrial, brownfield sites which originally provided the workplaces for members of poorer neighbourhoods.

Again, SCP needs limiting in its likely practical application in order to satisfy equity considerations. If we do not want profile-based exclusion, as Andrew von Hirsch and Clifford Shearing (2000) term it in their paper in this volume, then we will have to introduce equity considerations (to create rights for all social strata to shop or enter mass private space) into SCP. SCP has no equity concerns built in.

SCP SEEN FROM CRIMINOLOGISTS' VIEWPOINT

Finally, on this tour of perspectives, I want to turn to criminologists. I have argued previously that it is the ethical duty of criminologists to create an ethics of criminology (Shapland 1999b). I discussed some of the ethical implications of crime reduction and crime prevention programmes, such as the current Crime Reduction Programme of the Home Office for England and

Wales[6]. These ethical concerns can be summed up as a series of questions to those criminologists undertaking crime prevention activity. They are all premised on the idea that criminologists should not be undertaking crime prevention evaluation or crime prevention activity if they do not think the activity has a chance of reducing crime (analogous to the medical ethic which says that experimentation on human beings or animals should not be undertaken unless there is a theoretical basis or, preferably, evidence from previous work which shows that the likely benefits to the patient or animal will outweigh the disadvantages). Clearly, SCP has shown it has the potential to reduce crime if SCP activity is properly targeted and evaluated. However, I argue that there are further questions we need, as criminologists, to ask ourselves before undertaking such activity. They are:

- if we think we can reduce crime, what is likely to be the overall impact of our current crime prevention efforts? So, first, what crimes are we concentrating on and whom do they affect?
- hence, who primarily is going to benefit from those efforts and who may be affected adversely? Does this equation, given the resources of those affected adversely to cope with the consequences, suggest that the initiative will have a net positive effect?
- what kinds of pressures, controls and strains are we putting on people and neighbourhoods whose crime we are reducing, to create that reduction? Can the extent and nature of these pressures, controls and strains be justified, both absolutely, in human rights terms, and relatively, in relation to the potential crime reduction benefit?
- have we developed a suitable idea of informed consent to be given by individuals, businesses and communities who will be affected, before we intervene?

Ron Clarke laments the lack of interest from criminologists in SCP. Some of this may stem from the 'fashion' effect. SCP was originally put forward some years ago, and is clearly not the latest theoretical offering. However, given its potential effectiveness in reducing crime rates and given the increasing emphasis in governmental research spending and in government policy on evaluation and effective ways of reducing crime, longevity cannot be the main reason for its lack of popularity.

So what is the problem with SCP from the point of view of criminologists – given its attraction from a governmental, top-down perspective and hence from a research funding perspective? My provisional answer is that SCP may pose more burdens on criminologists than more fuzzy, 'making it better' crime prevention initiatives, which promise a better life for community participants

[6] Details of which may be found on the Home Office website, at http://www.homeoffice.gov.uk/crimeprev/cr_index.htm

and which do not spell out clearly potential downsides. Better education and social conditions are 'motherhood and apple pie' initiatives, which often do not spell out the implications of the prioritisation of resources to certain communities on others. Of course, there are other crime reduction initiatives which do have clear (sometimes negative) effects, and which are different from SCP initiatives. Early intervention initiatives are one such example[7]. They also pose substantial ethical constraints, but different ones from SCP. They similarly have a limited band of criminological adherents. I wonder whether this is because, as a discipline, criminologists are not very good at sorting out our ethical duties and working out how to carry them out. But criminologists are becoming increasingly aware (on the back, possibly, of increasing awareness of human rights generally) that we might have such duties. Criminology, and particularly the evaluation of crime reduction initiatives, is beginning to 'grow up' as a discipline and to think about how to create the kinds of mechanisms to deliver ethical duties which are already commonplace for other professionals[8].

If criminologists can say that an initiative will make things 'better' all round for everyone, then sorting out what we mean by informed consent, making it happen in practice, feeding back evaluation results to communities and individuals (not just research funders), and all the other ethical constraints, can be seen as less necessary. But if we suspect that it won't be better for everyone concerned – if we're applying differential burdens and benefits, as I've argued – then we become uneasy.

Criminologists, like all other researchers and scholars, choose their particular aspect of their field of study for ideological and personal reasons (as well as instrumental ones). Choosing SCP means, to my mind, confronting the ethical demands of SCP. That means, I suspect, that SCP won't recruit many criminologists until it undertakes the practical work of sorting out the ethical questions, techniques and instruments criminologists need to employ to do SCP action research. As I've argued, some of those ethical considerations involve considering how questions of equity and rights may need to constrain the application of pure SCP.

[7] The ethical implications of early intervention crime reduction initiatives are not the same as those of SCP ones. They may include the potential stigmatisation of those children who are selected to take part in the initiative (and possible labelling effects thereafter). Efforts to combat such effects have often included relaxing selection criteria so that only volunteers or, alternatively, whole communities take part. As the community taking part widens, so such initiatives become more like the more fuzzy, 'social benefits for everyone' type of initiative (and, often, less cost effective). If volunteers only take part, then it is difficult to evaluate the initiative (because of self-selection effects) and its impact may be lessened. This tension between ethical considerations and potential theoretical effectiveness is similar to the tension with SCP measures.

[8] See, for example, the ethical codes required of clinicians, such as doctors and psychologists, in relation to informed consent, thinking about consequences, and feeding back effects.

THE DIFFICULTIES OF IMPLEMENTATION AND THE ACCEPTABILITY OF SCP

Criminologists, like other researchers and professionals, do not operate in an ethical or societal vacuum; they are influenced by the society in which they live and work. The ethical constraints, safeguards and quandaries which they need to consider are also those which participants in SCP initiatives need to consider – at least if they are to give informed consent to such an initiative. Hence, if SCP is to be undertaken within a particular community, then that community needs to consider what the consequences of SCP action will be and how they fit within the community's ethical framework.

The difficulty in undertaking this is, I have argued, that SCP does not itself contain the ethical boundaries and constraints necessary to set acceptable limits to the choice of techniques to apply. SCP merely provides a palette of techniques, which vary in their implications for different parts of the community. It also provides tools for analysing the crime problems of the community and some indications of what technique may be most effective in which kind of community, as well as how to assess effects and consequences. The sheer range of the palette, however, is both its strength and its weakness. The strength, emphasised by Clarke (2000) is that choice allows a good fit to that community's circumstances. If CCTV is resisted on privacy grounds, then human guardians (police, civilian street patrols) or alarm-activated sound or video recording may be acceptable, without loss of surveillance potential (though the economic cost may be higher). The weakness of a full palette is the difficulty of making the choice. It may require technical skills (including professional criminological skills) to be able to work through the potential effectiveness of each option, assessing it against both past evaluation results and the current crime and community profile. Given that different parts of the community may have different benefit/burden profiles (and even different ethical views), it may be difficult to obtain agreement on the final choice – important in a democratic society.

SCP is peculiarly susceptible to these weaknesses. Particularly in its narrow form, it requires close attention to the precise crime profile of the specific area in which it is to be implemented. We know that crime profiles vary considerably from area to area, with each small neighbourhood having its own pattern of offending, attractions for offenders and community crime reputation (Bottoms and Wiles, 1997). SCP is not the kind of crime reduction initiative that can be delivered top-down in a uniform manner by government or business headquarters. Indeed, in corporate security, an initial emphasis on uniform solutions throughout the company has had to be replaced by far more responsibility being given to local managers to create crime reduction packages suitable for that outlet and the area in which it is situated (Shapland, 1995b). Environmental analyses have become of vital importance

to companies planning to open a new store or new factory.

This means that SCP has to be usable for those implementing it locally. It is they who need to understand the palette and its applicability to their situation. It is also they who will need to work through the ethical implications of their chosen SCP activity. The problem is that SCP, by itself, gives them very little help in doing this. Local crime reduction decision makers are put in the same position as criminologists. Is it then surprising that localities can come to different conclusions, even conclusions that appear to be ineffective in SCP terms, as Clarke (2000) illustrates in his paper? I would argue that SCP, without an accompanying discussion of its ethics and practical guidance to answering the ethical questions it raises, is very difficult to use both for criminologists and for the governments, communities and businesses who will decide whether or not to implement it. If this is correct, then the prognosis for SCP is grave – but it is not terminal. Ethical guides can be produced, as they have been for other techniques in other areas. However, that work needs to be done before SCP will become easily usable for criminologists or communities.

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8

*Situational Crime Prevention in Mass Private Property**

Alison Wakefield

INTRODUCTION

Private security guards are now a prominent feature of British shopping centres, leisure complexes, transportation terminals and other territories of 'mass private property'[1] which form sites for public life. Their presence in mass private property' environments is indicative of the enduring appeal of situational crime prevention (SCP) to the commercial sector for securing environments and as an aid to profit-making. Few criminologists, however, have explored the functions of security guards in detail. This paper draws on case studies of three publicly-accessible territories of mass private property to discuss what security guards do within these territories and the roles they fulfil in performing these functions.

RESEARCH METHODS

My research explored the role of private security teams in a range of public settings, through case studies of three publicly-accessible commercial facilities. The first was the *Arts Plaza*[2], an arts centre in a major English city, with visual and performing arts and licensed refreshment facilities. The second was a large shopping centre situated in a northern coastal town, referred to as the *Quayside Centre*; and the third was the *City Mall*, a retail and leisure complex located in a northern urban centre, with retail outlets for daytime shopping, as well as pubs, restaurants and nightclubs.

The data collection included 20 days of observation at each site, carried out through accompanying security guards in the course of their daily routines. The observations were followed by interviews with security guards, contract

* In this paper I draw on findings from my doctoral research, 'The Private Policing of Public Space', currently in progress at the Institute of Criminology, University of Cambridge.

[1] A term coined by Shearing and Stenning (1981) to describe large, privately-controlled tracts of property.

[2] The names of the research sites have been changed to preserve anonymity.*f*

security managers, local police officers and managers from the three centres. Documents such as duty sheets and daily log books maintained during the course of the observation periods were also examined.

The sites were different types of leisure environment, chosen to reflect the increasing development and use by the British public in their leisure time of large, privately-owned, mixed-use centres. Today, most sectors of the population will have used facilities such as these, and together the three sites presented a range of customer groups, a range of facilities and a range of crime risks and problems.

THE FUNCTIONS OF PRIVATE SECURITY

A study of the variety of duties performed by private security guards at the three sites revealed the multi-faceted nature of their work. The objectives for policing the centres were manifested in six core functions, which may be termed 'housekeeping', 'customer care', the 'prevention of crime and 'nuisance' behaviour', 'rule enforcement and the use of sanctions', 'response to emergencies and crimes in progress' and the 'gathering and sharing of information'.

Housekeeping

The security guards at each of the centres were closely involved in their day-to-day upkeep, in order to maintain the fabric of the buildings, to ensure the centres operated safely and smoothly, and in so doing, to promote a pleasant and well-kept environment which people would be encouraged to visit. Such a function seems best described as 'housekeeping'. It was enabled by means of foot patrol and CCTV monitoring, and involved ensuring that the sites were properly maintained by identifying and reporting breakages and spillages; making sure that the legal and insurance obligations of the property owners, such as adherance to fire or health and safety regulations, were fulfilled; and carrying out ancillary duties which fell outside the natural remit of other staff members, and were assigned to the security personnel on account of their continuous presence and impression of being 'available'. These included setting up displays at the Quayside Centre, and controlling background music in all three centres.

It was evident that the housekeeping function formed a major aspect of the security guards' role. It was central to profit-making in the centres in two ways: in reducing the direct costs of high insurance premiums, fines or lawsuits associated with the poor upkeep of the buildings or damage to property; and in encouraging the custom of visitors who would be attracted by a well-maintained environment.

Customer care

A second function of the security guards at all three sites was one of customer care. This was carried out in the interests of public relations, and the guards usually acted as the first port of call for customers needing assistance. At the Arts Plaza customer care duties were afforded a particularly high priority, as visitors were regularly in need of directions around the large complex, or of information about the daily events and exhibitions. All of the guards had been required to participate in customer care training led by an external training consultant.

The account of a manager at the Quayside Centre reflected the value placed on customer care within the Centre. He reported: '. . .What they say to this potential customer of ours is either dynamite or they've put oil on . . . choppy waters, so they're very important to us'. At all three centres the security guards were often the focus for customer queries or complaints, and on a number of occasions members of the public were observed behaving in a rude or even abusive manner as they made complaints which usually related to non-security matters. The guards were required to respond with courtesy.

Information-giving was the most common reason for guards' contact with members of the public. As a patrol guard at the Quayside Centre described: 'Basically you're an information centre . . . You're dealing out everything you can think of and help [the customers] out to the best of your abilities . . .' The guards who staffed the CCTV control rooms were placed in a similar role, responding to telephone queries and, in the case of the two retail centres, using the public address system to make announcements throughout the buildings. Dealing with lost and found property was another major aspect of the customer care function.

The guards responded to an assortment of other requests, which included relaying telephone messages to customers, and stepping in to assist when staff members from other departments were unavailable (on one occasion at the Arts Plaza, for example, releasing a customer's car from the car park when the car park staff had left their post unattended). Some customer care duties were, as with many of their housekeeping duties, assigned to the guards on account of their ready presence. The guards were involved in such tasks as providing wheelchairs for disabled customers; acting as stewards for special events or exhibitions; and in the case of the Quayside Centre, even being asked to wear the padded bear costume of the Centre mascot and entertain visiting children!

At two of the centres the guards' uniforms were used to emphasise their customer care function. The uniform at the Arts Plaza consisted of blazers and slacks, whereas at the City Mall the guards conveyed a different image in police-style uniforms, including flat caps and tunics. The management at the Quayside Centre had recently changed the guards' uniforms to the more casual style, and a manager explained the reason for the change of image:

> . . . The customers we were aware didn't like the official 'I'm nearly a policeman' look, so we actually changed image totally at the beginning of this year into blazers and slacks. Up until then that look was ideal because the Centre was quite wild . . . and now it's all calmed down . . . you can bring the image down into the softer look . . . people come up and talk to them quite happily when they didn't before . . .

His account showed how the two uniform styles were used for very different purposes, with the police-style uniforms seen to have a more effective deterrent impact, and the more casual uniforms used to create the impression that there was no problem of disorder within the centres, as well as portraying increased responsiveness to customers. As the crime level in the Centre fell, the priority afforded by the management to each of these objectives changed. According to a director from the security firm which supplied guards to the Quayside Centre, the lower visibility or 'soft option' uniform, as it was known in the industry, had become the standard uniform style for the 14 shopping centre security teams which were employed by the company. It seemed, therefore, that the police-style image presented by the guards at the City Mall was seen within the retail sector as old-fashioned in style.

The function of customer care was, like the housekeeping function, central to the objective of creating and maintaining a pleasant environment, but in this case the guards were required to attend to the customers directly rather than to the general upkeep of the buildings. The association of the guards with profit-making was apparent once again. Their continuous and ready presence placed them in a similar role to that of 'the bobby on the beat', and reflected an aim to capitalise on the popularity of the patrol officer with the public (see Skogan, 1996). The requirement to be responsive to customers *in the interests of encouraging their regular custom* was, however, a key difference to public policing and took the public relations aspect of this policing role a significant step further.

Prevention of crime and 'nuisance' behaviour

A third function of private security personnel was the prevention of crime and 'nuisance' behaviour. In carrying out this function the guards were placed in a different type of relationship with the customers, as they were required to prevent criminal behaviour as well as 'anti-social' behaviour seen to discourage the custom of other visitors. The prevention of crime and 'nuisance' was facilitated through the extensive surveillance of visitors, by means of foot patrol and CCTV monitoring. The CCTV systems at all three centres were powerful surveillance tools, equipped with cameras with pan, tilt and zoom facilities, colour monitors and 'multiplex' facilities allowing footage from numerous cameras to be viewed and recorded simultaneously. Foot patrol duties included target-hardening measures such as locking and unlocking areas of the centres and escorting employees who were carrying

cash. The guards' surveillance capabilities were aided by shared radio systems which ensured that intelligence was readily passed on, and at the Quayside Centre a secondary system connected the control room operators with security and sales staff in the stores.

Terrorism prevention was a central aspect of the guards' responsibilities, particularly at the Arts Plaza, where abandoned vehicles or unattended baggage provoked immediate suspicion. At all of the sites the centre managers were responsive to directives from the police in relation to changing terrorism prevention policies. At the Arts Plaza, the guards also provided protection for special events when VIPs were present, or when corporations had booked areas of the Plaza for annual general meetings. On such occasions the security concerns included terrorist risks brought by certain VIP guests such as ambassadors or royalty, the potential nuisance behaviour of fans of celebrity visitors, or disruption of corporate meetings by protestors. At the Quayside Centre, late-night shopping during the Christmas period also posed potential public order problems, and extra guards were drafted in to manage these busy evenings.

The guards' surveillance practices involved monitoring the centres for potential criminal and 'nuisance' behaviour, and the types of people selected for surveillance divided into three categories: those seen to be behaving in an anti-social manner, those who fitted risk profiles, and 'known offenders'[3]. Norris and Armstrong (1999), who conducted a study of the surveillance practices of operators of local authority-controlled town centre CCTV systems, identified a number of working rules which were used by the operators for determining who and what to watch, and there is considerable overlap with their classification in the analysis presented here.

1. *Anti-social behaviour*

The guards at all three centres were often observed searching for and monitoring behaviour by visitors seen to pose a potential nuisance to other patrons within the centres, and in many cases it was the activities of children and young people whose actions were viewed in this way. The three centres were all used as meeting places by groups of young people, and their presence was invited by the provision of seating, the warmth, and the background music that together produced a comfortable setting and a congenial atmosphere. Each centre had come to serve as a communal gathering place for local people of all ages. At all three sites, a number of regular visitors were observed who visited the centres on a daily basis to meet with friends or sit and observe the day-to-day occurrences within, rather than purchase the goods and services on offer.

This usage of the centres by many adult visitors appeared to be accepted by the security staff and management, who in many cases had established a

[3] See von Hirsch (2000) for a discussion of the actual and potential uses of CCTV from an ethical perspective.

friendly rapport with the regular patrons. Shapland (1999), described this type of visitor as the 'social order welcome customer', whose quiet presence and similarity of nature to those who are likely to purchase goods were seen as complementary to the familiar and welcoming social orders of these commercial environments. In contrast, gatherings of young people were often less welcome, for reasons which included the size of the gatherings, complaints from other visitors or tenants, noise or perceived misbehaviour. Young people in groups often attracted observation immediately upon their arrival at the sites, in anticipation of future misbehaviour.

Behaviours that were generally prohibited inside the centres included actions seen as risks to the health and safety of other centre users, such as entering with a bicycle or dog; and boisterous behaviour by visitors of any age which might cause distress or irritation to other customers, including anything from 'horseplay' to various forms of drunken behaviour. Other types of 'anti-social' behaviour included in the guards' log book entries included illegal trading, urinating in a public area or begging.

The monitoring of 'nuisance' behaviour (which would normally be followed by the deployment of security personnel to ask perpetrators to desist or to leave, as described in the next section) mirrored Norris and Armstrong's (1999) observations of local authority CCTV operators, that behaviours which were themselves criminal or disorderly would unquestionably warrant surveillance, and non-criminal 'anti-social' conduct was perceived to indicate potential for breaches of the criminal law. At the case study sites, however, the guards searched for and monitored such behaviour because it was actually seen to breach the standards of behavioural conduct laid down by the management. The target populations for surveillance therefore exceeded in breadth those which traditionally concerned the public police, as Shearing and Stenning (1981) have noted.

2. *Risk profiles*

A second category of surveillance involved the use of risk profiles of visitors deemed *likely* to behave in a criminal (or 'anti-social') manner. Body language or behaviour considered out of the ordinary attracted attention. This approach was used to the greatest extent during the hours of retail at the City Mall, where opportunities to commit theft were great, and the security staff tended not to be familiar with 'known offenders', because of the size of the city. Profiling activities tended to fall into three subcategories, and the first was the surveillance of persons whose behaviour or body language was perceived as suspicious. Behaviour which often invited suspicion included loitering, looking around, appearing lost, or seeming to take what was considered to be an unnatural interest in the observers themselves.

The second category involved the identification of types of person who were seen as likely to commit crime or nuisance behaviour on the basis of the

guards' prior understanding of which persons were likely to be troublesome (however accurate that understanding might be). Target populations included young people, the homeless, and other groups who were seen as potentially disruptive or criminal, as a security guard at the Arts Plaza described:

> If I saw a gang of 17 or 18 year old blacks coming through, say six or seven of them walking through, not belonging to a school or, you know, obviously just off the street, then I would watch them, yeah, because you don't get many come in like that. Youths in that number not belonging to a school party or something. If I saw a lot of white skinheads walking in, obviously liquored up, I'd be watching them. Any kid under the age of 16 or 17 that isn't accompanied by adult, you look at them. Then you look at the people who are mentally retarded.

The guards' understanding of who was likely to behave in an 'anti-social' or criminal manner could, evidently, incorporate their personal prejudices against certain types of person.

A third type of risk profiling focused on persons who seemed to be out of place in relation to the area or time of day. The interviews with security guards provided some examples of such people, for example those dressed in a scruffy or casual manner at evening times when it was more usual for visitors to be dressed smartly, those who appeared at odd times of day, or those who by their race or culture were, as shown above, considered out of the ordinary for the location. These types of surveillance activity were all consistent with Norris and Armstrong's (1999) descriptions of the working procedures of CCTV operators.

3. 'Known offenders'

At all three centres, there were a number of regular visitors who were known to the security staff in virtue of their previous behaviour, and they automatically provoked observation. Norris and Armstrong (1999) also observed surveillance of this nature. This was particularly apparent at the Quayside Centre, located in a fairly isolated geographic area with a static population, where the guards were familiar with a large number of 'known offenders': up to 90 individuals who they knew by sight if not by name for their previous convictions for offences in the centre, on suspicion of prior offending, or for associating with known or alleged offenders. The majority of these persons were seen as being involved in shoplifting. They frequented the Centre on such a regular basis that the guards' surveillance activities were primarily dedicated to the observation of those known to them, as opposed to unknown individuals acting 'suspiciously'.

Decision-making by security staff about who to observe reflected the requirements of a variety of interest groups. Behaviours deemed 'anti-social' were often targeted as they were seen to threaten the congenial atmosphere which centre managers aimed to create. The perspectives of members of other staff

departments or tenant companies in the centre as to what constituted a nuisance were also taken into account; as were the viewpoints of visitors to the centres, reflected in guards' responsiveness to complaints and comments presented directly to them or offered in customer feedback forms. Behavioural standards in the privately-controlled centres were thus more stringent than those applying to public spaces.

The guards also selected visitors for surveillance on the basis of knowledge or suspicion of their prior offending behaviour, or because they possessed personal or behavioural characteristics which the guards saw as potential predictors of criminal or nuisance behaviour. A danger of this type of risk management is that it is self-reinforcing, and that any misbehaviour by such persons comes to be used to justify greater scrutiny and a perception of them as 'other'. The subjective perceptions (and prejudices) of the guards influenced their choices about who to monitor, and their association with private interests rather than a requirement to act according to 'the public interest' did not place a priority on fairness in policing.

Rule Enforcement and the Use of Sanctions

Although general access to each of the centres by the public was uncontrolled, the security guards were required to enforce rules of conduct in each centre to which customers were expected to adhere. A control room operator at the Quayside Centre justified the existence of these rules on the following grounds:

> People who behave improperly, you wouldn't like them to be in your own home. If you've got standards in your own home, and somebody's behaving badly in your own home, you'd get them out and you'd chastise them, even your own kids. So basically that's what happens with the Centre, because it's somebody's home, isn't it? Somebody's business.

Guards often asked individuals or groups found to be causing a nuisance to desist from their behaviour, and if those persons refused, to leave the centres. Those seen to be seeking opportunities to offend were often asked to leave the sites immediately, particularly the 'known offenders' described earlier. The threat or use of exclusion has been grounded in English common law, which has traditionally afforded a right to owners of property to decide who may enter and remain on their land, so that they may exclude any visitor at will[4] and employ security guards to exclude persons on their behalf.

[4] Such a ruling emerged from the English Court of Appeal in 1995 in *CIN Properties Ltd* v. *Rawlins* (1995, 2 EGLR 130) in which a group of youths were permanently denied access to all the facilities in a town's major shopping centre. In the more recent case of *Porter* v. *Commissioner of Police for the Metropolis*, decided by the Court of Appeal on 20 October 1999 and as yet unreported, however, comments were made by Sedley LJ which suggested that the right of property owners arbitrarily to exclude persons from facilities of this nature may be open to

On Saturdays at the Quayside Centre the guards were often involved in enforcing behavioural rules, when groups of children and teenagers congregated in areas of the site. The favourite meeting place was a seating area outside a cluster of shops popular with the young, including a record store and clothing chain stores, and the group gathered there could number as many as 50 young people. An extra guard was employed at weekends to patrol that area of the Centre and prevent the young people from gathering in large groups, partly in response to frequent complaints from staff within the nearby stores that the young people's presence discouraged entry to the shops. The strategy adopted by the guards was to ask the young people not to congregate and to keep moving whilst in the Centre, and the extra guard remained present to prevent them regrouping in the same place. They were regularly threatened that failure to comply with these instructions would lead to their exclusion from the Centre. This was usually sufficient to gain the young people's compliance. Other behaviours which guards regularly asked visitors to desist from in the three centres included sitting in groups on the floor, riding on bannisters and playing on escalators.

The daily log books maintained by the security teams indicated the occasions on which exclusions were made, the reasons for the exclusion, and the numbers of people excluded on each occasion[5]. Figures were therefore available on the number of times that exclusions were used at each centre, as well as the total number of persons excluded in the course of these actions. During the observation periods[6] at each site, one or more people were excluded on 12 occasions at the Arts Plaza, and the total number of excludees was 34 (allowing for the multiple counting of persons repeatedly excluded). At the Quayside Centre exclusions were made on 234 occasions, and a total of 578 persons were excluded. At the City Mall exclusion was used 45 times, and the total number of excludees was 63. Table 1 indicates the reasons given for each exclusion.

successful challenge in future cases. The case was a claim for damages against the Commissioner of the Metropolitan Police for assault, battery, wrongful arrest, false imprisonment and malicious prosecution, following a request by London Electricity for the police to remove the plaintiff from the electricity showroom when she refused to leave. Sedley LJ observed: 'Both because London Electricity is a statutory undertaker providing a service essential to most people's lives, and because its shop premises, when open, constitute an invitation to the public to enter and remain there for proper purposes, it is arguable that it cannot arbitrarily or improperly exclude or expel members of the public.' The action failed, however, and Sedley's observations were technically *obiter dicta* (that is, of no binding effect).

[5] Occasionally the security guards did not record precise numbers of people excluded at any one time. When this occurred, references to excludees in the plural were taken to mean two persons, and references to 'a number of' persons or 'a group of' persons was taken to mean three persons.

[6] Although the observations at each site were conducted over 20 days of a five week period, exclusions logged during the full five weeks were included in the analysis.

Table 1.: Reasons for exclusion

Reason for exclusion	Arts Plaza	Quayside Centre	City Mall	Total
Named regular offender(s)	1	194		195
Drunk/drinking/vagrancy		3	33	36
Children/youths playing or loitering	3	11	2	16
Undisclosed	5	12	1	18
Associates of 'known offender'		11		11
Argumentative or threatening behaviour/fighting	2	4	2	8
Begging			4	4
Bringing a bicycle into the Centre		4		4
Bringing a dog into the Centre		3		3
Suspected of theft/attempted theft		1	1	2
Trespass on service areas			2	2
Smoking cannabis		1		1
Indecent behaviour	1			1
Total	12	244	45	301

There was clearly a vast difference between the three centres in the use of exclusion. Recorded exclusions were highest at the Quayside Centre, where so-called 'known offenders' were the main targets. In view of the geographic location of the Centre (in an isolated area with a static population), it was easy for the guards to familiarise themselves with visitors who were deemed to be persistent offenders. 194 out of the 244 exclusions were of persons known to the Centre staff, often along with their companions, who were seen to be continually seeking opportunities to steal from the stores. Most were reported to be 'banned' from the Centre, although bans tended to be invoked on a verbal basis for indefinite periods rather than by serving banning notices. One injunction had been served on a shoplifter by the management of the Quayside Centre, although the guards' accounts indicated that it had not been rigorously enforced and had since been forgotten. People who were known to keep company with 'known offenders' were often seen as guilty by association and excluded from the Centre, and as shown in Table 1, 11 of the exclusions were made on these grounds.

Most of these persons were asked to leave so frequently that a routine had emerged whereby the guards followed them and they would usually depart immediately (often then entering the Centre by another door). Even if no words were exchanged (as was usually the case), these instances were logged as exclusions by the security guards. The offenders referred to by name in the log book numbered 41, and they accounted for 207 of the 578 persons excluded from the Quayside Centre (again, allowing for the multiple counting

Table 2: Individuals[7] excluded most frequently from the Quayside Centre

Name of 'known offender'	Exclusions during one month
1. Andrew Piggott	35
2. Simon Turner	21
3. James Foreman	12
4. Gillian McGyver	11
5. Darren Jensen	10
6. Jason Davies	10
7. Carol Hanson	10
8. Graham, David and Louis Dawson*	24
Total	133

* Log book data often failed to distinguish between these three brothers, referring only to their surname.

of individuals repeatedly excluded). A large proportion of the remaining 371 persons were associates of the 'known offenders' who were excluded simultaneously. Table 2 shows the frequency of recorded exclusions of the small group of 'known offenders' excluded most regularly. These eleven individuals accounted for a quarter of the 578 exclusions, and the most frequently excluded person was excluded once a day on average.

The other forms of exclusion tended to be temporary in nature, so that the 'offenders' were able to return on subsequent days. The second most common category of exclusion, as shown in Table 1 and which was most prevalent at the City Mall, included people found to be drinking alcohol in public, those who were excessively drunk and some homeless people or alcoholics. It was impossible to differentiate between these three types of behaviour where they were recorded in the log books due to a lack of systematic distinction between them in the guards' recording practices, with the terms 'dosser', 'drunk', 'drinker' or 'vagrant' used interchangeably. This suggested that in some cases people were being excluded simply for their unkempt appearance. Homeless people and alcoholics often frequented the Mall, which housed the only off-licence in the locality, and the manager considered the prevalence of alcoholics in the area to be a particular problem. The guards were regularly required to challenge homeless people or people drinking alcohol inside the Mall and to exclude them from the premises, and thus their daily routines tended to include more direct confrontation of visitors than was apparent at the other two sites. The police-style uniforms which they were required to wear reflected this authoritarian role.

The third largest category of recorded exclusions, as shown in Table 1, was that of groups of children or teenagers seen to be causing a nuisance. This was particularly the case at the Arts Plaza. Other reasons for exclusion which were

[7] The names have been changed to preserve anonymity.

provided in the security guards' own accounts included rowdiness, abusiveness to other members of the public, spitting, gathering in large groups, drunkeness, soliciting and behaving indecently (which had occurred for a period in the toilets provided for visitors to the Arts Plaza), and on occasions, environmental protest.

A formal banning letter had been served in only one case around the time of the research period, by the manager at the Arts Plaza in charge of security matters. The recipients of the three-month ban were three teenagers who had threatened members of a visiting school party with a knife. The school authorities did not wish to press charges, yet the Plaza management were able to use the ban as an alternative sanction when they were precluded from recourse to the criminal law.

Exclusion and banning policies varied between the three centres, as did the decision-making processes about who to exclude or ban. At the Arts Plaza exclusion decisions were made by the security manager, senior contract security staff, and the house managers whose role was to manage the site during its hours of opening, while decisions to ban any individuals from the Plaza were made by the security manager. The guards reported that they initiated exclusions themselves only when the individuals had been excluded before on the authority of senior staff. There was no consistent policy in place at the Arts Plaza concerning the exclusion of children or homeless people, as the seven house managers worked in rotation and operated their own policies. At the Quayside Centre and City Mall the guards were afforded greater autonomy and made decisions themselves as to the types of behaviour which were deserving of exclusion, except on occasions when they were acting on a manager's behalf. At the Quayside Centre banning decisions were made by the centre manager or on-site manager of the contract security team; but formal bans were not used at the City Mall as the manager felt that they were impractical and overly confrontational, partly because he did not feel that he could rely on the local police to provide back-up when necessary.

In sum, it was evident that the rights of property facilitated rule enforcement within the centres more extensive than that usually applicable to public spaces. The use or threat of exclusion could be used both to pre-empt offending by visitors who, on account of their prior behaviour, were seen to be seeking opportunities to offend (in contrast with public policing, which is generally based on responding to misdemeanors which have already occurred or are in progress); and to curb non-criminal behaviours seen as anti-social (such as gathering in groups or drinking alcohol in public).

Response to emergencies and crimes in progress

At all of the sites the guards were required to respond to various emergencies. Crime-related and other incidents were identified by means of surveillance by

the security staff or through reports from visitors, other centre employees or staff from the tenant companies.

During the observation periods the non-crime incidents at the three centres included four (false) fire alarms, a small fire, a number of water leaks and the rescue of a man trapped in a stairwell. The guards at each centre also frequently administered first aid to patrons taken ill on the premises, or called for an ambulance in more serious cases. Many of the guards had been sent on first aid courses and held basic first aid qualifications. At the Arts Plaza there was a paramedic on duty at all times during opening hours, but the guards sometimes gave support by communicating with the emergency services or clearing the area of people. The guards at the other centres were called upon to administer first aid more frequently, particularly at the Quayside Centre when fourteen incidents of illness were recorded during the observation period.

As reported above, the threat of terrorism at the Arts Plaza was a particular concern to the security staff. During the observation period at the Arts Plaza five abandoned bags or packages provoked concern. The guards described how, at a time when the terrorist threat from the IRA was at its peak, they had used mirrors to check underneath vehicles for explosives, and they still used vapour detecting equipment occasionally on the discovery of abandoned baggage or suspicious packages. In each of the five cases, however, the owners returned to their items before further action was taken.

At the Quayside Centre a considerable proportion of the guards' time during busy periods was spent responding to reports from retailers and retail security staff of shoplifting in their stores. The Centre was a particularly attractive target for shoplifters because most of the high street brands operating within the town had located their stores within the Centre rather than the retail premises in the nearby public streets. The retailers' radio network ensured that suspicions were readily passed on to the control room operators, who often deployed the Centre security staff to assist the retailers.

It was impossible to estimate the number of thefts which occurred in the centres because the retailers did not record or report thefts systematically. Incidents of retail theft usually came to the attention of the security staff only when the retailers called for assistance. During the observation periods at the three sites, the daily log books documented six incidents of theft at the Arts Plaza, four at the City Mall, and 28 at the Quayside Centre. Fourteen of the shoplifters involved in the incidents at the Quayside Centre were known by name to the security staff, many of whom were excluded immediately if seen within the Centre. Three of the shoplifters were juveniles who were not known to have offended previously, and the names of the other shoplifters at the two shopping centres were unknown. Where possible the offenders were apprehended pending the arrival of the police, although in nine cases the offenders escaped or were not seen.

The guards at the three centres were also required to respond to public

order problems, which were sometimes alcohol-related. 14 of the incidents recorded during the observation periods involved threatening behaviour or fighting. This occurred with particular frequency at the Quayside Centre where ten such incidents took place. At the City Mall, however, the public order problems were often more serious, involving larger groups of people, often under the influence of alcohol, visiting the pubs or nightclubs. Potential for conflict regularly arose as visitors were denied access to the nightclubs, or were ejected for their behaviour inside. Other recorded incidents during the month included drunk and disorderly behaviour, criminal damage, and a suspected burglary in progress at the City Mall.

The guards' response to crimes in progress placed them in frequent contact with the police. They often drew on the police for assistance with public order problems, or to hand over persons they had arrested. During the observation periods, one offender was arrested at the Arts Plaza for drunk and disorderly behaviour, 13 arrests for retail theft were made at the Quayside Centre, there were 11 arrests for theft or fighting at the City Mall.

At the Quayside Centre, the security team sometimes provided back-up to the police when they arrested offenders, on request from the local home beat officer with whom they had established a close working relationship. This usually occurred in relation to dealing with a shoplifter or a person charged with theft from the Centre who was wanted for failing to appear at court or sign in at the police station on bail. The home beat officer reported:

> I know in the past if I've ever been in sticky situations they've always been there . . . and that, that really is my first call for back-up. If I was to call for [police] assistance from [the Quayside Centre], I could wait 10 minutes, 15 minutes. The other day I was asking for a marked vehicle to come down [and] it took 50 minutes . . .

The guards at all three sites aided the police by reporting incidents beyond the boundaries of the centres which they discovered through perimeter patrols or CCTV surveillance. They were not observed becoming directly involved in such incidents, although they occasionally fulfilled an auxiliary role, as indicated in the following extract from the observations documented at the Quayside Centre:

> As Warren and I passed gate four on our patrol of the centre, we witnessed an altercation beginning outside the Centre by the bank. Two male street traders were selling . . . flags outside the bank in advance of the forthcoming cup final. Two men tried to snatch the flags from them and a fight ensued. Warren immediately radioed a request to the control room to contact the police. The police arrived quickly and broke up the fight, and the two street traders joined Warren and me inside the Centre while the police dealt with the aggressors outside. The traders reported that the two aggressors were drunk and had tried to seize the flags to sell themselves. After sending the aggressors away in a police van, two police officers entered the Centre to ask the men if they wished to press charges. (17 April 1998)

Occasionally the guards were notified by the police about serious incidents in the locality, and on one occasion in which a man armed with a knife who had threatened a shop worker was reported to be in the town centre, it was a guard from the Quayside Centre whose actions led to the detention of the man:

> . . . We was contacted by the control room . . . 'Look out for this guy. If you see him, notify control' . . . and this guy was, sort of, what, 15, 20 foot in front of me. And I radioed through. I knew he was armed. Didn't really think much of it. Kept him talking. Till the police arrived and I was assisted by my supervisor. Basically we got him out the Centre as quick as we could.

The guards' function of responding to emergencies in the centres mirrored the role of the police in providing an emergency service within the territories they control, although the security guards dealt with a wider range of non-crime emergencies. While many of the problems they responded to were incidents of crime or potential terrorist threats, others related to the health and safety of customers or the upkeep of the buildings so were more closely linked to their functions of housekeeping and customer care. The security staff were able to carry out this emergency service role very effectively due to their surveillance capabilities.

The gathering and sharing of information

The sixth function of the security guards may be described as the gathering and sharing of information, and these practices took several forms: CCTV monitoring, form-filling, participating in security networks, engaging in informal liaison with the police and providing information to police investigations. These are described in more detail below.

1. *CCTV monitoring*

The continuous twenty-four hour recording of CCTV footage was a form of information-gathering, providing a record of events in the centres which could be drawn on for evidence on a later occasion. Von Hirsch's (2000) paper in this volume notes that the systems are able to record the activity of anyone present in the location, whether or not they have violated the behavioural standards prevailing there. When behaviour regarded as a nuisance, as criminal or as suspicious was observed, images were documented in stills taken from the CCTV systems or in live recordings. 'Rogues' galleries' showing images of persons regarded as suspicious or criminal were maintained privately at the two shopping centres, and pictures of recent wrongdoers were often displayed on security noticeboards for particular attention. Live recordings were saved and tapes reviewed for evidence if it was known that offences had occurred. At the Arts Plaza, for example, the security staff were seen to review videotapes following incidents such as the theft of a laptop, and a driver's breakout from the car park without paying.

2. *Form-filling*

Security staff at the centres were required to document daily events using an assortment of forms. These forms were required to satisfy the bureaucratic requirements of their clients, their security companies, and sometimes the police, so that information about incidents was readily available as evidence if needed, or in case officers were challenged in the future about their actions in dealing with an incident. This included the completion of pocket note books, log books, accident registers, record books for the signing in and out of keys, lost and found property forms, incident reports and police statements.

3. *Security networks within the centres*

At the two shopping centres where retail security staff operated in parallel with the centre guards, the two groups frequently engaged in information-sharing concerning shoplifting, even though the centre guards were employed to police the common areas of the centres and not the stores. At the Quayside Centre the dual radio system allowed continuous communication between the two groups via the control room operators. In addition, monthly meetings were held at the Centre between representatives from the participating stores, the manager of the Centre security team and the police, providing a forum for the exchange of information and circulation of CCTV stills. Information was provided by the police about alleged shoplifters whose bail conditions excluded them from the centre, and persons wanted on warrants for failing to appear at court.

4. *Informal liaison with the police*

While the retailers' security network at the Quayside Centre had been instigated by the retailers themselves, during the observation period at the City Mall the local police contacted the manager to seek his involvement in an inter-agency scheme they were hoping to set up. It was to involve the establishment of radio communication between the police and security staff in shopping centres and stores throughout the city, as well as the targeting of 20 persistent shoplifters, and participants were to receive copies of 20 police photographs of the offenders and their accompanying personal details. The proposed scheme was a police response to the requirements in the Crime and Disorder Act 1998 for community safety partnerships, and therefore reflected a potential new role for private security in formal partnership with the police[8].

Police visits to the research sites in the course of patrols provided further opportunities for information exchange, whether carried out on an informal, social basis or in relation to specific incidents. Neighbourhood beat officers

[8] The Act also permits the police and local authorities to share information previously restricted under the Data Protection Act 1984, as amended by the Data Protection Act 1998, with other agencies in community safety partnerships, and this legislation allowed for the proposed circulation of police photographs. It states that personal data processed for the prevention or detection of crime, and/or the apprehension or prosecution of offenders, may now be exchanged in the course of partnership work associated with the Act's requirements.

called periodically at the Arts Plaza and the Quayside Centre, and at all three sites divisional patrol officers occasionally visited for informal discussion or in connection with an offence that had occurred. Security staff at the centres were themselves a useful source of information for the police, regularly reporting incidents which they observed occurring outside the centres, and providing information gained through their day-to-day patrols:

> . . . They do get to know the [regulars] who come and hang around there. They do get onto them, they do know who they are . . . If they've got a group of kids in there that they've stopped and maybe talked to – yeah, they do act like police officers in there, they do stop kids, and at this moment in time the kids do give their names and addresses over to them which is quite good. (Police officer, Arts Plaza)

> I've got a lot of information and intelligence and also . . . some good friends from the town centre. But anyway it helps now because, certainly at least on a weekly basis, I liaise with somebody from that centre. And because they're there day-in, day-out, [they] see a lot of our regular shoplifters that are usually involved with drugs and burglaries and things as well, they can pass on quite a lot on information and names that, you know, we just haven't got the time to get, really, so . . . It's a good source of information . . . (Police officer, Quayside Centre)

At the Quayside Centre, the local home beat officer made regular use of the security staff and control room operators by passing on details of people who were wanted for failing to sign in at the police station whilst on bail or failing to appear at court,[9] and found their assistance to be extremely valuable:

> Every day that I work in there, I always go in and I see them. After all, they are my eyes and ears. My success in there is down to them. My arrest rate in there is, I should say, mostly down to them. I've got a good rapport with them, I've got a good rapport with the people in the CCTV room. They know how they can get in touch with me immediately . . . And they ring up and they've got the list of people that I'm interested in, which was the case the other day, 'So-and-so's in.' 'Fine, where is he?' 'He's at such-and-such at the minute.' My radio is tuned into one of their radio channels, and they can more or less talk me to where they are.

The police also made occasional use of the surveillance capabilities of the Quayside Centre security by passing on information about more serious incidents with which the security staff were in a position to offer assistance. As mentioned in the previous section, in one case the police had notified the control room operators at the Centre that an armed man was at large in the area, and the security guards responded by looking out for him, identifying him and reporting his presence to the police.

[9] Other disclosures of information by the police to non-police agencies were already permitted in the data protection legislation, for the purpose of the prevention and detection of crime, or the apprehension of offenders, in circumstances where failure to disclose would be likely to prejudice those objectives. It is questionable whether the circulation of this information could be justified on the grounds that failure to disclose would be likely to prejudice those objectives.

5. *Providing information to police investigations*

The guards at the three centres were occasionally called upon to assist in police investigations, and this was found to occur most frequently at the City Mall, located in a busy urban area. During the observation period the Mall guards were able to assist the police in an investigation of the rape one afternoon of a female shopper, identifying him from police descriptions as a regular visitor to the Mall, and notifying the police when he appeared in the Mall two days after the incident. A second example was provided by the control room operators at the Quayside Centre, who described an occasion when they gathered information to aid an ongoing police investigation, as reported in this extract from the observation notes:

> Carl described how the control room operators had assisted the local criminal investigation department (CID) in connection with their observations of a local drug dealer. This occurred from Sept 1995 to Jan/Feb 1996 when a convicted drug dealer was thought to be dealing from the food court in the Centre, using associates to deliver the drugs but sitting there apparently taking orders on his mobile phone. The food court staff were instructed to bring everything from his table into the control room, and they were able to collect slips of paper with phone numbers scrawled on them. They reported that eventually he had been arrested and received a four and a half year sentence. (18 April 1998)

More frequently the guards' assistance in police investigations involved supplying CCTV footage or reviewing videotapes themselves for evidence. During the period of research at the City Mall, a boy was raped in the toilets of a department store on the other side of the city centre. A suspect was identified in footage recorded within the shopping centre in which the store was located, and a police officer brought a copy of the videotape into the City Mall so that the security team could reproduce images of the suspect. Following this, the guards began looking back through CCTV footage recorded on the day of the offence, in case the attacker had travelled through the Mall at any time[10]. CCTV footage from the Mall was instrumental in the indentification of a suspect in solving a third rape case, which occurred after a woman was dragged down a side street by a man whom she had met in one of the nightclubs in the Mall. The alleged offender was arrested by police following the publication in the media of CCTV images from a videotape obtained from the City Mall.

The security guards' function of gathering and sharing information considerably widened their role in policing. Their collaboration with retailers against shoplifters was supplementary to their core role of policing the main communal areas of the centres, but it greatly extended their general control

[10] In fact the original footage from the other shopping centre was instrumental in the arrest of the alleged perpetrator when it was shown in the local news.

of the territories. Through co-operation with the police they contributed to local policing beyond the territorial boundaries of the centres, and therefore formed a part of wider policing networks. In the gathering and sharing of information the guards gave assistance to the police far more than they received such assistance from them, although police support was reciprocated in many of the emergency situations described in the previous section. Information was shared with the police through day-to-day communication as well as the lending of CCTV footage, and at the Quayside Centre the police regularly furnished the security staff in the centre with information on local offenders, mobilising the support of the guards to extend their own surveillance capabilities.

The guards' 'unremitting watch' of the territories they controlled, as well as the area immediately beyond the boundaries of the centres, meant that they were a rich source of information about the areas and those who visited. They were able to aid the police in many ways, and therefore formed an inportant role in local policing networks.

DISCUSSION

Through the privatisation of urban space, many areas that are privately-controlled now serve as sites for public life. The arts centre, shopping centre and retail and leisure complex described in this paper are examples of this contemporary phenomenon.

The private security guards in each of the centres maintained extensive territorial controls, with their continuous and ready presence having similarities in role to that of a warden or caretaker, as well as to that of 'the bobby on the beat'. Through their 'unremitting watch' of the centres, the guards could carry out considerable supervision of the territories they policed. They were able to identify and deal with criminal and 'nuisance' behaviour, and to monitor closely visitors viewed as a potential threat by nature of their personal characteristics or prior misbehaviour in the centres. Exclusion strategies were used when recourse to the criminal law was not available or, in their view, not appropriate. Visitors could be asked to desist from behaviour seen as a nuisance, with exclusion from the centre available as a sanction, and sometimes invoked if they refused to comply. The types of behaviour for which persons were excluded included drunkenness, vagrancy, rowdiness or horseplay, begging, fighting or arguing loudly, and entering with a bicycle or dog. Young people and vagrants were the main subjects of exclusions for behaviour deemed anti-social. In addition, at the Quayside Centre those who were known to have offended previously were regularly excluded in order to restrict their opportunities to reoffend, and the use of exclusion here far exceeded that at the other two centres.

The policies of exclusion in the centres fell short of discouraging poor

consumers to use the centres. Most of the non-criminal behaviours for which visitors were excluded were at least somewhat disruptive in nature, although the exclusion of vagrants raises ethical problems[11]. By driving these behaviours from the centres and displacing them outside, however, the centre authorities were to a certain extent choosing their visitors and leaving the outside world to deal with the social problems that non-conformers sometimes displayed.

The exclusion of potential offenders (as the so-called 'known offenders' at the Quayside Centre were perceived) raises further cause for concern as it is based on predictions of future offending. The danger is that through this form of policing, individuals may be prevented from using important communal spaces in their localities (see von Hirsch and Shearing, 2000). The centres in the study were able to gain commercially from their status as sites for public life, yet to impose controls so that not everyone was welcome.

The relationship of the guards with the local police at all three centres showed evidence of an increasingly collaborative approach, involving them in the policing of the wider areas in which the centres were located. The informal liaison practices between the security teams and the police showed evidence of shared goals, although strategies for dealing jointly with the social problems of homelessness or disaffected youth, for example, were noticeably absent in the collaborations between the two sectors.

The use of security guards appeared to be effective in the maintenance of order in the facilities described here, and for the most part, the guards policed the centres in a manner which was low key and helped to promote a pleasant environment. Its association with private interests, however, gave priority to the exclusion of 'undesirables' over the accessibility to all and the inclusionary character of public spaces. For privately-controlled territories to operate as sites for public life, there is a need to strike a balance in the controls that are adopted, so that they may serve their local communities effectively as truly communal spaces.

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9

Changing Situations and Changing People

David J. Smith

In his first full account of situational crime prevention (SCP), Ron Clarke (1982) started by making the distinction between the offender's long-term 'dispositions' and features of the immediate situation that make offending more or less likely. He wrote that most current criminological theories:

> ...are seeking to explain why some individuals or groups are born with, or come to acquire, a 'disposition' to offend. The explanation may be sought in genetic differences of physiological functioning (e.g. slow autonomic[1] reactivity and low cortical arousal), in psychological factors of personality and upbringing (e.g. faulty conditioning of extroverted neurotics), or in sociological influences (e.g. 'anomie', 'subcultural', and 'labelling' theories). Whatever the source of criminal dispositions, they are presumed to express themselves over a diverse range of conditions and circumstances. This being so, there is little to be gained by action that reduces opportunities for crime only at particular times and places. The mainstream of criminological thought would therefore prescribe measures that attempt to prevent the disposition from developing in the first place, or, once developed, to eradicate it or compensate for it (Clarke, 1982: 228).

SCP was presented as a reaction against these mainstream 'dispositional' theories. There had to be a motivated offender, but in most cases the motivations would be the ordinary needs and desires shared by the rest of humanity. Offending was not the expression of a special or persisting underlying urge or disposition. Instead, a crime was the outcome of a choice between a constellation of competing risks and rewards, and firmly rooted in a particular, concrete situation. Hence, SCP emphasised specific situations, as opposed to the stable dispositions of individuals, as the interesting determinants of whether a criminal act would occur. In starting, thus, from an apparently simple contrast, and in shifting the spotlight from one pole of this contrast to the other, SCP proceeds like much other criminological theorising. However, my purpose in this article is to show that theory can progress only by going beyond such simple contrasts, and by exploring the links between these apparently opposed terms.

[1] The word printed in the original is 'automatic', but presumably 'autonomic' was meant.

A person does not, of course, exist in the abstract, withdrawn from the world. An organism can only become a person by interacting with others in immediate, concrete situations. At the same time, a bundle of contingencies only becomes a situation when some person perceives and assesses the facts and acts in the light of them. Persons come into existence through acting and being acted upon in situations, and situations arise out of interactions between persons. So persons are partly constituted by situations, and situations by persons.

Given that persons and situations are closely inter-dependent, it is unlikely that theory can advance by shifting the spotlight from one to the other. The central problem, instead, must be to understand how persons and situations mutually influence one another. If that is accepted, then it turns out that SCP is not radical enough. Certainly the particular, concrete situation has an important influence on whether a specific crime will occur. But the influence of situations extends beyond the patch of space and time that they occupy, because persons are shaped by the situations through which they move. There are, of course, personal characteristics (skills, habits, knowledge, ways of perceiving the social world, moral codes) that have an important influence on how people behave, and these are influenced by the individual's lifetime of experiences in a multitude of situations. By manipulating these situations, therefore, it should be possible not only to influence the immediate opportunities for crime, but also to change longer-lasting propensities to conform or deviate.

Driving on the motorway can be used to illustrate the interplay between propensities and situations. The skills, habits, and aggressiveness of the driver have a strong influence on whether the car will crash. Equally, the driver's habits and expectations will be strongly influenced by experiences on the road. Those whose entire driving experience has been in Weston-super-Mare will negotiate the streets of Cairo very differently from a local taxi driver. It is plausible that the introduction of new road design and traffic management measures in Cairo would eventually change the expectations and habits of Egyptian drivers. Equally, Egyptian drivers on coming to Sweden soon learn that in Stockholm it is not customary to drive straight through a red traffic light.

A central task for criminology is to find out how expectations, habits, social controls, and self-controls are influenced beyond the immediate moment by the situations that people encounter. At present, discussion of the topic has to be largely speculative, because most of the relevant research has not yet been done. The most appropriate theoretical perspective for such a discussion is the social cognitive theory of Albert Bandura. Before spelling out this argument in more detail, and speculating on the longer-term effects of situations, it will be helpful to reflect on the origins of SCP, which led to the narrow focus on the immediate effects of situations.

Besides the contrast between propensities and situations, SCP has been

developed, substantiated, and justified by reference to further pairs of contrasting concepts, for example: crime events versus criminality; causal explanation versus choice; policy analysis versus understanding causes; changing people versus preventing crime; shaping morals versus reducing opportunity; treating potential offenders versus manipulating the risks and rewards of crime. Although these contrasts have been rhetorically effective, they obstruct analysis and limit our vision. Instead of oscillating between each pair of terms, criminological theory needs to reach beyond the apparent opposition between them. Just as situations and persons are inter-dependent, not opposed, so SCP exists in a symbiotic relationship with law enforcement, criminal justice, and punishment. A more integrated criminological theory re-emphasises the importance of SCP. Instead of a technical fix, which operates mechanistically on depersonalised situations, SCP emerges as a potential method of moralising individuals and society. The most challenging problem is to understand what are the conditions in which SCP can have a moralising or alternatively a demoralising effect.

BEYOND CONVENTIONAL CONTRASTS

In his book *Thinking About Crime*, J.Q. Wilson (1975) developed an argument about how to tackle crime that was built on apparently simple contrasts. He judged that criminologists such as Sheldon and Eleanor Glueck (1950), Walter B. Miller (1958), and Albert K. Cohen (1955) had developed plausible accounts of the causes of delinquency, which they located in family conditions, such as instability and conflict, lack of affection, and harsh or inconsistent discipline, in working class values of toughness, smartness, and masculinity, and in a striving to achieve a form of status and success through repudiating middle class values. But he argued that these explanations of the causes of delinquent behaviour provided no basis for choosing policies to reduce crime. That was because the 'root causes' of crime are beyond the reach of any arm of public policy. It is easy to see that happy families tend not to produce criminals. It is hard to see how public policy can decree that family relationships be constructive and positive. Quoting McCord and McCord (1959) on family factors as the causes of delinquency, he elaborated: 'They are quite possibly correct; indeed, if I may speak on the basis of my own wholly unscientific observation, I am quite confident they are correct. But what of it? What agency do we create, what budget do we allocate that will supply the missing 'parental affection' and restore to the child consistent discipline supported by a stable and loving family?' (Wilson, 1975: 52).

He expanded on this contrast between causes and remedies by developing a metaphysical account of different causal categories that is reminiscent of St Thomas Aquinas. He distinguished between ultimate causes ('those factors that are not themselves caused') and intervening variables (which are caused

by other factors). An explanation in terms of intervening variables would be unsatisfactory, and would not be a causal explanation. Sociologists are therefore concerned with ultimate causes: 'But ultimate causes cannot be the object of policy efforts precisely because, being ultimate, they cannot be changed' (ibid.46). On this model, sociologists or criminologists are concerned with the uncaused cause, the first cause (God in Thomist philosophy), whereas policy analysts have a purely pragmatic concern with what can be done to reduce crime. In deciding what can be done, it is more important to study what is pragmatic – what it is possible for state and private institutions to do – than to understand the causes of criminal conduct.

Wilson's robust pragmatism[2], and his contrast between causal explanation and policy prescription, were one of the influences on the early development of SCP, as can be seen, for example, from Clarke's references (1982: 228; 1995: 104) to Wilson's aphorism about making parents love their children. Wilson developed a number of further contrasts, which were also influential. The most important of these was the contrast between the view that there are causes of criminality, which determine that the criminal acts the way he does, and the model of the potential criminal as someone making choices, who is influenced by the likelihood of being caught, and by the severity of prospective punishment. Having set up this apparent contrast, which is an interpretation of the historic debate between classicism and positivism, Wilson was driven to advocate a rational choice perspective, again for entirely pragmatic reasons. If criminal acts are to be explained by the causes of criminal dispositions, then the remedy must be some form of treatment to reform those dispositions; but Wilson argued on the basis of the evidence then available, just a year after the publication of Martinson's (1974) famous article, that treatment does not work. It is necessary instead to manipulate punishments and rewards, 'because the only instruments society has by which to alter behavior in the short run require it to assume that people act in response to the costs and benefits of alternative courses of action' (Wilson, 1975: 56).

Table 1 sets out in a schematic form the related sets of contrasts on which Wilson's argument and later, SCP, were built. It would be too neat to represent them as contrasts between exactly opposing terms, although there are a few neat oppositions of this kind (such as criminality versus crime, or treatment versus punishment). Instead, the table illustrates three broad contrasts by listing distinct but overlapping terms. The first group contrasts backward-looking causal explanations (which appear to deny human choice) with forward-looking decisions by free individuals, and also with forward-looking analysis of policy options and remedies. Of course, there are two distinct oppositions here, with causal explanation on one side, and on the other side either individual choice, or choice of policy. However, Wilson did present

[2] I have taken the phrase 'robust pragmatism' from David Garland, who used it in commenting on a paper by J.Q. Wilson at the first Scottish Criminology Conference in Edinburgh, 1996.

Table 1: Three related sets of contrasting terms

(a) Terms related to positivism	(b) Contrasting terms related to classicism
1(a) causes and explanations	*1(b) choice and policy prescription*
causes (sometimes 'root' causes)	choice
explanation	autonomy
causal explanation	policy analysis
causally determined	policy prescription, remedies
2(a) changing people	*2(b) manipulating choices*
treatment	punishment
reform	rewards
rehabilitation	risks
3(a) dispositions or propensities	*3(b) events and situations*
criminality	crime
morals	events
attitudes	situations

these two contrasts as closely linked with one another. On his view, forward-looking policy prescriptions are about influencing the forward-looking choices of individuals, and neither has anything to do with understanding the past causes of conduct.

The second group of terms opposes changing people (by means of treatment or reform programmes) with manipulating punishment, risks, and rewards, so as to influence the choices they freely make. The third group of contrasts are those brought out by Clarke rather than Wilson. They set up criminal dispositions in opposition to crime events and the situations that give rise to them. This whole structure of contrasts was already largely present in Wilson (1975), but Wilson was mostly interested in reducing crime by increasing the certainty or severity of punishment, hence he emphasised the second group of oppositions. The originality of Clarke's approach lay in shifting the emphasis to the third group of contrasts, and especially in emphasising the importance of the concrete situation, and the potential for manipulating situational factors.

Each of these three sets of contrasts obscures more than it illuminates, and tends to hold back the development of theory.

(a) Causes versus choice and policy prescription

Sociologists and criminologists have tended to get stuck in profound and possibly intractable philosophical debates concerning free will and determinism. David Matza (1964) went to the lengths of proposing 'soft determinism' as a kind of low-alcohol version for half-hearted positivists, in an attempt to resolve the apparent conflict between causal explanation and free

choice. In parallel with academics, politicians regularly set up understanding the causes of crime in opposition to placing moral responsibility on the criminal as a free agent, as when John Major, then Prime Minister, tried to make a populist appeal to punitiveness by asserting that we should 'understand a little less and blame a little more'. Sociologists and politicians agree on very few things, but they do seem to agree that free choice along with moral responsibility, on the one hand, are opposed to understanding the causes of behaviour along with predicting it, on the other. Yet without going deep into the philosophical issues, it is sufficiently obvious that this supposed opposition is a nonsense.

It is only by virtue of living in a structured society with defined institutions and dependable relationships that people have the capacity to choose. Social practices and institutions depend on the predictability of much behaviour. Indeed, it is that predictability that constitutes the fabric of those practices and institutions. When relationships become highly unpredictable (as with economic relations in present-day Russia) we speak of society breaking down. People then have less capacity to choose, because the consequences of acting in one way or another have become difficult to predict. It follows that structure and predictability are a condition of free choice, and not opposed to it.

In everyday dealings, providing explanations for people's behaviour, and predicting it, are by no means opposed to ascribing free choice and moral responsibility. For example, I can predict with a very high level of confidence that anyone approaching the closed door of my office will knock before coming in. I could also construct a convincing causal explanation of their behaviour.[3] Nobody will be tempted to conclude from this that my colleagues and students are robots who have been deprived of freedom of choice. People who know each other very well – husbands and wives, for example – can often predict what the other will do or say, for example: 'If you suggest a game of squash, he will jump at it'. We are not tempted to conclude from this that the husband is driven to play squash by ineluctable forces which deprive him of any choice in the matter.

We are perfectly happy to say that the student performed badly in the examination because he was hung over, which implies that the hangover was the cause of his bad performance; but even nowadays this would not count as grounds for appeal against the result, because it would not be interpreted as meaning that he had no choice in the matter. He could have chosen not to drink the night before. Of course, further causes might be uncovered to explain why the student drank (say isolation and despair arising from a failed love affair) and why he didn't take enough paracetemol to allow him to concentrate on the exam (not being in the habit of drinking, he had no supply

[3] In detail, the explanation would be rather lengthy: it would cover the perception of my office as private space, the meaning of the closed door, the universal acceptance of certain conventions within the faculty, the severe informal sanctions for breaking them.

of tablets to hand). That might lead us to say that he had a weakened capacity for self-control, and limited ability to deal with the consequences of his drinking. This example shows that some causal explanations have no relevance at all to the capacity to choose (for example 'he performed badly because he had been drinking the night before'); whereas others are relevant (for example, 'he had lost his self-control because of a failed love affair'). In other words, providing a causal explanation in itself is not opposed to free choice and moral responsibility: the crucial question is whether the student retained his capacity for self-control.

Wilson's (1975) attempt to distinguish between intermediate causes and root causes steers us into the furthest reaches of confusion. Every cause is from another point of view an effect, so that the search for a first, uncaused cause has nothing to do with science. If sociologists or criminologists speak of the 'basic' or 'root' causes of crime, they do not refer to states of affairs that are uncaused and therefore cannot be changed. Instead, they mean to propose a model of the processes leading to criminal behaviour in which certain causal factors (such as poverty or family conflict) have a more fundamental status than others (such as criminal opportunities). For example, poverty and family conflict would be more fundamental than criminal opportunities if these pressures cause young people to seek out opportunities for crime, whereas criminal opportunities are rarely the cause of poverty and family conflict. Whether poverty and family conflict actually are more fundamental in this sense than criminal opportunities is a matter to be settled by empirical research. It is possible that enticing criminal opportunities may often divert the course of life into a path that leads to poverty, unemployment, and conflict with close associates.

There are occasions when we want to say that someone had no choice because of an irresistible inner compulsion (say to steal, to light fires, or to have sexual relations with children); or because of psychosis, amounting to detachment from human sympathies and moral worlds; or because of physical deprivation or exhaustion. Yet if there is indeed something distinctive about these conditions, it is not that they exceptionally provide a causal explanation of people's behaviour. The crucial point, again, is that this particular kind of explanation implies that a person has lost the capacity for self-control. What is thrown into high relief by the examples of pyromania, kleptomania, paedophilia, and schizophrenia, is that the capacity for self-control lies at the heart of what it is to be human. Those who completely lack this capacity, even if only within a small compartment of their lives, are regarded as gravely abnormal. The capacity for self-control, or what Bandura (1997) calls self-efficacy, is closely related to the capacity to make choices. We rightly regard people who completely lack self-control as incapable of taking responsibility for their actions: by stating that they lack self-control, we are asserting that the usual methods of encouraging them to assume moral responsibility will not work.

Hence, it is not true that the difference between the pyromaniac and the responsible citizen is that a causal explanation can be given for the pyromaniac's behaviour, but not for the responsible citizen's. On the contrary, Bandura's (1997) research and writings have shown that it is possible to furnish powerful causal explanations for the different levels of self-efficacy in different individuals. Since self-efficacy is the capacity for self-control, which gives people the power to choose, it follows that there are causes (perhaps even 'root causes'!) of an individual's strong or weak capacity to exercise choice.

Consequently, rational choice theories of crime are not opposed in principle to dispositional theories. Causal explanation and the ability to predict behaviour are wholly compatible with the idea that people choose to commit crimes, and that these choices sometimes or often emerge out of a process of rational calculation. This contrast only has relevance if it is re-interpreted as a contrast between substantive explanations of behaviour. In that perspective, rational choice theories are akin to cognitive theories in psychology, which emphasise the way people perceive, order, and think about the social world as influences on their behaviour. These can be contrasted with psychological theories that emphasise personality or distinctive inner drives. However, both cognitive and personality theories are attempts to provide causal explanations.

In making the contrast between root causes and policy prescriptions, Wilson (1975) was carried away with his own rhetoric in making a useful and important point. It is true that the focus of interest of the policy analyst is different from that of the sociologist. The policy analyst is concerned with what can be done, whereas the sociologist is interested in every kind of causal explanation. What Wilson wrote was that evaluating policy options has little to do with understanding causes, and that pragmatic considerations lead policy analysts to adopt some kind of rational choice theory of crime. What he might more convincingly have written is that many different causes come together to bring about criminal offending. Some of these, such as family functioning (he argued) are largely out of the reach of public policy or the private institutions that government can directly influence. Others, such as the design of cars, the organisation of shopping, or the checks built into credit card systems (he held) are much easier to change, although they are not directly controlled by government. Policy analysts are not necessarily interested in which are the most powerful or fundamental[4] causes of criminal offending. They focus instead on the most effective, economic, and efficient methods of reducing offending (in the official terminology of the Thatcher years). This may involve concentrating on causes of crime that are not the most powerful or fundamental, but ones that can be most easily and cheaply manipulated.

[4] Although Wilson's interpretation of what is meant by a 'fundamental cause' does not make sense, it can be re-interpreted in a coherent way, as argued above.

On this re-stated version of Wilson's argument, the policy analyst must be concerned with the causes of crime: for example, unless opportunity forms part of a good causal account of criminal offending, there can be no point in manipulating risks and rewards. Also, depending on whether opportunity is a strong or weak causal factor, the yield of crimes prevented by reducing it will be greater or smaller. However, Wilson's point was that feasibility and cost will often be more important factors determining policy than the relative importance of different causes. This is an important point in principle, and remains the central impetus behind SCP, which is explicitly an attempt to concentrate on changing what can be changed. It is interesting that the leading writers on SCP have now equally explicitly dropped Wilson's metaphysical baggage, and now routinely describe opportunity as a *cause* of crime.[5]

Wilson was right to point out that policy makers inevitably concentrate on what they think governments can change, but judgements about what can and cannot be changed are highly contestable. It is also interesting that these judgements are rather loosely related to political ideologies. Wilson thought it was obvious that governments could not influence family functioning, whereas they could influence, for example, anti-theft measures taken by credit card companies or shops. On the other hand, the idea that governments can influence the family remains popular both on the Right and on the Left. A recurrent theme on the Right is that state social security systems have caused the breakdown of the traditional family (Morgan, 1995; Murray, 1994, 1996). A recurrent theme on the Left is that conflict and lack of care in many families is caused by a shortage of material resources, which can be remedied by redistribution or economic growth (Walker, 1996). Furthermore, the history of SCP shows that governments have great difficulty in getting public and private sector institutions to adopt opportunity-reduction measures, even when they recognise that these could help to reduce crime. One reason is that the losses (for example, through theft from the HMV record shop in Oxford Street) are less consequential to the specific organisation than to the public interest, particularly bearing in mind the cost of policing and prosecution. In principle the argument that we should concentrate on changing what can be changed may be sound, but in practice hasty and superficial judgements have often been made about what can be changed most easily. Judgements about what can be changed may too easily emerge from cultural biases, rather than analysis. For most British people, gun control would 'obviously' be the most effective and efficient method of reducing homicides in the United States, but for most Americans it is equally 'obvious' that such a policy could not be implemented. This example starkly illustrates the limits of Wilson's robust pragmatism.

A further difficulty in forming judgements about what can most effectively be done is that policies may have either a broad or a narrow focus.

[5] Marcus Felson and Ron Clarke wrote a booklet for the Home Office in London with the working title *Opportunities Cause Crime*, although this was changed to *Opportunity Makes the Thief* when the report was actually published (Felson and Clarke, 1999).

SCP is clearly focused on preventing specific kinds of crime, whereas pre-school education in poor neighbourhoods may produce a wide range of benefits, including improved educational achievement, lower rates of unemployment, and higher earnings, as well as a lower rate of crime among those who earlier attended the pre-school programmes compared with those who did not.[6] As Wilson (1975) pointed out, broadly-based and expensive social programmes such as pre-school education cannot be justified by reference to their crime prevention benefits alone. They may, however, be justified by reference to a range of benefits, but there is no way of deciding what proportion of expenditure on pre-school education should be attributed to crime prevention, so whether pre-school education or SCP is the most efficient (pragmatic?) way for governments to reduce crime must always remain imponderable.

Despite the rhetorical appeal of these contrasts, therefore, there is no conflict between causal explanations and choice or moral responsibility, and a general appeal to pragmatism does not help to decide on priorities between crime prevention policies.

(b) Changing people versus influencing choices

Thinking About Crime was first published at a time when the pendulum was swinging against reform and rehabilitation, and the book reflected the prevailing mood. In contrast to the failed policy of changing known offenders, it offered the prospect of influencing choices to prevent future offending by manipulating the risks and rewards of crime. This is another contrast that does not withstand closer analysis. Reducing offending opportunities is, of course, perfectly compatible with programmes of education, reform and treatment for known offenders: the two policies are not opposed in any way. But arguments against posing reform and opportunity reduction in opposition to one another run much deeper than that.

Not only are these two types of policy compatible, but they are complementary, because they are aimed at different targets. Treatment, reform, or rehabilitation is an attempt to change people who have been captured by the criminal justice system, whereas opportunity reduction is an attempt to manipulate the risks and rewards of offending for the general population who are mostly not captured by the system at any one time. As well as being aimed at different population groups, these policies target different points in the life course, and have fundamentally different objectives. Opportunity reduction is an attempt to reduce the number of crimes of specific types that are successfully committed. Reform, rehabilitation, or treatment are attempts to give people who are in trouble the option to change. People captured by the system

[6] See Schweinhart and Weikart (1980); Berrueta-Clement et al. (1984); Schweinhart et al. (1993); Consortium for Longitudinal Studies (1983).

are usually damaged in various ways, even before being caught, and entanglement in criminal justice process and punishment is likely to damage them further. Hence, there is a moral obligation as far as possible to give people who are punished the opportunity to learn, grow, and develop, whether or not they take advantage of it. Of course, to the extent that they do, there are likely to be benefits in terms of crime reduction, and more recent reviews of the evidence (McGuire, 1995) tend to refute the too-sweeping view that treatment never works. Nevertheless, it is inappropriate to evaluate reform, rehabilitation, and treatment as primarily methods of reducing crime, and to see them, therefore, as alternatives to opportunity reduction.

Not only are reform and opportunity reduction complementary rather than opposed, but they are also closely intertwined, because reducing offending opportunities may be an important way of helping offenders to change. Wilson (1975) argued that it is easier to change behaviour than attitudes, and in doing so he seemed to identify attitudes with the inner core of the self, unchanging and unchangeable, and behaviour with the contingent manifestations of the self, malleable and responsive to circumstances. Even if we stick with this attitudes versus behaviour model, it is important to recognise that if people's behaviour and experience change, then their attitudes may change as a consequence.[7] But in any case, there is no reason to assume that attitudes are the inner core of the stable self. Probably more important are habits, patterns of perception, and cognitive processes. All of these are strongly influenced by learning and experience. Persistent and frequent offenders get into the habit of offending; they acquire other habits (such as drinking alcohol and taking drugs) which draw them into offending; and they acquire habits (such as not getting up in the morning) which are inconsistent with going straight. Even if their attitudes towards crime are disapproving, they may continue to offend out of habit. If their offending opportunities are reduced, their offending habits will tend to be weakened. Since our notion of personhood is defined in part by the person's habits, changing behaviour (by manipulating risks and rewards) can change the person.

(c) Propensities versus situations

It was Clarke (1982) who particularly emphasised the third set of contrasts (Table 1) between situations and events on the one hand and dispositions or propensities on the other. One response to this is simply to point out that any coherent account of thought and action must be interactionist: it must explain how persons and the environment mutually act upon each other, rather than shifting the spotlight from one to the other. Behaviour is the product of a

[7] Perhaps the best illustration is the vast body of research exploring the 'contact hypothesis' (for a summary, see Brown, 1995). This evidence shows that people who are prejudiced against another group become less prejudiced against them as a result of co-operative contacts on an equal footing, especially when they view the others as representatives of the whole group.

sequence of interactions between the person and the environment, such that the person selects and changes the environment, and the environment shapes and teaches the person. But at any given time, either the situation or the person may be the main determining factor. To use an example suggested by Bandura (1986), if someone is thrown into water, the situation is absolutely determinative: he or she will immediately swim, or try to do so, regardless of personal characteristics. On the other hand, if a girl is given a range of dolls to play with, the one that she chooses will reflect the way she sees herself and the social world.

To state in a completely general way that dispositions or propensities do not help much in predicting behaviour, as Clarke (1982) appears to do in the passage quoted at the beginning of this article, is obviously nonsense. For example, from a knowledge of the tennis-playing skills of Pete Sampras and Ron Clarke, I can predict with a very high degree of certainty that Sampras will win any tennis match between them.[8] However, the interesting questions are which kinds of characteristics of persons are influential, and at what level of generality to theorise them. Clarke shoots at three more specific 'dispositional targets': slow autonomic reactivity and low cortical arousal; psychological factors of personality and upbringing; and sociological influences such as anomie, subculture, and labelling. With regard to the first of these, there is in fact strong evidence that a high proportion of life-course persistent and frequent offenders have abnormally low autonomic reactivity, and that this is associated with low adrenaline secretion (Magnusson, 1987, 1988; White et al., 1990). The significance of this finding for crime prevention seems obscure, but attention deficit syndrome or hyperactivity diagnosed before the age of five does seem to predict a substantial criminal career. With regard to the third group of 'sociological influences', these are a mixed bag of theories which are not primarily concerned with the influence of individual 'dispositions'. With regard to the second group of 'psychological factors of personality and upbringing', the important questions are which psychological factors, and at what level of generality.

It seems fairly clear that in seeking to shift the spotlight from 'psychological factors of personality and upbringing' to situations, Clarke had in mind first and foremost theories of personality traits such as Eysenck's neuroticism and extraversion. These theories try to identify multi-purpose personality dimensions which are supposed to have an influence on behaviour across all situations. Theories of this kind have been generally rather unsuccessful. Bandura (1986: 6) puts the matter as follows:

> Over the years numerous studies have been published showing that measures of

[8] Nor is this example irrelevant to crime. In many fields, the people who commit crimes are those who have acquired the relevant skills, including physical and intellectual techniques (e.g. for breaking into the car or computer) and techniques for overcoming fear and neutralising moral condemnation.

> personality traits usually correlate weakly with social behavior in different settings. [Bandura's references omitted] When they show significant relationships, such measures usually account for about 10 percent of the variance in performance. Past behavior predicts future behavior in similar situations with moderate success, but conduct varies across situations differing in properties that affect the functional value of a particular form of behavior. Thus, for example, a measure of an aggressive trait does not help much in predicting whether or not a person will behave aggressively in dissimilar situations.

The tradition in psychology that Clarke was reacting against was one that tried to find completely general traits that are manifested across all situations. There is no reason to doubt Bandura's conclusion about the lack of success of this general approach. On the other hand, at a more specific level, people do differ very markedly in self-efficacy (a grounded belief in their ability to perform specific tasks), skills, knowledge, habits, and perceptions (of risks and rewards, for example), and these factors predict their behaviour much more powerfully than generalised personality traits. These are not completely general dispositions, but they are, of course, propensities that go well beyond any specific situation. It is obvious, for example, that competencies (such as the ability to read) are highly persistent and irreversible, and have a predictable influence across a wide range of situations, although there are some situations in which they have no influence at all. Once we focus on these more specific propensities, it is equally obvious that they are formed and reformed out of continuous interaction with the social environment.

This analysis suggests that we should move beyond the opposition between situations and dispositions to consider how habits, skills, and perceptions are shaped by crime opportunities and offending experience, and how moral concepts through which people regulate their own behaviour are formed, and engaged or disengaged in particular situations.

IMPLICATIONS OF SOCIAL COGNITIVE THEORY

The usual criticism of SCP is that it changes situations without changing people, and is therefore superficial and amoral. It is said to be like hiding the tin of sweets from the children, as opposed to teaching them not to eat more sweets than is good for them (Bottoms, 1990). On any interactive account of situations and dispositions, this kind of criticism and example must be much too simple. Situations have a lasting as well as an immediate influence on people, and people on situations. What needs to be examined is whether changing situations in the ways that SCP seeks to change them will lead to the lasting changes in behavioural norms that policy makers desire. It is possible to imagine that opportunity reduction could make people less inclined to break the law when the opportunity does arise: for example, if design changes

make car theft very difficult, then people may no longer notice the rather infrequent opportunities for car theft that still do arise, and people will no longer have the necessary knowledge and skills to carry out the offence, or the distribution networks to dispose of the vehicle. However, it is also possible to imagine that opportunity reduction could erode self-controls and community controls on criminal behaviour: for example, if there are systems that make it physically impossible to avoid paying the fare on a public transport system, or to drive a vehicle faster than the speed limit, then people might become less inclined to pay the proper fare or stay within the speed limit in situations outside the control of these systems, because automatic external regulation had, over time, led to the erosion of internal self-regulation.

Bandura's social cognitive theory provides a general framework within which these interactions could be examined. Social cognitive theory can be described as a modern version of social learning theory that takes account of the cognitive revolution in psychology. The foundational account is given in *Social Foundations of Thought and Action* (Bandura, 1986). The part of the theory that deals with the self-system is developed further in *Self-efficacy: The Exercise of Control* (Bandura, 1997). In its origins, social cognitive theory is a reaction against the radical behaviourism of Skinner. In the social cognitive view, behaviour is generated, not automatically evoked or reproduced: this is similar to Chomsky's account of the way that speech is creatively generated, so that young children utter many sentences they have never heard. At the same time, behaviour emerges out of learning, but learning is essentially cognitive: it involves classifying, contrasting, forming expectations, formulating rules, making inferences, not just forming associations between stimulus and response. There are three main categories in Bandura's system: persons, behaviour, and the environment (with the emphasis on the social rather than the physical environment). We can make up three pairs out of these categories (persons and behaviour, persons and the environment, behaviour and the environment). Within each pair, there is mutual reciprocal causation between the two terms, so that, for example, the person has a causal influence on his own behaviour, but his behaviour also has a causal influence on the person; similarly, the person influences the environment, but the environment also influences the person.

Current research and theorising in developmental psychology fits very well into this framework of mutual, reciprocal causal influence. For example, continuity of an individual's pattern of behaviour over time can be explained as emerging from a pattern of progressively intensifying interactions between the individual and the social environment, in which the person selects environments that tend to reinforce his original pattern of behaviour. An initially aggressive boy may find only other aggressive boys to play with, so that subsequent interactions reinforce the original tendency towards aggression. That is an example of reciprocal causation between the person and the environment. Equally, aggressive or sexual behaviour may change the hormonal balance, so

that these kinds of behaviour become more likely in the future. This is an example of reciprocal causation between the person and his behaviour.

In the social cognitive view, we learn more from observing others ('modelling') than from our own direct experience. The information gathered about the social world is symbolically transformed so as to provide rules or guides for action. Social learning provides us with competencies, but also with motivations which help to determine whether and when these competencies will be put to use. Behaviour (like physiological processes) is functional, hence it is regulated to some extent by external outcomes, either observed or experienced first hand. However, humans (unlike lower animals) have the capacity to persist with immediately unproductive behaviour for very long periods of time. They can do this because they exercise control over their own thoughts, feelings, and actions by rewarding and punishing themselves. Performance and persistence in difficult tasks are strongly influenced by self-efficacy beliefs: faith in one's own competence and ability to control. These beliefs are unlike a generalised self-esteem, because they are beliefs in one's ability to perform specific tasks or control particular situations. They are influenced by actual performance, by the way this is observed and perceived, and by the responses, reports, and evaluations of other people.

People observe their own behaviour, assess it on a number of dimensions, including morality and deviancy, judge it against personal and social standards, then react to it accordingly, either in a positive or negative, a punishing or a rewarding, way. However, although everyone has (to a greater or lesser degree) the capacity to regulate their own behaviour, this capacity is not continuously and invariantly exercised. Here Bandura's account of self-control differs crucially from socialisation theories, all of them ultimately derived from Freud, which assume that commands and rules externally derived from parents and wider social contacts are internalised in early childhood, and become a constant presence within the self. On Freud's account, and others derived from it, the superego is always present and active (even if its commands can be blocked). In the social cognitive view, by contrast, the self-system is selectively activated and disengaged. Moral disengagement can be achieved, for example, by techniques of neutralisation similar to those discussed in a much earlier article by Sykes and Matza (1957), such as minimising, ignoring, or misconstruing the consequences of an action. It is not clear whether Bandura thinks it would be logically or psychologically impossible for someone to say 'I am now about to do something which is wrong and inexcusable', then do it. In any case, he argues that people seldom, or possibly never, intentionally do things which they believe at the time to be wrong. Instead, they disengage the self-system in order to do things they would judge to be wrong, if the system were engaged.

Both Bandura and Sykes and Matza ignored the complexities that arise in applying rules or principles to particular cases or situations. They tended to assume that the question of what principle should be applied is unproblematic,

and that any justification for not applying a principle (such as a justification for not telling the truth) is a dishonest evasion of moral responsibility. In fact, because cases are unique and rules often conflict, the decision to apply a rule is often contestable, but that only strengthens the argument that how people make these decisions is just as important as what principles they hold and how strongly they believe in them.

In seeking to understand the effects of SCP, it may be particularly important to make this distinction between morals and moral engagement, between principles and their application to particular cases. One way in which SCP might work is to engage people's moral awareness in the specific situation; alternatively (or in addition) it might strengthen people's belief in the underlying principle. For example, specific measures may be used to encourage people to keep particular areas clean. These should make people feel guilty about dropping litter in those areas, that is, activate their moral sense in those environments. There is a separate question as to whether experience of these situational measures across a number of environments will eventually change general beliefs about the importance of keeping public areas clean. This change in moral beliefs, as a result of their activation in particular situations, is a possible mechanism producing a diffusion of benefits of SCP beyond the immediate situation (Clarke and Weisburd, 1994).

ANALYSIS OF EXAMPLES

SCP was initially developed as a rational choice model, with the emphasis on features of the immediate situation that influence the calculation of costs and benefits. In recent years, the conception of SCP has broadened considerably to include mechanisms that do not fit within a rational choice model, unless that is very broadly interpreted. Clarke's early schema of SCP techniques included three main categories: increasing the effort, increasing the risks, and reducing the rewards. Various techniques that are directly concerned with moral engagement or moral beliefs were included within this schema, but did not really fit. Later, Clarke (1997) added 'removing excuses' as a fourth main category; while in an alternative schema, Clarke and Homel (1997) added 'inducing guilt or shame' instead. Wortley (1996) has argued that 'inducing guilt and shame' confuses social controls by others with self controls; instead of Clarke and Homel's fourth category, he proposed two additional categories: increasing social controls, and activating self-controls (which he described as 'inducing guilt'). These attempts to broaden the SCP model are not entirely coherent, because they burst the bounds of the original rational choice framework, without establishing a new theoretical framework that embraces all SCP methods.

Social cognitive theory may in future be used to provide a sounder theoretical underpinning for SCP. A broad assumption underlying social cognitive

theory is that behaviour is adaptive and functional, but it does not follow that the dominant influences are always the risks and rewards perceived in the immediate situation. In fact, this was early recognised by Clarke (1982: 231) who wrote: 'In addition, people adopt rules of thumb or 'standing decisions' that eliminate the need to analyse every decision'. The consequences of what Clarke called 'standing decisions' are far-reaching, and make it necessary to adopt a much broader theoretical approach like Bandura's.

The best way forward, therefore, will be to develop a detailed theory of crime prevention based on social cognitive principles. As a preparation for that work, the rest of this article uses a few examples of SCP to analyse mechanisms through which situational changes may have an effect beyond the immediate situation.

Speed cameras

The control of driving speed provides an interesting example of crime prevention, because this is a clear case where moral beliefs and legal rules have differing influences on behaviour. Presumably, most people believe it is wrong to drive dangerously fast; and probably believe that it tends to be dangerous to exceed speed limits. Yet most drivers exceed speed limits by considerable margins at least some of the time. Bourne and Cooke (1993) have evaluated a programme in Victoria, Australia, starting in 1989, which aimed to reduce speeding by enforcement of speed limits through speed cameras, backed up by 'a high-level advertising/public education campaign to inform drivers of the risks of speeding and of the risks of getting caught'.[9] The 60 new speed cameras are fitted in vehicles or on tripods and can be moved to any site quickly, so presumably they are not normally visible to drivers. The human and technological resources devoted to the programme made it possible to carry out a very large number of checks: 8.2 million during 1990–91, growing to more than 2 million per month in 1992. 'A total of 374,050 speeding penalty notices were issued during 1990–91, with A$23.6 million paid in fines that year. A further 607,165 notices were issued in 1991–92, with an additional A$55.8 million collected from fines.'

Immediately following the introduction of the new speed cameras and advertising campaign, there was a sharp reduction in the percentage of vehicles exceeding the speed limit, in collisions, in fatalities, and in injuries. The authors claim that the most important factor in this change is the threat of loss of driving licence that can result from accumulated penalty points. Other jurisdictions (such as South Australia) which have similar speed camera enforcement levels, but without the deterrent of license loss, have not reduced speeding to the same extent.

[9] No information about the advertising campaign is given in the article. The speed cameras, red light cameras, and advertising campaign were accompanied by a range of other initiatives, but were probably much the most important measures in the package.

No research was carried out on the attitudes, beliefs, or cognitive processes of drivers in Victoria before and after the programme. There was clearly a massive increase in the actual likelihood of detection, and the scale of enforcement was such that the perceived risk of a penalty for speeding must presumably have increased substantially. However, Bourne and Cooke's interpretation goes beyond the rational choice model, narrowly defined. They pointed out:

> There has been no social stigma attached to being a speedster. The flashy executive or sporty youth with a racy car can be a fashionable role model. Moreover, no one believes that he or she is a bad driver.

This alludes to moral beliefs, informal social controls, and moral disengagement. The objective was to change moral beliefs, strengthen informal social controls, and discourage moral disengagement, primarily through enforcement of speed limits backed up by advertising: 'The challenge was to make speeding socially unacceptable.' The authors also recognised that driving depends on habits and skills which persist beyond the immediate situation. They argued that increasing the level of detection would increase the time before which bad habits could reassert themselves, and that a change in habits should lead to a change in attitudes, which would in turn tend to sustain the changed habits: 'This suggests that resources need to be 'ramped up' initially to maintain the detection rate, but, after a period of time, the effect will, to a large extent, sustain itself and require decreased resource input.' However, they did not provide data to show that reduced speeds were in fact maintained with a reduced number of detections after the first couple of years.

It may be said that this is an example of targeted law enforcement rather than SCP. However, SCP is much more closely related to law enforcement than is commonly recognised, especially when it concentrates on increasing the risks of offending. As Ekblom (1994) has argued, crime prevention normally relies on increasing the risk of being caught and punished by the criminal justice system, and the criminal justice system itself performs many preventive functions. The dividing line becomes still more blurred if we consider speed camera programmes in Britain, where warning signs announce the presence of cameras, which are clearly visible, but many of which are actually replicas, or contain no film. Presumably a real speed camera with film in it is an instance of law enforcement, whereas a replica speed camera is an instance of crime prevention, but in reality the whole speed camera programme uses enforcement along with a mix of other methods to prevent drivers from exceeding speed limits.

There are a number of distinct mechanisms through which speed camera programmes may bring about a reduction in speeding:

1. Situational cues, in the context of general awareness of the enforcement programme, increase perceptions of the risk of being caught and punished on particular roads at particular times.

2. Actual experience of being caught and punished increases perceptions of risk on particular roads at particular times. (Because of the vast number of penalty notices issued in Victoria, actual experience of sanctions was probably an important factor.)
3. Situational cues or actual experience of sanctions change driving habits, so that the effect can extend beyond situations that now appear to involve increased detection risk. This is akin to Clarke's (1982) 'standing decisions'. Instead of deciding from one moment to the next whether to speed depending on an assessment of the risk in the current situation, the driver gets into the habit of staying within the speed limit.
4. Situational cues or actual experience of sanctions activate moral engagement: they remind the driver that in speeding he may be doing something wrong, and hence re-engage his self-regulatory system. This moral re-engagement might be highly situation-dependent, or it might be more persistent.
5. Advertising, backed by increased perceived risks or actual experience of sanctions, may change the driver's moral beliefs so that he becomes more fully convinced that speeding is wrong.
6. The various elements of the programme activate informal social control mechanisms: for example, children in the back of the car now complain that the driver is going too fast, his mother remonstrates with him when he gets points on his driving license.
7. The driver is now less likely to learn from observing other drivers that one can exceed the speed limit with impunity: fewer drivers are seen to exceed the limit, drivers are seen to have been stopped and given penalty notices, and friends give accounts of their experiences of being caught. Hence vicarious learning conveys information about increased risks.
8. Moral principles and strategies for disengaging moral rules are also acquired vicariously, from modelling. If mechanisms (4) and (5) work, then a further, knock-on effect is an increased likelihood that people will learn from their friends and admired associates that it is wrong to break speed limits or to avoid applying these rules to one's own driving.

The mechanisms that go beyond the immediate situation are potentially very powerful, but not much is known about when they do and do not come into play. This could be investigated by more detailed research on the implementation and outcomes of speed control programmes. For example, in Britain, where visible cameras along with warning signs are put up on certain roads, it would be interesting to find out whether there are speed reductions on those roads only, or on all roads. Survey research among drivers and others would help to establish which mechanisms are actually at work. It seems obvious that moral beliefs will be much easier to activate for some kinds of offence than for others. For example, it would be extraordinarily difficult to convince people that illegal parking is wrong.

Breath testing

Breath testing as a method of reducing drink driving is a technique fairly similar to speed cameras for reducing speeding. An important difference in the context is that there is now considerably more moral disapproval of drink driving than speeding, and the proportion of drivers who sometimes exceed speed limits is much higher than the proportion who sometimes drive when over the legal alcohol limit. This may mean that mechanisms involving moral engagement are easier to deploy in the case of drink driving than speeding. There is also a difference in the specific techniques of enforcement. Cameras monitor the speed of all vehicles passing them, whereas drivers can only be breath-tested if they have committed a moving traffic offence or have been involved in an accident, or if there are reasonable grounds for suspicion that they have been drinking. In practice this gives the police wide scope for requiring a breath test, but presumably drivers may believe that if they are skilful enough, they will be able to drive after drinking but avoid detection. It seems less likely that drivers in Victoria think they can avoid detection by a speed camera.

In the case of drink driving, there is a study by Riley (1991) which provides survey-based evidence on the attitudes, beliefs, and cognitive processes of drivers in areas with high and low levels of enforcement through breath testing. Drivers in the high-enforcement area were significantly less likely to drink and drive (according to their own reports) than those in low-enforcement area, yet there was no difference between the areas in perceptions of the risk of being caught. However, drivers in the high-enforcement area were much more likely than those in the low-enforcement area to expect family and friends to disapprove if they were to drink and drive. Also, they were less likely to say that drinking alcohol made them feel relaxed or act impulsively:

> In addition, drivers in the high-enforcement area were less likely to regard themselves as able to handle more alcohol than the average drinker and were less likely to regard limiting alcohol consumption as affecting their enjoyment of social occasions or to see alcohol as a necessary part of their social lives. Finally, in the high-enforcement area drivers were more aware of the general dangers of mixing alcohol and driving and of the increased risk of a road accident. They were also less likely to believe they could avoid detection when over the limit by careful driving. (Riley, 1991: 27)

From these findings and others, Riley concluded that higher enforcement levels had their effect not through changing perceptions of the risk of being caught and punished in a specific situation, but through reinforcing social pressures and increasing awareness of accident risks. If confirmed, this supports the argument that changes in situations can, through a variety of mechanisms, bring about changes that extend well beyond the immediate situation both in time and in space. To give one example, family and friends may hear about people who have been caught driving over the limit, then

consequently exert pressure on a driver in their circle. On that model, the function of breath testing could be to set in train a process of social diffusion rather than influence the risk calculations of drivers in specific situations. Here is an example where 'fundamental' and 'immediate', or 'distal' and 'proximal' causes appear to change place, because manipulation of risk in the driving situation sets in train social processes that create different norms.

Reducing fare evasion

The analysis of efforts to reduce fare evasion on public transport systems has particularly important implications for an understanding of the wider significance of situational crime prevention. The weakness and ambiguity of norms concerning paying fares is one reason why the example is an important one. Another reason is that design and technological solutions in this field can be pushed very far: to the point where new questions are raised about the relationship between effective external control, and internalised rules that depend on a sense of personal autonomy.

There are a number of reasons for weakness, uncertainty, or ambiguity of the principle that one should pay the correct fare for a journey on public transport. To some extent, this is probably connected with very general features of moral and political reasoning. It is easy to think of trains and buses, like the air we breathe, as a common resource that should be available to be used as needed, because they are always there, and they are provided by an impersonal and remote authority. Nothing tangible is being stolen. It is difficult to identify or visualise anyone who loses if I do not pay the proper fare, and the train will run anyway, incurring the same costs, whether I pay my fare or not. Also, the train is usually not completely full, so I am not using up a resource, or inconveniencing any other passenger, by travelling on it. These background factors make it easy to achieve moral disengagement. Every case is different in detail, but some of these factors are also at work in making it easy to avoid a sense of obligation to pay parking charges; and shoplifters find it easier to bring themselves to steal from large chain stores than from small local businesses.

However, it also seems likely that a sense of ambiguity about the obligation to pay fares arises from inconsistent and lax enforcement. Some twenty years ago in London it was common for suburban tube stations to be open with the ticket office closed at certain hours, and with no automatic ticket machines working. Passengers would travel then pay voluntarily at the other end, saying they had come from such-and-such a station. This was a common practice that was fully accepted (at least in practice) by the staff of London Transport. Naturally, passengers often mis-stated the station where they had started in order to minimise the fare paid. Furthermore, if there was a queue at the ticket office, passengers in a hurry would get on the train without paying and 'pay at the other end' perhaps claiming that the ticket office had been closed. From

time to time there would be crack-downs, when inspectors would find passengers without tickets on trains and exact penalties; this would often be seen as grossly unfair, in the context of generally lax enforcement, and a practice of trusting passengers to 'pay at the other end'.

This example illustrates the interplay between the formal rule (the law in the books) and the informally accepted practice (the law in action). It might be said that belief in the norm of paying the correct fare was weakened by lax and inconsistent enforcement; or that weak enforcement made it easy for people to disengage their self-control mechanisms from this norm. However, it may be that enforcement practice played a more fundamental role in conveying information about what the norm actually was. If laws are never, or hardly ever, enforced, they eventually cease to operate as laws at all. Hence lax or inconsistent enforcement might eventually change the norm from 'everyone must always pay the correct fare' to 'people should pay the fare if the machines are working, they are not in too much of a hurry, they have the right change'. An interesting example of changing and clashing norms has arisen recently from the creation of separate private companies running different train services in Britain. Practice on many services in the days of British Rail was that ticket collectors were equipped with ticket-issuing machines, and accepted fares from passengers on trains during the journey. There was some ambiguity about whether they could take advantage of special fares or would always have to pay the full fare if they had not bought a ticket before boarding the train. After privatisation, some rail companies continued the British Rail practice, others allowed passengers to buy tickets on the train, but only at the full fare (often much more than what they would otherwise have paid), and others required them to pay a penalty in addition to the full fare. Hence, passengers had to acquire a complex structure of new norms through experience of travelling on different train lines.

At the end of 1989, a new system for the issue and collection of tickets was introduced on the London underground. This included automatic ticket gates and new ticket issuing machines at 63 central stations. When travelling from these stations, it became easier to buy a ticket than before. The automatic turnstiles would not let a person through until a valid ticket had been fed into the slot, and the electronic system ensured that only a valid ticket would work. (The system can distinguish between single-use tickets, daily and weekly 'travelcards', and season tickets valid for longer periods.) In the stations with the automatic facilities, the passenger exits by feeding the ticket into a turnstile slot. If the turnstile will not allow him to exit, he then has to go to another point to explain the problem to a member of staff and, if required, pay an excess fare.

The results of annual surveys by teams of inspectors show a sharp decline in the proportion of passengers found without valid tickets from 6.0 % in 1989 to 1.9 % in 1990, after the introduction of the automatic ticket system (Clarke, 1993). When automatic ticket gates were later introduced (in December 1991)

at Brixton and Stockwell stations, there was a substantial increase in the number of ordinary and excess tickets sold.

Although this has not been established from more detailed research, it seems likely that the automatic ticket system works in a number of different ways. The system makes it more difficult for a passenger to travel without purchasing any ticket, and to exit without having paid the correct fare. These are constraints on passengers' ability to avoid full payment in the immediate situation. At the same time, the system conveys the expectation that passengers should always pay the full fare in advance – an expectation that was markedly absent at various earlier periods. Probably it also conveys the information that fare evasion carries the risk of paying a penalty fare, or being prosecuted, although in practice penalties are rare, and most people found without valid tickets are merely required to pay the normal fare. Hence stricter and more consistent enforcement may re-establish the norm itself, strengthen belief in the norm, and make it more difficult for people to disengage from it.

It is important to recognise, however, that the London system does not by any means make it physically impossible for someone to avoid paying the correct fare. The barriers are about three feet high, so that even an unfit person can easily jump over them both at the entrances and at the exits. At many stations for much of the time, there are few staff on duty outside the ticket offices, so that if someone does jump over the barrier, often nothing is done. In the terms of SCP, the barriers increase the risk and effort involved in evading the fare; but on many particular occasions, the risk and effort involved remains fairly small. The barriers create the impression that the risk is greater than it really is. On some occasions, jumping over the barrier would be extremely risky (for example, if there were many police officers about on the day of a football match) so the most prudent course is to take a 'standing decision' (Clarke, 1982) not to jump the barriers, rather than assessing the level of risk on this particular occasion. More important, the turnstile forms a symbolic barrier. Passing through it with a valid ticket is a ritual of lawful acceptance, whereas jumping over it is a flagrant transgression. Under the old system, fare evasion merged imperceptibly into informal fare transactions in a succession of half-tones and ambiguities. Under the new system, the automatic gate forms a symbolic barrier which dramatises the choice between morality and deviance.

As an alternative to the low-level barriers, it is possible to build floor-to-ceiling turnstiles with accompanying railings which make it physically impossible for someone to enter without presenting a token or valid ticket. Weidner (1996) reports an evaluation of the effects of introducing such high-wheel turnstiles at one station (110th and Lexington) in the New York subway. Unfortunately, the evidence is weaker than in Clarke's (1993) study, because there were no sample surveys providing a general measure of the level of fare evasion. Instead, the evaluation relies on the statistics of the numbers of

summonses and arrests for fare evasion. These appear to show some reduction at the experimental station compared with two control stations, but the results are somewhat inconclusive. In combination, the findings of these two studies might be consistent with the theory that the effect of setting clear boundaries to behaviour through low-level automatic gates are greater than the effects of moving from clear boundaries to physical exclusion.

For many years, the Paris métro has used high turnstiles (at the entrances to platforms rather than stations) and in recent years it has used automated ticketing systems that make it extremely difficult to enter without having paid the fare. Myhre and Rosso (1996) report that the new Météor line in Paris will be designed to make fare evasion and other crimes physically impossible, but also to increase natural surveillance, and to create an exciting, bright, and comfortable environment. Lianos (1997) has argued that the existing Paris métro amounts to a system that strips people of their personal autonomy and destabilises moral principles founded on personal choice. On this view, a system that forces compliance tends to weaken self-controls, since these are no longer needed.

This leads to the intriguing possibility that consistent enforcement, for example through automatic ticketing systems, may have a moralising or alternatively a demoralising effect, depending on exactly how it is achieved. A system which delivers a strong and consistent symbolic message (that the fare must always be paid before crossing this barrier) may have the effect of creating or reinforcing norms, strengthening belief in them, and making it harder for people to disengage their self-controls from these norms. By contrast, a system which removes all personal choice may tend to weaken self-controls, for a variety of reasons. If people are denied any autonomy, then they perceive that the moral responsibility lies entirely with the system, and they no longer retain any obligations themselves. In addition, there are bound to be occasions when the outcome is unjust (I have paid my fare but the machine refuses to accept my ticket). Unless there is the possibility of discussion and redress, people will perceive the system as a mindless brute, so they will have no shame in outwitting it, whenever the opportunity happens to arise. For example, automatic exit gates at French motorways let a car through on payment of a set fee. If they do not open on payment of the correct fee, attendants will not countenance any discussion of the matter. After experience of failing to get a hearing, no motorist will have any compunction about driving through if, perchance, the machine should open the gate after payment of only one franc. By contrast, the same person might well point out that he had been under-charged in a shop.

The evidence on methods of reducing fare evasion is limited, but it leaves open the possibility that the interaction between situational and self controls is crucial, and that it is finally the self controls that do most of the work, although situational factors play a crucial role in strengthening or weakening, activating or de-activating, personal controls.

Inhibiting graffiti

In the 1970s and early 1980s, most subway cars in New York City were covered in graffiti. Most commentators (e.g. Glazer, 1979) thought that these graffiti made people feel that the subway was a dangerous, disordered, and violent place, and that the authorities were not in control of it. From 1985, there started a determined programme to clean the graffiti. The general principle was that no car would remain in service once it was vandalised. If that could be achieved, it would mean that in time no graffiti artist would ever see his work on display. Sloan-Howitt and Kelling (1997 [1990]) reported that the objective was achieved, so that in time very few graffiti were seen on the subway – a dramatic change. The number of arrests for vandalising subway cars plummeted, and the number of cars that had to be cleaned before being returned to service also declined substantially.

Within the tradition of SCP, this method of prevention can be construed as 'reducing the reward' (Clarke, 1992): the graffiti artist is deprived of the satisfaction of seeing his work and knowing that others can see it. However, a more satisfactory explanation can be provided within the broader framework of social cognitive theory. The practice of tagging subway cars was one that had spread by a process of social diffusion within certain groups. The graffiti artists themselves had developed specific skills connected with gaining access to the subway cars, and doing the decorative work itself. Various tagging idioms had developed, with more or less precise symbolic significance for the groups involved, and the artists had developed a range of satisfactions connected with tagging. Thus habits, skills, symbolic meaning, and cultural forms are all involved in a practice transmitted by a process of social diffusion. On this account, the result of the intervention was that the social practice was eroded. After the turning point had been reached, it was not merely that the reward for tagging cars was removed, but that there were now many fewer people about who knew how to gain access to the cars to tag them, who remembered the shapes and symbols involved, or who thought of this as a suitable method of protest, entertainment, or self-expression. The cultural form itself was dying, along with the associated habits, practices, and meanings.

CONCLUSION

Examples like these show that proponents of SCP have, curiously, tended to understate the importance of situations. They have tended to emphasise the immediate and direct effects of changing concrete circumstances, yet increasingly the practice of SCP has tended to burst the bounds of such a limited model. Instead of emphasising the contrast between changing situations and changing people, it is necessary to study how persons, behaviour, and the social and physical environment interact. When this broad, interactive

perspective is adopted, it becomes clear that persons develop and change in response to their experience in particular situations, so that changes in situations can produce more persistent changes in people. Also, social practices (such as the tagging of subway cars) arise out of a configuration of situations, so that intervening in situations can help to foster or destroy particular practices. Hence crime prevention that targets situations may be just as fundamental as that which targets structural inequality or family functioning.

Although SCP is just as fundamental as other methods of prevention, and although it addresses causes just as much as any other method, it does not follow that it is necessarily the best method, or the most practicable. The streak of robust pragmatism in SCP, which ultimately derives from J.Q. Wilson (1975), is rhetoric that does not stand up to close analysis. Changing the social security system to help poor families in Britain is far more practicable than strengthening gun control in the United States. SCP is fundamental, and is practicable and good value for money in some cases (though not in others). That is enough. It is not necessary to argue that SCP is generally superior to the wide variety of other methods of crime prevention, especially since many of these other methods have different, often wider, objectives, and are aimed at different target groups.

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10

For a Sociological Theory of Situations (or How Useful is Pragmatic Criminology?)

Tim Hope and Richard Sparks[1]

In this essay we explore certain problems and limitations of situational crime prevention (SCP) and its partner in crime reduction routine activities theory (RAT)[2]. The problems that we identify include both practical and theoretical dimensions, and given the pragmatic and applied character of SCP/RAT it is none too surprising to discover that these are closely connected. We at no point suggest that the concerns of SCP are either trivial or disposable, and we are to this extent moderately friendly critics. However, we will argue that the highly pragmatic emphasis of SCP/RAT (its self-denying ordinances against speculation and its distaste for all things political) is inhibiting, both from the point of view of usefulness and that of theoretical development.

What is the distinction between pragmatism and usefulness on which this argument depends? We suggest that SCP/RAT is marked by a certain lack of curiosity towards and of systematic enquiry into the conditions of adoption of crime-prevention technique. In the absence of any well-developed enquiry into these conditions SCP proponents tend to reduce their role to that of purveyors of a certain set of purely technical prescriptions. What is entailed in plumping for this consultative, expert role? Must it, for example, go with an inattentiveness to the institutional and political contexts of preventive activities (Which

[1] We are grateful to David Garland, Ronald Clarke, Paul Rock, and Alison Wakefield for their comments on earlier drafts of this paper.

[2] For the purposes of this essay we follow Clarke (1997: 4–6) in defining SCP as the conscious design or manipulation of immediate environments in 'as systematic and permanent way as possible so as to make crime more difficult, more risky and/or less rewarding...to potential offenders' (see also Cornish and Clarke, 1986; Crawford, 1998: 66-68; Hughes, 1998: 18-23). We understand RAT to be an approach to the aetiology of crime which focuses on the manifold ways in which modern living generates criminal opportunities and temptations by bringing together likely offenders and suitable targets in the absence of 'capable guardians' (Felson, 1998: 53); Crawford, 1998. 78–80). In using the shorthand SCP/RAT we indicate the high degree of common ground between these positions, with SCP primarily providing the micro-level theory of *interventions* and RAT a macro-level *explanatory* thesis about the crime-producing characteristics of mundane aspects of contemporary social organization.

strategies are chosen? At whose behest? With what collateral consequences and for whom?)? Does this produce a temptation to settle for what appears to be a 'good-enough' theory, even though the questions that are potentially broached by the notions of 'situations' and 'routine activities' are very much more theoretically fertile and expansive? We will suggest that among the consequences of their pragmatism is that SCP/RAT criminologists manifest a degree of parochialism – an insensitivity with regard to the diverse cultural and political circumstances within which SCP-type initiatives may be taken up (or not). Amongst the variable features of those circumstances are the mix of preventive styles that may be adopted in different times and places (the prevention of what, by what combination of means?), the relations between the actors involved (at a minimum these could include central states, local public bodies, corporations and private individuals) and, in consequence, the dynamics involved in locating responsibility and accountability for the initiation and implementation of such measures. In place of the prevailing situational positivism[3], therefore, we propose attempting something a little more ambitious, namely the development of a sociological theory of situations.

In beginning to sketch the outlines of a sociological theory of situations (and hence to argue for a broader and more reflexive understanding of what 'situations' comprise) we deal briefly with the following issues. We begin by considering some aspects of the relationship between the practical, interventionist focus of SCP and the rather larger claims about the criminogenic (and, equally importantly, crime-preventive) properties of routine activity made by RAT. If these two, SCP and RAT, are coming to represent a common position (or at least are in very close alliance) how well and how comprehensively do the two levels of explanation relate to one another? This is a question of cross-level adequacy of the kind often summarised by sociologists as the 'micro-macro link' (Alexander *et al.*, 1987; Mouzelis, 1995). We argue that one of the main open and as yet insufficiently explored areas here is that of *institutional practices* in the control of crime (i.e. the contributions of 'macro-actors' such as states and corporations). One good (perhaps primary) way of exploring the latter issue would be through comparative empirical enquiry – though this remains to be undertaken. Here, we can do no more than suggest a prospectus for what such work might look like. We go on to examine what kind of theory of practices SCP/RAT expounds or implies. What conceptions of *interests* and *costs* are mobilised, for example, and are these sociologically plausible?

[3] We are indebted to David Garland (personal communication) for this expression. It may seem odd to invoke the notion of positivism given that SCP/RAT consciously eschews many of the mentalistic and correctionalist claims traditionally associated with criminological positivism. What we intend by 'situational positivism' is a tendency to accept the givenness of situations (albeit that they may be alterable to reduce their criminogenic aspects). SCP/RAT is marked by a preference for the tangible and immediate rather than the structural, historical, cultural or ideological. We explain below why we think this makes for a somewhat sociologically thin notion of situations (see also Garland, 1999).

Finally we draw some connections and comparisons with notions of *situations* and *routines* that arise in some other areas of sociological enquiry and suggest that certain of these may be helpful in extending the scope of discussion.

CROSS-LEVEL ADEQUACY AND INSTITUTIONAL PRACTICE

We take 'situational crime prevention' (SCP) to be a 'practical theory' – one whose aim is to guide the analysis, implementation and evaluation of measures intended to prevent crime as it occurs *in situ*. Many varieties of social theory accept that in order to be useful – that is, in order to be able to guide enquiry and, where relevant, intervention – they need to offer explanation at both the macro-level (i.e. the collective or structural level of society) and at the micro-level (i.e. the level of individual social action) in ways that are coherently related. Perhaps rather haphazardly, SCP has acquired both a macro-level theory – what has become known as '*routine activity theory*' (RAT) (Felson, 1998) – and an individual-level 'rational choice' theory – that is, a theoretical framework for explaining the occurrence of crime events. One main way in which SCP/RAT can vindicate its claims to practicality and utility is by showing its capacity to influence crime-control practices at either individual or institutional levels, or both. In principle, therefore, SCP/RAT is a position with a highly *reflexive* component: it depends for its influence on 'knowledge-work' and recursive feedback. Unless people (whether they be 'lay' individuals or 'experts' of various kinds) amend their behaviour in some fashion its effects will be neutralised. There must be some form of security or precautionary consciousness, whether this be embedded almost unnoticed in everyday routine practice or introduced by design. To the extent that such restructuring arises this would seem to provide a text-book instance of Giddens's notion of a 'double hermeneutic', whereby theoretical constructs 'fall back' into everyday life (Giddens, 1984: xxxv).

SCP is thus now not just a theoretical proposition but also a corpus of preventive practices – whether constituted as 'natural' social phenomena (Felson, 1998: 166) or as purposive 'governmental' interventions in the control of crime. Hence, the two spheres of SCP inter-penetrate: SCP 'theorists' make claims to practicality; SCP 'practitioners' use the theory to guide and/or legitimise their activities. Ironically, one obstacle in the way of evaluating the SCP/RAT position *qua* sociological *theory* is precisely its political and institutional success. It has ceased to be merely a set of propositions whose adequacy is open to dispassionate examination and has become instead part of the toolkit of professional wisdom of diverse professional groups (amongst insurance companies and property developers just as much as for the police and other public bodies, as well as amongst their clients – ranging from store-managers to individual homeowners). It may be the case that two senses of 'reflexivity' are at odds with one another here. One is the supple movement between

theoretical prescription and everyday practice (in which sense SCP/RAT is highly reflexive). The other is intellectual self-interrogation either with regard to the approach's internal logic or about the institutional and political conditions in which these effects are produced (in which respect it tends to shun reflexivity – its interest lies in cultivating a practical *savoir-faire* rather than 'vague', 'general' or 'fancy' ideas (Felson, 1998: 166-7)).

The institutional 'success' of SCP – both as an academic discourse and as a progenitor of a general movement towards crime prevention in public policy and commercial activity – has also captured the attention of social theorists and critics. For them, SCP is an important phenomenon precisely *because of* its ability to restructure crime control practices. It is notable for its increasing embeddedness in the ways in which late modern societies are governed and regulated. The focus here falls upon the consumption of security goods and services, the spread of CCTV and other surveillance technologies, 'dataveillance', credit-rating and the telematic control of opportunities for fraud and theft and so on (O'Malley, 1992; Ericson and Haggerty, 1997; Rose, 2000). For these reasons Garland (1996) numbers such largely unobtrusive yet somewhat pervasive techniques, and the varieties of criminological knowledge on which they depend, among the 'adaptations' that contemporary societies make to the normality of criminal opportunity. This critical literature signals a number of concerns that are muted in the SCP/RAT literature itself, especially the divergent fates of those who are the beneficiaries of such security practices (the respectable, the legitimate shopper, the creditworthy) and those who are excluded, surveilled and targeted by them (see in particular Rose, 2000).

Yet both SCP/RAT's proponents, especially Felson, and some more critical commentators (for examples, Garland, 1996; Rose, 2000) have a tendency to make claims of historical inevitability – that implicitly or explicitly SCP is the method of crime control most characteristic of late modernity. What has not therefore been much discussed – for reasons we also need to discover – is the apparent *disparity* in the degree to which SCP has penetrated the language and practice of crime prevention in distinct national settings across the advanced economies of the 'western' world. What then explains the apparent enthusiasm – or at least preparedness – of actors in some settings to follow the situational route as compared, say, with the hesitancy, lack of interest, scepticism or outright hostility of others? If SCP is the characteristic crime control apparatus of late modernity, why has it taken root more deeply in certain (political, institutional) contexts and not others? Why also does it seem to sit alongside other crime control approaches, in more and less coherent *mixes* of governmental styles and interventions?

Such institutional disparities require us to look at SCP in two, related, ways. In the first place, we need to address the reasons for the varying take-up of SCP ideas and practices by different institutions in different settings, including nation-states (perhaps most notably among the member states of the

European Union). In such an enquiry, one would be taking SCP's impact itself as a 'variable' and seeking to explain the variation in its adoption across different settings, even amongst those whose societal and economic trajectories are ostensibly similar and representative of the general tendencies noted in some main currents of recent social theory. In pursuing such a programme of research, it would be necessary to adopt, as O'Malley puts it 'a more substantively political frame' (O'Malley, 1999), or as we prefer a *comparative-institutional framework* for analysis. We need to ask, of particular polities, whether SCP has been or is being entertained as a crime control strategy. In what contexts, directed towards what settings, offences and populations, and at whose behest have its diagnoses and practical proposals taken root? Conversely what forms, if any, of resistance or adaptation has it encountered in the course of its *political* progress in different settings? Such an enquiry would direct us, as it has other writers on contemporary crime control, to classic issues of comparative political and legal study – for example, of disparities in legal and political *culture* or of the *structural* location of strategic and political decision-making, or of the varying formations of democratic deliberation. To what degree, moreover, do different contemporary nation-states rely on public or private initiative for crime control and risk management, and what difference does this make to the particular mix of preventive strategies that they adopt? In what contexts, then, is 'crime' coming to be viewed as the kind of problem to which SCP is seen as the solution and, conversely, what other kinds of crime-problem/preventive-solution patterns also emerge?

Second, it is also necessary, in order to guide such enquiry, to find a way of asking questions about the political resonances or attractions of SCP which would reveal the sources of variation in take-up and hence, through comparison, in its political nature. In particular, we need to ask whether there is a *necessary* homology between certain preventive practices and certain forms of politics and modes of urban governance. Such questions thus lead towards an unravelling of the practical and political characteristics of SCP. In highlighting these dimensions of SCP as a focus of study, we anticipate that one difference which might emerge between the varying polities and settings would be the extent to which practices of crime prevention are openly acknowledged as *political responses*.

By this we mean two things: first, that proposals and measures for reducing crime are understood by their participants as constituting part of the various practices, ideologies and discourses of government, here understood to include the actions of businesses and corporations and not only of 'the Government'. That is, how much are crime prevention practitioners aware, or how far do they acknowledge, that they are engaged in political acts or that a political rationality informs their actions? There is, then, the issue of whether, and how much, the application of preventive measures (including those derived from SCP) in the implementation of practices within various polities is *politically reflexive*. Theorists of SCP/RAT (especially Felson, 1998) deny or, at best, play

down political reflexivity in the development and promulgation of SCP measures. One device for doing this is their disavowal of theoretical curiosity (at least outside a fairly narrow range of specifically criminological theories). This appears in some part to be a deliberate attempt to de-dramatise many traditionally 'hot' criminological (and associated public) debates and to remove them from the realms not only of speculative social theory but also of political rhetoric (cf. Felson's 'agenda fallacy'), rendering them instead the subject of 'naturalistic' observation, 'common-sense' appraisal and pragmatic intervention (Felson, 1998).

The originality of this move lies in its displacement of aetiological, normative and structural questions (i.e. things mostly to do with offenders and the problems of their motivation), to be replaced by a focus on *situations* and their propensity to generate or inhibit risk (Garland, 1999). While this effort at de-politicisation is itself, of course, a political act, the concomitant shift away from a concern with offender-motivation constitutes, in practice, not so much a denial of aetiological and political issues as an implicit *displacement* of them to the realm of 'situations'. Hence our reference above to the notion of 'situational positivism': situations are treated in SCP/RAT as given. They arise *naturally* (which tends to imply that they are beneficial) or *accidentally* and unintendedly (which tends to suggest that they are unfortunate). In the former case they need to be mimicked or replicated; in the latter to be modified and secured. What they cannot do is indicate that there is anything abidingly or fundamentally faulty about our social organisation: the connection between criminology and critique is thereby severed.

Our second point, then, about the (lack of) political reflexivity in SCP, is best illustrated by posing an aetiological question: if certain 'situations' cause crime, what causes criminogenic situations? By addressing this question to the present corpus of SCP theory we may be able to facilitate examination of the theory's assumptions. More than that, though, the question directs attention back toward the *utility* of SCP itself, as presently constituted, as a practical theory. Unless we address aetiological questions about situations how are we to acquire the knowledge which would allow us to select locales of intervention and measures which would alter them? In our view SCP – or any theory of crime prevention – requires a *theory of practice* to accompany its basic theory. That is to say, the corpus of theory of SCP ought to contain ideas and prescriptions about how to go about selecting problems for intervention, engineering strategies for intervention, and implementing corrective measures. And it ought also to be able to *anticipate* the consequences of such practices. Further, we ought to be able to ask such questions of SCP and make assessments of its practicality, and to compare this with the practicality of other proposals for crime control. So, what are the practical and political consequences of SCP's current premises about the occurrence of criminogenic situations? We will seek to address these issues in the remainder of our paper.

SCP: THE THEORY OF PRACTICE

Felson's macro-level routine activity theories of crime have come to comprise the preferred account for the aetiology of criminal situations underpinning SCP (Felson, 1998; Clarke 2000, this volume). Although he shares some preoccupations with other theorists of late modernity, unlike them, Felson seems remarkably un-reflexive and uncritical – faux-naif perhaps – about the circumstances of 'everyday life' which give rise to crime. Implicitly in his writings, crime is seen as the unintended consequence of mundane, routine and essentially *normal* practices of social life (see further Garland, 1999). This diagnosis has a number of advantages (or so it must seem to its proponents): it extracts crime from issues of politics and morality (Felson, 1998, Ch. 1); the normality of crime at the macro-level provides an homology with the normality of crime at the individual-level (normal in the sense of the offender employing an understandable, everyday, calculus of decision-making); and it establishes a role for technical-scientific intervention – providing corrective remedies for the adverse by-products and side-effects of otherwise socially-acceptable and desirable practices. It also allows Felson to dispose of what he calls the 'pestilence' and 'agenda' fallacies – that crime is related to, or a consequence of, other unacceptable social practices and conditions, including disadvantage and deprivation (Felson, 1998: 18-19). Felson thereby empirically fulfils James Q. Wilson's (1975) critique of positivist criminology's failure to account for the simultaneous growth of crime and affluence during the 1960s and 1970s (Cohen and Felson, 1979)[4].

Nevertheless, whatever theoretical advantages the issue of unintended consequences has for SCP, it also entails political liabilities which, paradoxically, undermine its theory of practice. Essentially, the problem is one of being unable to provide, from within its own theoretical framework, a convincing set of mechanisms promoting implementation of measures to address the harm arising from criminogenic situations. We must assume for SCP, in the absence of evidence to the contrary (or by virtue of the same standards which it applies to offenders), that other parties to putative criminal events – including putative victims – are also rational actors. They too are likely to maximise their personal utility. Now, if criminogenic outcomes of particular situations are unintended, then it may remain unclear and contested which actors carry the *responsibility* to take the action necessary to produce the desired outcome. The only alternatives to persuade relevant actors to act would be appeals to altruism or compulsion from a third party – that is, the

[4] Of course in order to deal seriously with crime trends, RAT would need to return to the macro-level concerns acknowledged by Cohen and Felson (1979) and take proper account of the comparative disparities they disclose (e.g. between the United States and Japan, between the United States and England and Wales since 1975, or between England and Wales and other European countries).

state or another macro-actor with sufficient leverage such as perhaps an insurance company. Of course, SCP seeks to overcome this problem by appeals to individual or corporate self-interest. It assumes that persons (or firms? or local authorities?) who are responsible for – or have some stake in – criminogenic situations will act rationally, in their own self-interest, to reduce the harms and losses which they would otherwise suffer. In other words, they will be prepared to invest sufficient amounts of their resources in actions which will reduce the costs of the crimes directly incurred by them. The overall social cost of crime will likewise reduce in proportion to the reduction in the sum of individual costs in society. The logic implies that the social cost of crime is the sum of particular costs.

Nevertheless, a harm like crime is not just an individual cost but also a *social cost*. The cost of crime not only includes the direct costs incurred by victims but also a range of additional social costs – the latter are not just financial (represented by the costs of the criminal justice system maintained by the State) but are also generally regarded in most polities as *moral costs* to society at large, representing the putative consequences of lawlessness, unpunished crime and impunity. Like most 'public goods' (or 'bads' in this case), these social costs are non-rival and non-excludable – a person suffering more of such moral costs does not mean that another suffers less; and people cannot be exempted from sharing these moral costs as long as they remain citizens, even if they do not suffer them directly. It follows that security from crime – the 'product' of crime prevention activity – is also a public good in this sense as well as a private good for individuals[5]. However, if we assume (as SCP does) that would-be crime preventers will act in their rational self-interest then, as students of welfare economics will know, they are only likely to be persuaded to invest in actions which will address their direct costs, leaving the social costs of crime unmet. In this respect, the social costs of crime are an *externality* to those responsible for criminogenic situations. And such persons, acting only in their rational self-interest, have no responsibility or direct incentive to take actions to reduce these social costs. On these grounds, the logic of reliance upon individual or indeed corporate self-interest implies that the level of prevention in society as a whole will be less than optimum, since investment to cover the social costs of crime will be under-provided voluntarily (Field and Hope, 1990).

There are numerous cases where appeals solely to rational self-interest as a basis for eliciting individual and corporate actors' contributions to crime prevention as a public good will produce sub-optimum or even 'perverse' outcomes. For example:

- Where individuals who invest in their own protection consequently adopt

[5] In other words, amongst the things that Felson wishes to discount amongst his other 'fallacies' is a large proportion of the Western tradition on the structure, functions and justifications of criminal law and its relationship to the political legitimacy of the State.

fewer security precautions than they would if they had to cover the full costs of their crime risks (as is acknowledged institutionally by excess (deductible) clauses and 'moral hazard' provisions in insurance contracts).

- Where the full direct costs of crime do not fall to those who have the capacity to adopt preventive measures. This is the case with regard to auto-theft, where neither manufacturers nor owners have direct incentives to take preventive measures: the former because the costs of motor crime fall mainly to consumers after the point of sale, in which manufacturers have little direct interest (Field, 1993; Clarke and Harris, 1992); the latter because most costs are defrayed within highly competitive insurance markets (Field, 1993).
- Where the benefits which producers and retailers gain from 'fast-moving' consumer goods and services – including credit cards and motor vehicles – outweigh those actors' direct crime costs, by virtue of high-volume transactions, the impairment of which by security measures will reduce turnover below profitability in a competitive market (Levi *et al.*, 1991).
- Where public crime prevention goods are being generated on the basis of voluntary participation – as in the provision of natural surveillance through 'neighbourhood watch' – there is a built-in incentive to *free-ride* for any individual (and an absence of penalties) to the extent that the good becomes under-provided (Field and Hope, 1990; Hope, 1999).
- Where the 'displacement' of crime to other locales, victims, etc. is an *externality* which those responsible for the target situation have little direct incentive to forestall (Barr and Pease, 1990).
- Where the 'diffusion of benefits' – whereby others than those who provided the prevention gain benefits from the measures, without incurring costs (Clarke and Weisburd, 1994) – constitutes *fortuitous free-riding*, serving as a disincentive (a negative externality) to those who are obliged to bear the costs of prevention.

In sum, the argument which we wish to advance here is not that SCP cannot provide *technical* crime prevention solutions to some or all of these problems, but that its inherent implementation strategy – implicitly relying upon voluntary participation and individual self-interest – contains few if any incentives for actors to meet all the relevant direct *and* indirect (i.e. social) costs of crime and that as a consequence the public good of safety is likely to be under-provided, or at any rate to be patchily provided in ways that are arbitrary from the point of view of equity or distributive fairness.

Thus, the deficiency *vis-à-vis* political theory is that SCP does not contain a mechanism for adequate provision of public goods of safety and security. So long as this deficiency is not addressed, SCP will remain the hand-maiden of the private market and will respond to, and reinforce, inequalities in the means of private protection, leaving the public good of security under-provided. Additionally, by default, sectional interest groups – including the

better-off – will be able to provide for themselves *exclusive club goods*. For example:

- Retailers may club together in shopping centres and malls to share in the common infrastructure of security (and other infrastructural benefits besides) and, by virtue of the private nature of the locale, be able to exclude certain members of the public from sharing in, or prejudicing, such security (Shearing and Stenning, 1983; Wakefield, 2000, and von Hirsch and Shearing, 2000, this volume).
- Residents of 'exclusive' suburbs are able to take advantage of the low crime rates which their communities bestow by virtue of the capacity of the private housing market to protect and distance them from other members of society (Hope, 1999).

In other words they get public good benefits for themselves which are denied to others, thus exacerbating inequality in the distribution of security (Hope, in press). In short, in order to address these deficiencies, SCP requires a better *theory of situations*, one which contains within it an *account of the public interest* in the reduction of crime. We struggle to detect any account of these issues in SCP's current macro-level travelling companion RAT.

TOWARDS A SOCIOLOGICAL THEORY OF SITUATIONS?

A sociological theory of criminogenic situations would address the aetiological question posed earlier. Constructively, we suggest that there is something that SCP could learn from some varieties of social theory in which it presently disavows interest. For example, its predeliction for *rational choice* has certain obvious affinities with Coleman's Rational Action Theory, though we would suggest that it might benefit from the 'collective action' aspect of Rational Action Theory (see Coleman, 1990), if only to remedy its deficiencies in handling the public goods problem.[6] Additionally, there are also less apparent affinities with contemporary social theory which would help in the development of a *social* theory of situations.

[6] Rational action theories, such as those of Coleman (1990), are concerned not just with explaining individual action in terms of rational choice and utility maximisation but also in accounting for the social systematic and collective consequences of individual rational choice, which in turn frame and shape the exercise of individual choice. A central conern of such theories is to account for seemingly 'irrational' or counter-intuitive collective outcomes of individuals acting rationally (see also Hargreaves Heap, et al., 1992; Barry and Hardin, 1982). One classic problem addressed by such theories is the apparent voluntary under-provision of *public (or collective) goods* by groupings of individuals notwithstanding that it would be in each individual member's rational self-interest to have such goods provided. Some of the examples described in the previous section are illustrations of public goods problems and of ways of (partially) overcoming them, e.g. through the creation of *club goods*. Needless to say, there are also moral and normative ways of conceptualising public good problems (see Loader and Walker, forthcoming).

Several important contemporary accounts are concerned with the interlacing of everyday 'situated' conduct with the larger patterns of stability and change in social life. For example SCP/RAT's interest in how criminal opportunities are built into everyday life in late modern settings (and the prospects that therefore arise for 'designing out crime') opens out (at least potentially) into a wider consideration of the properties of the *systems* in which they arise, for example *vis-à-vis* the intersections between their physical or spatial and their social dimensions. This would appear in principle to have something in common with Giddens's concern for the 'patterning of social relations across time-space' (his definition of 'system') and the examination of the 'reproduced practices' which make such '*system-ness*' possible. In Giddens's view, the proper domain of study for the social sciences is the investigation of 'social practices ordered across space and time' (Giddens, 1984: 2); and RAT would seem to be one specialised version of such inquiry. But Giddens goes on to insist that the analytic next step is to consider how the reproduction of situated practice becomes co-ordinated in the form of institutions and organisations. Routines necessarily enjoy a prominent position in any such account, Giddens argues, since routinisation is implicit in the very notion of practice.

But routinisation is also a specific feature of *organisations*. For Giddens, the 'modern period is the era *par excellence* of organisations' (1987: 149). Organisations (offices, factories, schools, hospitals, prisons) direct the activities of their members via the precise control of time; their hierarchies are reflected and sustained in their 'zoning' of space; they monitor their own activities through *surveillance* considered both as the collation and storage of information (files, records, inventories, accounts) and through 'direct supervision' especially of subordinate members, and all organisations use 'specifically designed locales' (1987: 157). In other words, routine activity theory's signature concept (routine activity obviously) is not one that it can readily corral, copyright, restrict or patent so that it refers purely or principally to the production of criminal opportunities or crime preventive interventions. Rather the reverse – the notion of routine activity is the point of connection between crime prevention studies and the wider concerns of social analysis with system, organisation, agency, constraint and power (see Giddens, 1984; Sparks et al., 1996: Ch. 2).

For example, Bottoms et al., 1995 (see also Bottoms and Sparks, 1998) have demonstrated in a prison setting that even in this most highly situationally controlled of environments, SCP-style interventions are neither self-evidently and automatically effective nor clearly separable from the stew of routines, social relations and motivations on which they are imposed (and which they also tend to restructure). 'Situations' may be unintended, and often indeed perverse, outcomes of institutional arrangements, but this does not make them any the less institutionally produced. Such concerns led Bottoms et al. to conclude that one could not ignore either the dimension of power in the implementation of control measures nor indeed (even in so unlikely a setting as a

prison) the contribution of normative reasons for compliance (*cf.* Bottoms, 1998) (which also entails that situational measures can have perverse outcomes of their own)[7].

We have argued that SCP's current macro-level theory (i.e. RAT) provides insufficient grounds for genuinely *public* action because it does not adequately provide a mechanism for implementing change and compliance. A precursor for identifying such mechanisms would be to identify the particular *interests* which sustain criminogenic situations in their present state. In other words, to problematise the 'unintendedness' of the consequences of social action. Felson's descriptive naturalism (Garland, 1999) tends to act as a set of blinkers to posing aetiological questions about crime situations which, paradoxically, might actually allow greater scope for intervention, or at least the saving of wasted or futile effort on ineffectual measures. To give two practical examples:

- Felson cites Hope's (1982) study of burglary of schools which showed, *inter alia*, that 'large, modern and sprawling' schools faced greater risks than 'small, old and compact' schools and, in combination with Barker's 'under-manning' theory and small-town nostalgia, recommends that schools should be small or moderate in size (Felson, 1998: 116). Nevertheless, Felson ignores the general conclusion to this work (Hope, 1985) that: (a) the observed dichotomy in size between schools was an *historical* product; (b) that the well-protected small schools were, on other defensible educational grounds, obsolescent, deteriorated, under-utilised and inefficient; and (c) because of this, the architectural design of schools inevitably constituted a compromise between conflicting and equally desirable curricular and educational needs which an insistence on smallness for security purposes alone might disrupt at some perhaps even greater social cost. Thus although the criminogenic potential of school building size was an 'unintended' consequence of social change, addressing one of its *unintended* consequences might in itself produce other, not necessarily beneficial, *unintended* social consequences.
- An analysis of the contributory factors which sustained the situational pattern of violence associated with city centre pubs and clubs – which went beyond the immediate characteristics of the bar-room settings in which the violence occurred – to include issues of drinking culture and practice, the

[7] Another properly sociological attempt to come to terms with the significance of routine activity for societal reproduction and change is Bourdieu's theory of practice (Bourdieu, 1977, 1990; Bourdieu and Wacquant, 1992). Bourdieu conceives this in terms of the relationship between *habitus* (roughly the actor's acquired set of dispositions understood as a 'generative principle' for new actions and improvisations) and *field* (the 'game space' of possibilities, opportunities and constraints characteristic of particular domains of activity). If a certain kind of criminal activity constitutes a field then both committing and preventing it are embedded practices that 'make sense' in terms of the *habitus* of the actors concerned (i.e. from the angle of the *prise de position* that each assumes *vis-à-vis* the field).

character of city centres and transport systems, the commercial dynamics of the drinks and leisure trades, and the impact of the existing regulatory system itself (Hope, 1985), provided not only a more adequate explanation of the phenomenon of violence in bars (Bottoms, 1994) but also a more comprehensive assessment of the possible range of practices and actions which would have a bearing on the control of crime in city centres (Wikström, 1995).

CONCLUSION

For reasons of this sort, a sociological theory of criminogenic situations (and its counterpart a sociological theory of routine criminal and preventive practices) would look somewhat different from SCP/RAT, as currently constituted. It would still be an account designed with practical intent – indeed, as we have argued above, it should aim to develop a *theory of interventions* which is part of what we think is currently lacking. It would not, however, share the view that the aims of clarity or practicality in crime prevention studies were best served by bracketing-out institutional, comparative, aetiological or normative questions. Rather it would find itself required to subject those dimensions of discussion to lucid and dispassionate examination as well (rather than consigning them to the 'sea of vagueness' that RAT takes itself to be surrounded by). In this sense it would unquestionably learn from and build upon the increasingly impressive record of examples and case studies that SCP/RAT generates in order to situate them in a larger field, namely the reflexive study of a certain set of practices in which contemporary western societies increasingly engage but which are in turn conditioned by the particular administrative and political cultures in which they find their application.

Let us then briefly return by way of conclusion to the questions we raised at the outset (even if these remain, in the absence of the research that we see as necessary, questions rather than conclusions):

1. We remain to be convinced that SCP/RAT has yet properly addressed the question of cross-level adequacy (the nature of the micro-macro link that it suggests or proposes). The question of the generation of criminal opportunities in late modern settings demands something which RAT deals with only sketchily and informally – namely an account of the societal and technological changes that have delivered them. Similarly, we have suggested that the propensity of offenders to take advantage of those opportunities – and of other actors to react to their doing so – looks like something that stands in need of *a theory of practices and situations* which, as Giddens argues, cannot be restricted to the 'micro' level of analysis. Moreover, since we are concerned not only with transactions between individuals but with the contexts in which those transactions take place, we

also require an account of the behaviour and interests of the macro-actors (*cf.* Mouzelis, 1995) who are also intrinsically involved (states, municipal authorities, police, insurance companies, transport systems etc).

2. Since in our view this topic necessarily has *institutional* dimensions (and this is where we came in), we cannot indefinitely disregard the comparative issues involved in the selection of distinct strategies and methods of prevention in different places. Even strong versions of 'convergence' and 'globalization' perspectives are increasingly having to take account of the fact that different western societies have followed distinct trajectories through modernity (Therborn, 1995), with persistent implications for their legal, political and administrative cultures (*cf.* Nelken, 1994). RAT unfits itself from commenting on this by construing its menu of solutions as given by technical necessity rather than flowing from political judgement. Since it largely escapes RAT's attention that the construction (in the sense both of setting priorities and providing explanation) placed upon crime problems can differ from place to place, it has little or nothing to say about the political and organizational contexts within which the relevant choices are made. Having decided already that political commitment on this matter belongs in the category of fallacies it has nothing interesting to say about politics. By contrast, the project of developing a reflexive theory of criminogenic situations and preventive practices would (almost by definition) take the existence of points of diversity and convergence as its theoretical point of departure.
3. By extension, the technicism of the SCP/RAT outlook has surprisingly little to say about how to *scale* the harms that it seeks to prevent or about their actual impacts on the daily lives of the individuals and communities in which they arise (i.e. their capacity to arouse fear, anger and other powerful feelings). This blandness and normative disengagement occupies a peculiar position in the instabilities of the contemporary politics of criminal justice (*cf.* Garland, 1996). Garland identifies a tendency for discussion of these issues to shift gear abruptly – to move from unemotive discussion of loss reduction to vivid expressions of rage, pity and enmity. For now, we would merely wish to point to the discovery of such disparities in many arenas of current thinking about risk (such as nuclear safety, industrial accidents, pharmaceuticals etc. as well as crime – *cf.* Krimsky and Golding, 1992). It seems increasingly apparent, in many such domains, that the attempt to purge discussions of risk of their moral and emotive associations rarely prove entirely successful, but it can also be the case that the sophistication and subtlety of such discussion can be damaged in the attempt (*cf.* Douglas, 1992). Douglas castigates those who contend that risk can be discussed in purely unemotive and technical terms for their 'innocence' and misrepresentation of its social meanings and political force. By extension, then, we would argue that in failing to address the cultural and political location of criminogenic situations (and hence their necessary

relation to questions of equity, accountability and legitimacy), SCP/RAT may actually undermine its own claim to practicality.

Here, we have only begun to set out an agenda for enquiry; and we recognise, necessarily, that such an approach may frustrate those who are impatient to get on with the business of crime prevention and for whom a 'good enough' theory will suffice. Our argument, however, is that eschewing the wider domains of social and political theory may turn out not to be good enough in the longer run for an approach which self-consciously makes a claim to practicality. 'Politics' – by which we mean the realm of moral judgement and collective choice – is not something to be bracketed-off from practice without itself producing political consequences, some of which indeed may be 'unintended'. In particular, the reluctance of SCP/RAT proponents to address problems in the application of SCP itself, particularly concerning the questions of *distribution* (i.e. who *gets* what security?) and ***compliance*** (i.e. who *does* what prevention?) is a severe self-imposed limitation. There is not merely one politics of SCP. But to inform political choice, we need a theory of politics and of interests applicable to 'situations' – whether we like it or not.

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11

Situational Crime Prevention, Urban Governance and Trust Relations[*]

Adam Crawford

INTRODUCTION

In this chapter I want to locate situational crime prevention (SCP) within a broad canvas stretched across two frames: first, the vertical relations between government and the governed, and secondly, the horizontal social relations and interactions between people bound together in close proximate spaces or localities. In so doing, I want to connect SCP to a much broader set of shifts in the terrain and form of socio-political governance. What I hope to do here is to sketch tentatively some of the wider social conditions that have facilitated the rise of SCP (notably in Britain) and to explore some of the social and cultural implications that this may have, with particular regard to trust relations. In extending David Smith's (2000) line of argument, I wish to contend that situations and persons, traditionally juxtaposed against each other in SCP literature, need to be connected together in terms of their inter-dependent cultural contexts and social relationships, as well as in relation to the political programmes which have facilitated the appeal of given SCP strategies. The reception of specific modifications to situations and the environment, the form they take and their implications for social behaviour, are likely to be infused with cultural and political inflexions and reflect changes in social ecology and urban governance.

Academic and policy debates have largely ignored the cultural and social implications of the dramatic rise of SCP, and the massive investment in forms of technology and design which it has inspired. I wish to argue that SCP connects with, and is a visible representation of, a much wider restructuring of modes of governance which reconfigure the nature, form and basis of trust relations – with implications for crime and its control. It is my contention that SCP constructs symbolic representations of 'orderly environments': through

[*] This chapter has benefited from comments by David Garland, Robert Reiner and Tony Bottoms, as well as other participants at the workshop on 'Situational Crime Prevention – Ethics and Social Contexts', Fitzwilliam College, Cambridge, 14–16 October 1999. Any inadequacies of the arguments presented, however, are all mine.

notions of territoriality, exclusivity, surveillance, protection and defensiveness. At the same time, SCP inscribes *distrust* into the physical environment through the modification, design and manipulation of situational attributes. These interventions result in a reconfiguration of what can be trusted, by producing new abstract systems and symbolic tokens. I shall argue that they encourage new forms of 'thin trust', which are simultaneously reflexive (in that they elicit awareness of the bases of trust relations) but brittle (in that they are easily shattered). In this context, however, the demand for trust, rather like the demand for security, may become insatiable.

SITUATIONAL CRIME PREVENTION: THE CRIMINOLOGIES OF PLACE AND EVERYDAY LIFE

At the heart of SCP, as Clarke and Felson argue, is an:

> Image of the criminal in which temptation and opportunity are central to the explanation of crime. All persons have some probability of committing crime and can be criminal one moment and noncriminal the next. Legal behaviour is malleable and displacement of illegal to legal behaviour may be complete (1993: 10).

What is notable about the 'criminologies of place' which infuse SCP – namely 'routine activity' theory, crime pattern analysis and 'rational choice' theory – is that they proceed from the premise that crime is an usual and normal aspect of modern life and that criminals are essentially 'like us': no different from other rational actors (Clarke, 1983). 'The reality', as Marcus Felson notes, 'is that ordinary people can do ordinary crime – young and old. Everybody could do at least some crime some of the time' (1998: 11).

Hence, in contrast to earlier criminology, crime is understood as a series of events which require no particular motivation or pathology, but rather, is seen as inscribed within the routines of contemporary social existence. Crime is viewed as a risk to be calculated, and hence, avoided or managed rather than a moral abnormality in need of explanation. These criminologies construct crime as 'risk' alongside other 'harms'. Crime is normalised as 'routine activity' (Cohen and Felson, 1979). As Garland aptly terms them, these are 'the new criminologies of everyday life' (1996: 450),[1] whereby the 'rational choice actor' is identified as an enterprising or autonomous subject.[2]

The theories that underpin SCP not only give up on, but are also not interested in, questions of aetiology. They do not seek to *know* – let alone under-

[1] As Garland (1996) notes, this normalisation of crime should be understood as an adaptation to a context in which high recorded rates of crime have become a normal social fact. Such an adaptation may serve to limit the level of demand placed upon criminal justice systems.

[2] This analogy is extended beyond the avoidance, prevention and management of risk by potential victims, to include the 'enterprising prisoner', who is enlisted by regimes of choice with incentives and disincentives, as an entrepreneur of his own personal development (Bottoms et al., 1990; Garland, 1997: 191).

stand – the criminal or his predispositions. Offenders are constructed as 'abiographical individuals' (O'Malley, 1992) abstracted from their social or structural context and personal history. In this sense, SCP significantly shifts the focus of study away from criminal personalities or disorganised subcultures to the criminal event and the immediate situational context in which crimes (are allowed to) occur. As such, SCP strategies are uninterested in differentiating the 'criminal' or 'deviant' from the 'normal'. Offending, on this account, is a normal and routine social fact. Moreover, this emphasis on normalcy is inscribed into SCP mechanisms of control. In some senses, as Garland (1999: 360) suggests, this represents a radical departure in criminology as it marks a process of 'de-dramatisation' and 'de-differentiation'. In this sense, SCP is both generalised and universal in that its gaze falls upon, and is directed at, us all: either as potential victims or as potential offenders. As Marcus Felson states:

> This is why we should avoid thinking of people with either stigmas or halos. Perhaps, the best policy is to regard most strangers and even neighbours with a moderate dose of benign suspicion (1998: 43).

As such, the 'de-differentiation' that SCP heralds etches a generalised distrust into its environs.

In an important early statement Hough and colleagues defined SCP as constituting:

(i) measures directed at highly specific forms of crime;
(ii) which involve the management, design or manipulation of the immediate environment in which these crimes occur;
(iii) in as systematic and permanent a way as possible;
(iv) so as to reduce the opportunities for these crimes;
(v) as perceived by a broad range of potential offenders (1980: 1).

SCP encompasses a vast range of interventions into, and modifications of, the environment. Clarke (1992) highlights three principal (and often interrelated) ways in which opportunity reduction through SCP occurs:

- *increasing the perceived effort* involved in crime by making the targets of crime harder to get at or otherwise hindering the commission of crime;
- *increasing the perceived risks* of detection and apprehension; and
- *reducing the anticipated rewards* of crime.

Hence, in diverse forms SCP seeks to block crime in practical and simple ways. In so doing, it places an emphasis upon alterations to the *physical* environment, the aim being to routinise opportunity reduction into the design and fabric of everyday life.

And yet, this raises two often-ignored specific issues. First, given the breadth of possible interventions, the interesting question is: why have certain forms of opportunity reduction been emphasised over others? A subsidiary, but no less

crucial question, then, is: in what ways is this emphasis influenced by the nature of given political and cultural contexts? Secondly, as Clarke and other proponents recognise, SCP operates at a symbolic, as well as a real, level. It references *perceived* or *anticipated* consequences. This, of course, is one of the primary flaws of rational choice theory in that 'rational choice actors' are never in a position of full knowledge about the limitations of interventions upon which to premise their decisions. Let us consider some of the practical implications of these two issues.

First, some SCP interventions have met a much more favourable reception than have others. In Britain, at least, the practical expression of SCP often takes a highly visible, technological and physical form. Indeed, the most heavily promoted and financed SCP intervention has undoubtedly been the CCTV camera (see Wakefield, 2000, and von Hirsch, 2000, in this volume), the widespread proliferation of which began in the mid-1990s, when the Conservative government made it a central feature of its law and order policy. Towards the end of 1995 the government announced the establishment of a special fund, known as the 'CCTV Challenge Competition' to encourage local authorities to set up and part fund surveillance schemes.[3] In the three years to the end of 1997 the Home Office and local authorities collectively invested £120 million in CCTV systems (*Guardian*, 9.1.1998). More recently, the Labour government announced that it intends to invest a further £150 million in CCTV in order to extend surveillance coverage to new locations, most notably social housing complexes and other quasi-private spaces.[4] This expansion has not been restricted to governmental facilities but is also reflected in the commercial sector.[5]

There has also been a favourable reception of 'defensible space' ideas, intellectually championed in Britain by Alice Coleman (1985; 1989), particularly at the levels of government as witnessed, for example, by the Department of the Environment's circular on planning and crime (DoE, 1994). These ideas have also been well received within British policing in the 1990s, with the establishment of 'secured by design' programmes and the appointment of Police Architectural Liaison Officers. The question, therefore, is why have these forms of SCP been so well received, whilst others have largely been ignored?[6]

Secondly, the physical form that favoured SCP strategies often take may also, importantly, be symbolic. Rational choice theory does not presuppose that interventions are effective on their own terms, merely that they are

[3] As part of this programme £15 million was to be made available in the financial year 1996/7, with the intention to help provide up to 10,000 more CCTV cameras in high streets and other places over the ensuing three years (Home Office, 1995).

[4] By 1999 the number of town centres and business districts estimated to be subject to the gaze of the video surveillance camera stood at 530 in England and Wales.

[5] For example, in 1995 Marks and Spencer announced that it was committing most of its £30 million budget for security improvements towards CCTV (*Guardian*, 21.9.1995).

[6] For a good list of the variety of diverse SCP interventions and techniques available see Clarke and Homel (1997).

perceived as such by potential offenders. Hence, SCP mechanisms can 'work' without being effective – such as the CCTV cameras which unbeknown to passers-by have no film (or poor quality film) in them, or are not switched on – they may nevertheless affect the perception of risks of detection and the effort of crime, or the anticipated rewards of crime. Moreover, the 'diffusion of benefits' which are claimed to arise from SCP interventions will often be explained by rational choice theories in precisely these terms: namely, by offenders not knowing the limitations of the SCP intervention (see Felson and Clarke, 1998: 23; Clarke and Weisburd, 1994). In some senses, the technical efficacy of SCP is less important than their role in the production of organised legitimate symbols of 'orderly environments'.

In order to understand the reception of certain forms of SCP we need to relate this not only to political programmes, but also to the manner in which given favoured SCP interventions seek to evoke certain types of environments, in which representations of orderliness – through territoriality, exclusivity, surveillance, protection and defensiveness – are held out to assuage feelings of insecurity. It is my contention that the reception of SCP, in Britain at least, both reflects changes in social ecology and connects with the rise of new forms of political governance, which in turn have cultural effects for relations of trust in the new environments generated by SCP interventions.

However, the political reception and cultural effects of SCP have largely been ignored. In some senses, the technicist and rationalistic discourse of SCP and routine activity theory deliberately avoids and marginalises such questions and concerns. SCP and routine activity theory are presented, by proponents, as providing universal, technical solutions divorced from political questions and normative judgements. Consequently, there has been little understanding of, or concern for, the specific attractiveness of given SCP interventions in divergent organisational and social contexts, and the way in which forms of SCP resonate with, or affect, aspects of legal and political culture within different societies. As Hope and Sparks (2000) suggest, there is now a need for a comparative enquiry into SCP's 'political message' and social effects. Such an enquiry should seek to reveal the culture-bound qualities of crime control (Crawford, 2000; Nelken, 2000). For, as David Nelken warns, many claims about 'crime control which purport to be universal in fact take their sense and limits of applicability from such cultural connections' (1994: 221). Moreover, lessons from comparative enquiries may alert us to the implications which forms of crime prevention have for aspects of our culture which we may take for granted, or to which we may have been blind (see Crawford, 1998*a*: Ch. 7).

Hence, Clarke appears unable to answer his own very pertinent question (posed in this volume): why is it that SCP has apparently achieved such a prominent place in crime policy in Britain but not in the USA? We could go on to ask: why it is that, unlike some of our European counterparts, in Britain we have tended to opt for technologically driven SCP – most notably as 'capable guardians' (to use the language of routine activity theory) – while preferring to

ignore what Bottoms and Wiles (1992) call a more 'people dynamic' focus to crime prevention? Notions of 'order' and 'orderliness' to which SCP interventions appeal are intrinsically bounded by ideological, cultural and normative assumptions of appropriateness and 'social fit'. For example, 'order' in a British rural community is very different from that experienced in a suburb and different again from that of a cosmopolitan city centre (Young, 1999). Moreover, the sense of orderliness and disorderliness of adult residents in 'middle England' (Loader et al., 1998) will undoubtedly differ significantly from that in Northern Italy or the expanding commuter belt of American cities. The 'gated communities' outside Los Angeles and elsewhere in the USA (Blakely and Snyder, 1997) occupy a very different cultural place from similarly 'defensible spaces' inhabited, for example, by residents in apartment buildings in the centre of Paris. They may conform in similar ways to 'defensible space' ideas – concerning limited access, use of concierges or security guards, and so on – but they have a fundamentally different cultural salience, moral place and social meaning.

THE SALIENCE OF PLACE

It is my contention that the rise of SCP connects with new modes of urban governance, which are both fragmented and highly territorialised. In contrast to earlier modern forms of territorialisation which have expressed a 'social' or 'societal' dimension, these new forms are remarkably localised. Whereas before the territorialisation of governmental programmes and thought has been tied to the nation-state and the government of populations within its territories, localised forms of territorialisation have now taken on a new salience. The community or neighbourhood has become the affective field expressing these forms of territorialisation. To some degree, the ideas which inform SCP – notably rational choice theory – have encouraged a micro-social focus to the level of community or neighbourhood.

Interestingly, these localising pressures coincide with globalising tendencies. Just at the moment in which global trends appear to be displacing the primacy of place by stretching social relations across time and space, new forms of localised relations organised in terms of place are emerging. Hence, under contemporary conditions of late (or high) modernity there is an enduring significance of symbols of place and location. As Giddens suggests, alongside the disembedding processes of late modernity is a process of re-embedding (1990: 79). Here, disembedded social relations are recast within local conditions of time and place. Foremost amongst these are trust relations, recast through interactions, encounters, experiences and the very nature of the physical environment.[7] Spatial relations have become saturated with, rather

[7] In this regard, Giddens refers to the significance of 'locales' which constitutes 'A physical region involved as part of the setting of interaction, having definite boundaries which help to concentrate interaction in one way or another' (1984: 375).

than vacated of, meaning (Lash and Urry, 1994). Local relations provide the context in which trust relations can be produced, maintained and fractured. They also provide contexts through which apparently distant systems of technology and expertise can be reflected. Furthermore, localities occasion situations for social interaction which can serve to reinforce relations of trust.

The symbols of 'orderly environments' which SCP heralds through a territorialisation of control (by way of forms of 'defensible space', surveillance, target hardening and other physical protective barriers) are becoming increasingly important bounding mechanisms for social interaction. These spaces and forms of 'community as territoriality' constitute a realm of governance that connects with people's everyday experiences of locality under contemporary conditions. They afford the potential to retrieve control over territory. As such, they are essentially defensive in that they seek to reduce opportunities for crime, target-harden potential objects of criminality and limit access by outsiders (Clarke, 1995). This is precisely what Oscar Newman means by 'territoriality', as people's sense of ownership over a demarcated space. For, according to Newman:

> "Defensible space" is a surrogate term for the range of mechanisms – real and symbolic barriers, strongly defined areas of influence, and improved opportunities for surveillance – that combine to bring an environment under the control of its residents (1972: 3).

This defensiveness also operates at a psychic level as it allows people to evoke nostalgic 'imagined communities' of tradition (Lacey, 1996). The territorialisation of control to the community level has profound emotional overtones, in that it holds out the ideal of genuine human identity, connectedness and reciprocity, precisely at a time in which these appear most absent. Yet these symbolic representations of order are forced to meet everyday experiences of safety which reflect both the fact that SCP can produce feelings of security and actual security, and failures to secure them. This has significant implications for future trust relations. For example, having invested in 'security'—technologies or people – failures of such schemes may deal a severe blow to any trust relations which that person had sought through expert systems or personnel, ones which subsequently may be hard to repair.

The notion of 'security as commodity' which SCP offers provides consumers with real choices, enabling them to confront and manage their sense of insecurity. As such, a sense of security informs tangible decisions that people make regarding where they go, live, shop, the nature of their leisure activities, etc. However, investments in security as a commodity are at best tentative attempts to control an unknowable, unpredictable and risky social world. This requires an investment of trust, one which is always subject to being undermined by new developments or shifts in feelings of (in)security. Consequently, the commodified notion of '*private* security' may itself be an unachievable goal: 'a new form of "magic" within a system that eschews the invisible and the unknowable'

(Spitzer, 1987: 47). Perversely, the acquisition of more and more 'security as commodity', may serve to undermine feelings of genuine 'security' by institutionalising anxiety. Moreover, the individualistic quest for personal security may undermine the public sphere and people's experience of it, particularly as people withdraw from it. The marketisation of security calls upon individuals and groups to act as 'responsible' rational choice actors in weighing up the risks and security dimensions of social interaction. And yet, these are individual choices which may impact upon others' security and sense of safety. Hence, in a regime in which security is an exalted (but potentially insatiable) commodity, there may be an inherent antagonism between *feeling secure* and *being social*. As Richard Sennett (1970) noted some time ago, the quest for private or communal security is often premised upon stifling introspection which threatens social contact and understanding, and erodes tolerance of diversity.

Unsurprisingly, it is increasingly privately controlled spaces which appear to offer greater symbols of security through their use of technologies, cameras, guards, fences and so on. In everyday ways many of us buy into the commodification of security and, in discernible ways, this may pacify and moderate our fears, albeit that these 'safe havens of territoriality' and private 'zones of governance' are themselves predicated upon, and potentially their appeal lies in, processes of social exclusion. As a consequence, 'security' may be less a 'public good' and more a 'club good' which increasingly derives from wealth and the ability to find sanctuary in secure zones, private guards, new technologies, architectural designs and defended communities. As such, commodification may generate 'security differentials' which increasingly become significant characteristics of wealth, power and status.[8]

In part, this defensiveness reflects changes in social and urban ecology. The contemporary processes of de-urbanisation or counter-urbanisation – through which cities are losing populations to more suburban and rural areas[9] – have tended to highlight the problem of social polarisation and disintegration of urban areas, encouraging new sources of insecurity and anxiety, and producing what Hope refers to as 'the frightened city' (1995).[10] Thus, the new

[8] However, private 'zones of governance' which SCP facilitates also offer potentially positive social opportunities for crime control in semi-public spaces. First, they tend to emphasise the instrumental rather than the moral elements of control and policing (Shearing, 1992). Secondly, as a consequence, they tend to place less emphasis on detection and punishment and more on the prevention of future offences. Symbolic and ritualistic punishments are not a moral imperative. However, ensuring that the risk of an offence recurring is reduced is an instrumental and financial imperative. As such, they are inclined to invest in a future-orientation. Thirdly, and partly on the basis of this, they tend to inscribe incentives for conformity and orderly conduct – a 'rewards infrastructure' (Kempa et al., 1999: 206), rather than rely upon punishments. Finally, they tend to operate through apparently consensual forms of control rather than coercive ones, as traditionally associated with state regulation.

[9] The flight from Britain's metropolitan areas between 1981 and 1994 is estimated to be 1.25 million more people leaving than arriving, equivalent to a net migration loss of 90,000 a year (Champion et al., 1996).

[10] In stark contrast to the confident, expanding cities studied by Chicago School sociologists.

symbols of 'orderly environments' also evoke an anxiety borne of social dislocation. Security, or at least a sense of it, may be becoming a predominant characteristic in the map of social relations in urban areas, with insulation from undesirable 'others' as its defining logic. This raises the concern that, in a globalising era that celebrates mobility, cities may be increasingly fragmenting into 'no go areas for some, no exit areas for others' (Social Exclusion Unit, 1998: 9).

A dominant level at which this new territorialisation occurs is the neighbourhood or community. The reconstruction or revival of networks of civic trust is a key theme within crime prevention generally and community-based crime prevention specifically (Wilson and Kelling, 1982; Sampson et al., 1997). For communitarians, 'community' is the focus for a remoralisation of social relations, which holds interdependency and mutal trust as central concerns. Appeals to community represent the territorialisation of political thought and the manner in which conduct is collectivised (Crawford, 1997; Rose, 1999*a*). 'Defensible space' embodies this form of territorialisation:

> Defensible space is a model for residential environments which inhibits crime by creating the physical expression of a social fabric that defends itself. All the different elements which combine to make a defensible space have a common goal – an environment in which latent territoriality and sense of community in the inhabitants can be translated into responsibility for ensuring a safe, productive, and well maintained living space (Newman, 1972: 3).

The decline of governmental strategies of social solidarity and the rise of private and communal governments constitute a disaggregating force, which fractures and pluralises.[11]

Hence, SCP practice exhibits an incongruity, namely that its social reality of differentiation and dislocation runs in contrast to its de-differentiating ethos. As a consequence, territoriality – through access and exclusion – becomes a means of 'differentiating' persons: they are strangers and outsiders who do not belong or have rights of access to disaggregated 'zones of governance' and 'gated communities'. Trust, in this context, is generated through the processes of exclusion, in which undesirables are filtered out. Trust becomes context and place specific. Increasingly, towns, districts and city centres vie for new positions of influence and wealth through their capacity to attract investors, both capital and people, by the attractiveness of a city as a 'safe place'. This has encouraged 'safe havens of territoriality' and offers of 'orderly environments',

[11] This is often exacerbated by a central paradox in crime prevention, the existence of an often inverse relationship between activity and need with regard to SCP. Despite limited attempts by local governments to redress the balance, years of research have shown that community responses to crime are easiest to generate in exactly those areas where they are least needed, and hardest to establish where the need is greatest. Moreover, performance-led and output-driven priorities for local government can encourage concentration upon easy or 'soft' targets, most likely to yield positive results. This paradox is compounded by any problems of spatial (or other forms of) displacement.

where symbols of security and safety are inscribed into the architecture and surroundings.

GOVERNING AT A DISTANCE

SCP surveillance connects with new modes of 'governing at a distance' encouraged by managerialist reforms of the public sector.[12] The new governance manifests a novel relationship between the state and civil society: it straddles and, to some extent, fractures the public-private divide. The new regulatory style is captured in the new-found phraseology of 'a partnership' between government and the community. It is a relationship of 'less government but more governance' (Osborne and Gaebler, 1992: 32).[13] Here, we see the state as facilitator and 'animator' (Donzelot and Estèbe, 1994). This combines the activation of the public (civil society) and the market to take on board traditional state functions, as well as the transformation of the state itself. In this 'reinvention of government', future modes of governance should be market-based, outcome-oriented, future-focused, prevention-concerned, mission-driven and customer-focused (Osborne and Gaebler, 1992: 20). These modes of governance simultaneously embody strategies of responsibilisation, pluralisation, autonomisation and commodification, all of which connect with, and inform the favourable reception of, SCP.

Responsibilisation is a central element in the new forms of governance (Garland, 1996). The relationship between government and the governed is now one in which we are all reconfigured as 'partners'. The language of 'partnership' has become an important element in this new governance. More specifically, crime prevention was one of the earlier sites for the articulation of a partnership approach by the British government (see Interdepartmental Circular 8/1984). We are now all cast as 'partners against crime' in a new corporate approach (Crawford, 1994), involving a fundamental rearticulation of individual and group responsibilities and professional 'expertise', as well as state paternalism and monopoly of control. Where once we were told to 'leave it to the professionals', now we are enjoined to active participation in a 'self-policing society'.

[12] Managerialist reforms have emphasised transferring certain traditional aspects of public service delivery to the private sector or rendering bureaucracies subject to market disciplines by disaggregating separable functions into quasi-contractual forms, particularly by introducing purchaser/provider distinctions, and opening up provider roles to competition between agencies or between public, private and voluntary sector bodies. They advocate a responsiveness to 'consumers' and 'customers'. Efficiency, economy and value for money are the totems of these neo-liberal inspired reforms. Bottoms (1995) highlights three distinct aspects of managerialism within criminal justice – namely its systemic, consumerist and actuarial dimensions.

[13] As I have argued elsewhere (Crawford, 1997: 210–12), we should not assume, unproblematically, the effectiveness of such strategies. In practice, strategies of 'governance at a distance' often result in more complex and confused relations – what Taylor (1997) illustratively refers to as 'arm's length but hands on'.

Pluralisation includes the fragmentation and dispersal of policing and control. Fragmentation itself has been encouraged by the introduction of privatisation and quasi-markets through purchaser-provider splits, where services could not easily be privatised. We can no longer speak (if we ever could) of a state monopoly in crime control and policing (Jones and Newburn, 1998). Policing in its broadest sense – as the process of governing or the condition of ordered regulation aimed at the promotion and maintenance of security – has become dispersed among a plethora of actors, with implications for the locus of power and the nature or absence of sovereign authority. It has become parcelled-up and shared, as diverse agencies, organisations, groups and individuals are implicated in these tasks. SCP, with its appeal to local order and the retrieval of control over territory, plays a central role in this pluralisation. This has produced a complex array of interlaced alliances of organisations and active citizenry which transcend the 'public' and 'private' spheres, constituting hybrid mixes of plural agencies, places and functions. It has also seen the expansion of 'private government' and the policing *by* communities rather than *of* communities. As a result, this process of fragmentation itself has generated a demand for greater co-ordination, and ripened the conditions for the emergence of networks and partnerships which attempt to draw together the diverse services in new, and ever more complex, 'tangled webs' (Charlesworth et al., 1996).

Autonomisation occurs in that these strategies of governance set individuals free as 'calculating selves' (Rose, 1999*b*). The neo-classical 'rational choice actor' at the heart of SCP theory holds aloft the abstract individual stripped from his personal biography as well as social and economic constraints, and capable of self-actualisation and of constructing himself anew, both in identity and destiny. In a neo-liberal political climate which celebrates autonomy and responsibility, choice becomes the operative language in which individuals are constructed as the architects of their own social position and personal security.

Consumerisation also occurs in that choice operates within a marketplace of consumption in which, as already noted, security has become commodified. The private sector has been quick to exploit the opportunities presented by the expanding 'market' in crime prevention. In everyday ways many of us buy into the commodification of security. It offers real choices and, in tangible ways, this may pacify and assuage our fears. As a commodity, crime prevention holds out the promise that 'security' is attainable through purchase, by buying 'expert' preventive technology and security hardware; employing 'trustworthy' intermediary services; moving to 'safe' areas, and so on.

Managerialist shifts in regulatory style demand that new flows of information be generated by the redrawing of state functions, necessitating processes of control and verification which allow those that 'steer' – setting norms and agendas – to monitor and correct the activities of those that 'row' – the doing of things (Osborne and Gaebler, 1992: 32). Contracts, performance indicators, audits and inspections are some of the practical tools used to deliver this

relationship of 'governing at a distance'. The audit, as Michael Power (1997) has shown, has been a central instrument in the transformation of modes of governance and control. As the state has redrawn its functions and become increasingly committed to a supervisory role, audit and accounting practices have assumed a more prominent place. Despite its technical discourse, the audit – rather like SCP – is also a system of values and goals which are inscribed in the official programmes which demand and encourage it (Power, 1997: 7). It helps shape public conceptions of the problems for which it is the perceived solution: 'It is constitutive of a certain regulatory or control style which reflects deeply held commitments to checking and trust' (*ibid.*) Audit, like SCP, is not merely a technical solution to a problem: 'It also makes possible ways of redesigning the practice of government' (*ibid.*: 11). As such, it has become a central mechanism in delivering strategies of 'rule at a distance'.

I suggest that SCP is a complementary element to the 'audit explosion'. The audit, like SCP, encourages a society organised to observe itself through mechanisms of control. They both encourage the self-inspecting and self-monitoring capacity of society. Audit, like SCP, is a paradoxical and complex combination of surveillance and trust (ibid.: 134). Whereas SCP mechanisms – notably forms of surveillance – act through environments upon individuals, audits have as their primary object organisations and their sub-systems of control. SCP and audits constitute complementary, but different levels of control. SCP is a form of 'first order control', whereas audit is the control of control (*ibid.*: 128). Moreover, SCP interventions lend themselves to constituting the subject of audit.[14]

In reciprocal ways, SCP mechanisms and audits are technologies of apparent mistrust contrived, in part, in reaction to trust deficits and in the hope of restoring trust between people in given social settings and trust in organisational competence. As such, they are also concerned with the production of comfort, order and security. And yet, rather than resolving trust deficits, they may multiply and disperse these into the fabric of the physical and organisational environment. Moreover, they presuppose and necessitate trust in themselves as instruments of verification and control. We are required to trust in the CCTV camera, controlled access, surveillance, security technology, the audit and the audit process itself.

TRUST

Social theorists and political commentators are increasingly coming to realise the importance of trust as the mainstay of inter-personal and inter-organisational relations (see Gambetta, 1988*a*; Fukuyama 1995; Leadbeater, 1999). In a

[14] This has interesting implications for the community safety partnerships established under the Crime and Disorder Act 1998 and the requirements upon them to audit community safety (see Crawford, 1998*b*).

criminological context, the concepts of risk, security and trust are not only closely bound up with one another, but also have significant implications for crime prevention mechanisms of security and the social and cultural place that they occupy. Trust is a means of coping with the 'freedom of others' and connects with the idea of the possibility of co-operation (Gambetta, 1988*b*: 217). Trust affords and facilitates a sense of security and acts as a generalised means of exchange. Trust releases people from the need for checking. Hence, it is a foundational prerequisite for security and serves to restrain uncertainty. Trust, by its nature, necessitates taking risks. As such, trust presupposes an awareness of circumstances of risks. Hence, risk-taking in relation to one's security, as far as it involves others, requires trust. As Giddens notes: 'The experience of security usually rests upon a balance of trust and acceptable risk' (1990: 36). As such, trust and risk are complementary concepts. Yet despite the considerable criminological attention given to the analysis of risk (see Ericson and Haggerty, 1997; O'Malley, 1998), questions of trust have largely been ignored within the criminological literature.

Trust acts as a lubricant to informal social control: it forms the basis of social exchange. Trust fosters co-operation, inter-dependence and risk-sharing which facilitate social interaction and innovation. Moreover, trust is both active and interactive. It cannot merely be called upon but must be generated and reproduced. Trusting is linked to social contexts. Forms of trust are not universal but rooted in cultural understandings and assumptions. The salience and place of trust relations within different cultures and social settings and explorations in the type, manner and level of trust, as Nelken (1994) has illustrated, constitute a rich lever for comparative analysis.[15] For our purposes, we can identify a number of forms of trust:

- trust in people;
- trust in expertise, on the basis of claims to knowledge;
- trust in abstract systems (procedures and rules); and
- trust in symbolic tokens.

These are not disaggregated but inter-related aspects of trust, often one implies or relates to another.[16]

Many traditional bases for trust and forms of acquaintance – class, community, family, religion and so on – have been eroded by social, economic and

[15] For example, as some Japanese commentators have noted, the cultural importance of interpersonal trust relations in Japanese society has produced forms of cultural resistance to some SCP mechanisms, particularly of a target hardening variety (Moriyama, 1995). In Japan, localised social relations organised in terms of place form the premise of trust (Komiya, 1999: 373). In this context, specific SCP interventions which fracture or interfere with the social structure of face-to-face interactions present problems for trust and the encounters which sustain it. As a consequence, despite Japan's propensity toward technological advancements, there has been some reluctance to adopt certain Anglo-American developments in SCP.

[16] As I have argued elsewhere (Crawford 1997; 1998*b*), new modes of governance have significant implications for inter-organisational trust relations.

technological change. As a result, we must increasingly rely upon abstract and expert systems which are premised upon novel forms of trusting. Trust in late modernity has become harder to sustain but is also increasingly in demand. In an anonymous and individualised consumer age we are increasingly asked to trust products, services, organisations and people all of which we know little about. Factors which make trust more valuable also render it more difficult to nurture. The demand for trust springs from the very conditions which produce its deficit. The uncertainty, volatility and innovation of contemporary life encourage the thirst for security and safety but also erode the conditions which allow strong relations of trust to flourish.

Despite the importance of trust, *more* trust is not a self-evident good. Just as it is possible to have too little trust, it is also possible to have too much trust. Uncritical or blind trust is itself problematic, whilst the 'decline of deference to authority' has been an element in the construction of a more critical and reflexive modern public polity. Too much trust, particularly within the criminal justice context, can equally be the source of organisational ineffectiveness, abuses of power and corruption (Nelken, 1994: 237). Distrust is itself an important social commodity, as trust is not always mutual, reciprocal, interdependent or deserved and can lubricate relationships of dependency and power.

Investments of trust involve giving up a moral hostage to fortune, which if breached may have significant implications for future social relations and trusting. Trust is inevitably easier to destroy than it is to generate. As Baier suggests, 'trust comes in webs, not in single strands, and disrupting one strand often rips apart whole webs' (cited in Power, 1997: 135). Rather like 'community', trust is more likely to be noticed by its absence.

TRANSFORMATIONS IN TRUST

As a number of commentators have noted, the nature of trust in organisations is being transformed by managerialist reforms seeking to construct forms of 'governance at a distance' (see Kramer and Tyler, 1996). The rise of contracting expresses a loss of faith in the 'binding power of obligations' (Tyler and Kramer, 1996: 3). In the private security context, the contract of membership becomes a fundamental way in which to access privately controlled public spaces. Here, exclusion and access control encourage 'environments of trust' which are contractualised through the terms of entry or membership. The expansion of 'private residential associations' and planned residential developments regulated by a complex of land-use servitudes (Alexander, 1997) are testimony to this contractualisation of everyday life, as is the growth of 'mass private property' (Shearing, 1992). These 'zones of governance', 'contractual communities' and 'clubs' are governed by contracts enlisting powers of removal, dismissal, exclusion or termination of membership, all of which constitute potent administrative instruments.

Some commentators have suggested that the 'irony of contracting' is that whilst efficient contracting requires environments of trust, the introduction of contract in such an environment may result in the breakdown of trust (Neu, 1991: 247). It has long been recognised that the strict adherence to contractual specification is often antithetical to ongoing trust relations, both in business and social interactions which are sustained over time (Macaulay, 1963; Macneil, 1980). The new-found emphasis upon contracts and audits involves the formalisation and fixing of fluid social relationships. As a consequence, there is a shift in the fundamental character of trust, whereby trust is invested in the formal procedures of surveillance, recording and monitoring. This shift also vests power in the auditor or regulator of breaches of contractual terms.

Managerialism, like SCP, disrupts trust relations by replacing traditional forms of trust in professional use of discretion with forms of audit, inspection and surveillance. Relations of trust in and between functionaries which have traditionally allowed large scope for policy discretion have been curtailed by managerialism. It has encircled trust, by reducing the boundaries of discretion and rendering it subject to inspection and budgetary constraint.

Whilst trust in abstract systems has become increasingly mediated by expertise, expertise itself is being reconfigured. SCP theory and practice question notions of professional expertise. Rather like wider neo-liberal and managerialist critiques of welfarism, advocates of SCP claim to speak on behalf of 'consumers', residents and taxpayers, feeding off critiques of 'self-serving professional élites'. As such, they claim to represent a challenge to the 'cosy cultures of professional self-regulation' (Power, 1997: 44) and claims to expertise. Felson illustrates this in his critique of the 'naive ideologies' of criminology:

> The issue is not how good or bad government is to people but whether public places are designed and organised to allow people to control their own environments informally (1998: 145).

Here lies an appeal to open up a new circuit of power between the demands of communities and individuals as against those of criminal justice agencies. As such, SCP replaces the trust that welfarist governments have placed in professional wisdom and the decisions and actions of criminal justice specialists. SCP embodies an implicit critique of the edifice of criminal justice and its practices. Moreover, the internal logics and technical requirements of SCP displace the logics of expertise. In its place, individuals and communities are enjoined to be suspicious, to participate in communal control, to engage in observation and surveillance and to be vigilant.

As such, managerialism, like SCP, institutionalises *distrust*. However, recourse to audits, contracts and SCP interventions does not necessarily *destroy* trust – as some have argued (Broadbent et al., 1996) – but rather reconfigures it. Hence, we need to distinguish clearly between two forms that 'difficulties of trust' take (Sennett, 1998: 141): in the first, trust is simply

absent or emptied out, in the second by contrast, there is an active suspicion of institutions, organisations and others. It is this second form which is encouraged and fostered by new modes of governance and SCP. The active institutionalisation of distrust is different from the empty absence of trust. The former may have implications for the weakening of trust relations but this is not a zero sum game. Distrust and trust can co-exist, precisely because trust is a reflexive act which occurs within given social and cultural contexts. Trust is fostered and reproduced through situations and processes in which it is actively tested.

Trust and the contractualisation of relations are not mutually exclusive. In many senses, contracts presuppose a certain degree of trust. The new governance does not obliterate trust altogether, in fact it necessitates that trust is placed in new 'guardians of trust', auditors, inspectors and security systems. But this is a different form of trust, involving a 'second order' relationship. Ultimately, however, these systems of control are themselves the subject of questions as to their competence.[17] The trust that new technologies demand must itself be the subject of 'verification'. The 'audit' is the managerial mechanism for delivering this.

Interestingly, 'trust in abstract systems' may increase the importance of 'trust in persons'. Thus, relations may become increasingly characterised by both more and less trust: more interpersonal trust and less impersonal trust. At another level, trust in people has become highly localised. Paradoxically, in an era of growing globalisation people's *Umwelt* – the area in which one feels secure and the area in which one is aware of dangers and opportunities (see Young, 1999: 71–73) – may be shrinking.

Consequently, we are required increasingly to place trust in 'symbolic tokens' (Giddens, 1990). For example, as consumers we place trust in brand names and 'labels', or what Sennett calls 'hollow signs' (1998: 56). In many senses, the symbols of trust in crime control and security increasingly take less the human form of the blue-coated police officer and more the form of the physical representations of SCP: the CCTV camera, security fixtures and the tracks of territoriality: arguably less intrusive, often visible but tangible nevertheless. These are 'the physical expressions of a social fabric that defends itself', in Newman's terms.

Yet SCP does not reconfigure trust in a unidirectional manner in the sense of less trust, its effects are more complex than that. Some SCP practices, particularly those informed by 'defensible space' theory, seek to increase trust among the internal community of residents (the 'insiders'), whilst they simultaneously attempt to keep out non-residents and hence increase distrust of such

[17] It is interesting in this light to note the manner in which the originally unsceptical public reception of CCTV cameras in public places in Britain has recently become more ambiguous, less so for ethical or legal reasons, but more because of their failure to secure: because the images are poor, the technology does not work, controllers are poorly trained, and so on.

'outsiders' and 'strangers'. They seek to demarcate and differentiate who can be trusted on the bases of shared territoriality. Trust is bifurcated as communities of interests are formed: the shared interest being communal security. Distrust in those unknown people (and things) can increase the salience of the bonds of trust amongst people who know each other whether due to kinship relations or through living in close proximity. The localism of SCP – often taken to a highly specific, almost micro-local, level – may heighten the salience of local experience in structuring a sense of security. As such, trust in other people simply because they are 'locals' may be an important means of managing security (Evans *et al.*, 1996: 377). In some senses, SCP can also be characterised by both more and less trust: more impersonal trust and less inter-personal trust. For example, heightened trust placed in the surveillance camera on a lonely train station platform co-exists with, and may encourage, increased suspicion and distrust in fellow passengers.

However, encouraged by new modes of governance, trust relations themselves are becoming more contingent. They involve a greater degree of reflexive monitoring of the conditions and contexts which sustain trust. This affords the potential for the development of new forms of trust which are open and subject to revision (Leadbeater, 1999: 162–66). This we may refer to as 'thin trust': which is potentially more transparent and accessible (in contrast to exclusive, closed systems of trust) but also more fragile. Moreover, this form of 'thin trust' can breed the seeds of its own fracturing, in that new systems of trust – such as those heralded by SCP – remind us of our own insecurity, the root of many of our collective demands for, and conditions of, trust. As such, SCP can produce a form of 'over-deterrence', based upon forms of surveillance, which may achieve their goal at the expense of exerting a 'chilling effect on public spontaneity' (Grabosky, 1996: 33) with its own implications for people's sense of security.

CONCLUSION

Whilst highlighting the connections between SCP and broader shifts in governance, it is important to stress that these do not represent an inevitable unfolding of conditions of late modernity in which the quest for 'ontological security' is fuelled by processes of 'de-traditionalisation' and 'globalisation', as some commentators imply (Giddens, 1998). Certainly, the rise of SCP has been facilitated by, and expresses, conditions of late modernity combined with technological advancements. However, it is also aligned with a specific political programme heralding a restructuring of relations between the state and civil society (O'Malley, 1992). In this regard, as I have argued, there is much to be learnt from comparative research focused on the salience of SCP both within different cultures and in response to different political agendas.

In this chapter, I have not intended to suggest that the transformation of

trust outlined here necessarily constitutes an intrinsically 'bad thing'. Nor have I outlined a clear or unambiguous understanding of the full implications of the changes identified. I would suggest that not only is the reception of certain SCP strategies a product of its time, in that these strategies resonate with a particular kind of social organisation (one in which high rates of crime have become a normal social fact, as Garland has argued (1996), but also that it reflects and echoes a wider political transformation in modes of governance. This transformation in relations within and between the state and civil society has serious implications for feelings of security and relations of trust. This social restructuring of the field of political governance simultaneously institutionalises new forms of suspicion and distrust and yet is designed, at least in part, in the hope of restoring trust in the competence of governments, organisations, groups and individuals – through their power to 'make a difference' in crime control. However, the danger is that the very technologies of distrust – from CCTV cameras through houses kite-marked as 'secured by design', to crime prevention audits – may only serve to dissolve further the bases of social interaction and informal control whilst failing to reassure the public against anxieties over personal safety. Just as the quest for security may be insatiable, so too trust may become caught up in a similar spiralling dynamic, where demands for more trust fail to be met as we search for novel forms of trust, and institutionalise ever newer forms of distrust.

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12

The New Criminologies of Everyday Life: Routine Activity Theory in Historical and Social Context[1]

David Garland

Criminological theory has adapted in interesting ways to the structural conditions of late modernity – conditions in which high crime rates are a normal social fact and the limited effectiveness of criminal justice is widely acknowledged. The most fundamental aspect of this development has been the shift in the discipline's focus away from theories of social deprivation (or relative deprivation) towards explanations couched in terms of social control and its deficits. 'Control' is the defining term of the new problematic – social control, self-control, situational control – and criminologies that are otherwise quite opposed nowadays share this common problem-space. We can see this clearly if we consider 'the new criminologies of everyday life'.[2]

The appearance of a revised edition of Marcus Felson's text *Crime and Everyday Life* (1998), originally published in 1994, offers an opportunity to consider the characteristics of this new criminological genre in a little more detail. Felson's book is particularly apposite for this purpose because in this new edition Felson has expanded his account to merge routine activity theory with the themes and insights of the other criminologies of everyday life, most notably situational crime prevention, lifestyle analysis, and rational choice theory. If there is a text that exemplifies this new genre, then this is undoubtedly it.

The acknowledged background to the new criminologies of everyday life – like their contrasting counterpart, the 'criminology of the other' – is the emergence, since the 1960s, of comparatively high levels of crime and violence as stable features of the social structure and culture of late modernity – levels that remain high despite the significant declines of recent years (see Garland,

[1] This discussion of Marcus Felson (1998) first appeared as part of a review essay (Garland 1999). It has been revised for publication in this collection.

[2] In Garland (1996) I discuss these 'criminologies of everyday life' together with their contradictory counterpart, the 'criminology of the other'.

1996). Felson's response to this, which I take to be typical of his genre, is adaptive, pragmatic and focused upon everyday social practices: we need to understand the ways in which our daily activities produce criminal opportunities and we need to invent routine precautions that will minimize these.

This, of course, is by no means the only possible response to the normality of high rates of crime. William Bennett's and his co-authors' recent book *Body Count: Moral Poverty and How to Win America's War Against Crime and Drugs* (1986) responds in a strikingly contrary manner by identifying an immoral culture as the 'root cause' of the 'crime epidemic' and calling for a concerted moralising effort, a renewal of religious faith, and drastic enhancements of penal and welfare controls. In rhetorical, political and criminological terms these two positions could not be more different. One response presents a 'criminology of the self', refusing to draw lines between offenders and the rest of us, characterizing criminals as rational individuals who respond to temptations and controls in much the same way as anyone else. The other revives the ancient 'criminology of the other', of the threatening outcast – Bennett and his colleagues talk of the 'superpredator' – who is deeply marked by moral deprivation and a profound lack of empathy and impulse control. One criminology de-dramatizes crime, seeks to allay disproportionate fears and promotes routine preventative action. The other demonizes the criminal, works to arouse popular fears and hostilities, and strives to excite popular support for drastic measures of control.[3] But both share a common situation (as responses to the pervasive crime problem and the limits of the criminal justice state), both share the new emphasis upon the enhancement of control (situational controls in one case, social and moral controls in other), and both represent significant shifts away from the liberal and conservative positions that characterized the earlier period of correctionalism.

Felson's criminology emphasizes the ways in which criminal opportunities are structured by, and arise out of, the recurring transactions and routines that characterize daily life. In his account, the 'chemistry of crime' can be reduced to the interaction of three vital elements – a likely offender, a suitable target, and the absence of a capable guardian against the offence (p. 53). The ways in which these elements are made to coincide in time and space is a function of our social arrangements and everyday routines. The commute to work, our leisure time activities; the flow of customers through a shopping mall; the daily passage of teenagers as they go to and from school or home; the rapid circulation of goods and cash – these are the patterned activities that make crime a built-in feature of our social organization.

In this account, offenders are no different from other individuals. Crime 'is very human' and 'ordinary people' do 'ordinary crimes' (p. 11). Offenders typically display no special motivation and no abnormal or deviant disposition: they merely respond, with the standard-issue degree of rationality, to the

[3] For a more detailed discussion of the Bennett volume, see Garland (1999).

mix of temptations and controls involved in specific situations. The key variable in explaining crime rates is therefore the extent to which the basic arrangements of social life do or do not facilitate crime events by regularly placing individuals in criminogenic situations. To borrow the language of economics, crime is a supply-side phenomenon – a consequence of the production and delivery of opportunities to commit offences. The massive increase in crime and violence that occurred in the 1960s and 70s – in the USA and elsewhere – was a direct consequence of post-war changes in the social ecology and recurring routines of everyday life. The new levels of mobility made possible by the automobile, the new temptations offered by masses of consumer goods, the diminishing presence of guardians as dense urban neighborhoods gave way to sprawling suburbs and married women moved into the workplace – these are the changes that brought about modern crime rates. And, to bring the story up to date, Felson in his second edition adds that it has been the development of technology and defensive measures (such as the use of electronic transfers instead of cash) and the growth of situational crime prevention (place managers, improved surveillance arrangements, etc.) that lie behind the recent successes in the effort to contain and reduce criminal events.

What would the sociology of knowledge say about this kind of text and the theoretical position that it develops? How are we to understand its emergence in the space and time of criminological discourse? I will argue that, whatever the strength of its truth claims – many of which are quite forceful – the criminology of everyday life should be understood as an adaptation to a social field in which high rates of crime have become a normal social fact. This is true in two respects. First of all, this style of analysis emerged in the wake of a dramatic historical transformation that made the relation between social ecology and crime rates stand out in bold relief. The production of criminal opportunities by routine activities could, in principle, have been identified on the basis of comparative study between different social areas (and, indeed, the social disorganization theory of the Chicago School did something of this kind). But it was the tremendous increase in crime levels, occurring between the mid-1960s and the mid-1970s, that made the importance of routine activities stand out in stark contrast. Secondly, as I will argue at greater length below, both the substance and the form of Felson's routine activity theory express an adaptation to a society in which high rates of crime have become part of the normal scheme of things. This adaptation is apparent in the theory's explanatory claims and practical prescriptions, but it is also, and perhaps most tellingly, revealed in the rhetorical style that it adopts – a style that Marcus Felson develops in its purest form.

I can best bring out these characteristics of routine activity by subjecting Felson's work to a stylistic comparison with the work of David Matza (1964;1969), which dates from a different historical period (prior to the crime boom) and espouses a very different relation to crime and deviance, but which adopts a style of inquiry that is actually very close to that of Felson. The use of

David Matza to think about Felson may seem a surprising choice. Matza's work doesn't feature at all in Felson's text or bibliography, and whatever memories and associations David Matza's name might trigger in the criminological consciousness – drift, existential mood, culture, identity – the concerns of routine activity and crime prevention are not prominent among them. Moreover Matza writes in a different criminological context, where the object of study is the offender and his relation to the law (and beyond that, to the culture) while Felson's concern is with crime events, criminogenic situations and ways in which social and economic life routinely supply criminal opportunities to those who choose to use them. But despite the unlikely nature of the pairing, I believe that Matza's work can throw light on Felson and his genre, revealing what it is that Felson is (and is not) doing, and pointing up how much has changed in the 30 years that lies between Matza's classic texts and the appearance of Felson's new approach.

Once the connection is made, one finds a whole series of themes and arguments that link Matza's work quite closely with that of Felson, so much so that Matza can be reinvented as an unacknowledged (and unwitting) forerunner. Both writers focus upon what Matza calls the 'the mundane delinquent', who is neither 'compulsive' nor 'committed' but instead a normal character who, on occasion, chooses to break the law. In the work of each, we find pathology replaced by pathos and differentiation replaced by a more nuanced and all-embracing account of normalcy. There is, in each, an emphasis upon the situational character of crime and delinquency, and upon the specific inducements and controls of the particular locale or mode of interaction. Both writers stress the generalized nature of deviance. Both point to the interdependencies that link 'mainstream' and 'deviant' culture, or legal and illegal activities, and both enjoy revealing the irony involved where our most cherished arrangements – freedom, mobility, affluence – give rise to the most unwanted results in the shape of crime and delinquency.

Matza and Felson share other traits too – a scepticism about correctionalism, a classical emphasis upon choice, a sense of the subtleties of the relationship between action and moral belief – but the most important continuity that links these two writers, and the most revealing, is their shared commitment to *naturalism* as a philosophy of science and a mode of inquiry. What is meant here by 'naturalism'? Matza (1969) defines naturalism as the commitment 'to remain true to the nature of the phenomenon under study or scrutiny'. It is a style of inquiry that prefers naturalistic observation to more abstracted modes of knowing – a philosophy that, however paradoxically, 'stands against all forms of philosophical generalization'. As Matza puts it, 'its loyalty is to the world with whatever measure of variety or universality happens to adhere' (p. 5) Naturalism's 'preference for concrete detail', its 'appreciation of density and variability', its 'dislike of the formal, the abstract, the artificial' (p. 9) make this a decidedly 'anti-philosophical philosophy' (p. 8). And, as Matza comments with evident approval, 'the fidelity of

naturalism to the empirical world has created a certain stress on the mundane, the matter-of-fact – even the vulgar' (p. 8).

It seems to me that Felson's work falls squarely within this tradition. His theoretical claims and his investigative method insist upon attention to detail and naturalistic description. Density and variability are key elements of his account of criminal events and criminological categories. In his account, 'all crime is local' (p. 75) and no two situations are ever altogether alike. His dislike of abstraction is registered on virtually every page, with his insistence upon being 'down to earth' (p. xii), on developing an analysis that doesn't 'move towards the clouds', treating crime as a 'tangible phenomenon' (p. xii) and avoiding what he calls 'vague terms' such as 'social disorganization, anomie or social strain' (p. 27) in favor of 'precise and tangible concepts'. Even theoretical arguments with the immediacy of Wilson and Kelling's 'broken windows' or Skogan's 'spiral of decline' are to be accepted only 'so long as we do not let them draw us back into a sea of vagueness' (p. 133). As for more general theories, Felson is simply allergic to them. His slogan is, 'don't get fancy' (p. 167) and his advice to students (credited to his colleague and fellow naturalist Ronald Clarke) is 'do not worry about academic theories. Just go out and gather facts about crime from nature herself' (p. 166).

So Felson is writing in the naturalist mode, and that, as I will argue, has a certain social significance today. In contrast to David Matza's *poetic* naturalism – which was written in elegant prose, rich with intellectual allusion, and motivated by an existentialist concern to restore meaning to deviant conduct and celebrate the human freedom that deviance entailed – Felson offers what I would describe as a *prosaic* naturalism. He adopts an authorial style reminiscent of the Italian neo-realist cinema and films like De Sica's *The Bicycle Thief,* or perhaps the black and white, kitchen-sink naturalism of Sillitoe's *Saturday Night and Sunday Morning* – both of which portray crime and deviance with the same ordinariness and pathos that Felson seeks to evoke. Without drawing attention to itself, Felson's style of writing and his recurring rhetorical tropes perfectly mimic his substantive view of the world. His style is avowedly matter-of-fact, workaday, mundane, down to earth – indeed it is *artfully* so. Many of Felson's observations are so droll and humdrum as to be highly amusing. One suspects that behind the dead-pan delivery there lurks a broad indulgent smile, taking pleasure in the banal details of the human barnyard. On every page he stresses the quotidian ordinariness of it all. Time and time again he emphasizes that crime is less dramatic than people think; that offenders are mundane individuals, more to be pitied than feared; that despite our cultural stereotypes, the real world of crime lacks all charm, or daring, or any sustaining narrative interest. A few examples will illustrate what I mean.

On murder: 'Sherlock Holmes would have no interest whatsoever in most of the 22,076 murders reported in the US for 1994'. Murder should be regarded 'not as a crime but as an outcome'. Most murders are the result of a stupid little quarrel'(p. 3). 'Murder has two central features: a lethal weapon too close and a hospital too far' (p. 4).

On violent crime: 'Even violent crime is largely minor'.

On the consequences of offending: 'Offenders ... suffer more from the consequences of their own lifestyles than from the actions of public officials' (p. 10).

On crime and criminals: The criminal is typically 'a drunken fool' (p. 14), organized crime is 'not very businesslike' (p. 17), 'a common fight is rather a bore' (p. 64), juvenile gangs are 'very boring' (p. 17).

On the complexity of criminal causation: 'Opportunity makes the thief' (pp. 38, 48). 'People blunder into fights' (p. 66). 'Reducing the rewards [that offenders seek] is akin to eliminating the root causes of crime' (p. 180). And my personal favorite – borrowed by Felson from his brother Richard and concealing goodness knows what childhood memories – 'Big people hit little people' (p. 57).

The text is traced through with lovingly detailed descriptions of the most mundane preventative practices – the simpler the better. He tells us that 'to learn how to design out crime, it is best to get specific' (p.153) and that, of course, is precisely what he does. He deliberates about how high a fence should be in the back and on the side of a house, and, since the answer depends on the size of the surrounding garden, he discusses this as well. (*Answer*: 'A garden space of about 10 feet in the front, if not too bushy' turns out to be about right. It ' keeps people away from the fence, guiding them to the gate for legitimate business' pp. 153–4). He reports that he and a colleague were able to predict annual burglary rates from the weight of the lightest television set in the Sears catalog each year (p. 61) – a scientific project that is so delightfully and appealingly mundane that it could stand as an emblem of Felson's whole approach. (I have heard Professor Felson recount how he constructed a detailed steal-ability index by going through the Sears catalogue, item by item and calculating the price-to-weight ratio for each of the commodities.)

The *heroes* of Felson's account also share these same qualities of undemonstrative insight and robust common sense. He delights in stories about shopkeepers and security staff who come up with simple but ingenious methods of preventing crime – such as the 'clever merchant who learned to alternate the directions of hangers on the [garment] rack, so they locked when grabbed', or the security staff who solved the problem of unauthorized persons in hospital wards by locking a door and removing its handle (p. 150).

Felson repeatedly celebrates this practical knowledge and inventiveness, this small-scale ingenuity and practical wisdom. It is a human trait close to his

heart in the way that the subject's irrepressible capacity to choose was at the centre of Matza's project. So too is the character type of the can-do practitioner, whose engagement with the world is somehow more vivid than that of the philosophizing professor. As for Felson's relation to the offender, this has the quality of a rather weary tolerance and a mildly-expressed disdain. Offenders are low-skilled, low-energy, casually parasitic. They don't show much daring or initiative, don't put in much effort, and they typically depend upon the carelessness of victims who offer them easy opportunities. This is a naturalism that – unlike Matza's – avoids all trace of the outlaw romance.

I have emphasized Felson's discursive style and implied evaluations because they have a function in his work, which is to say they form part of his effort to get us to think about crime in a particular way. The deliberate (or perhaps merely felicitous) use of a prosaic rhetorical style – a style that echoes and reinforces the theory's substantive claims – is a striking feature of Felson's work. In its substantive arguments, the routine activity approach claims that crime opportunities and crime events occur 'in the nature of things'. Far from being shocking aberrations or even unusual disruptions of the normal course of events, criminal incidents are widespread, constantly occurring, unsurprising features of the social landscape. They are written into the scheme of things, as concomitants of the personal freedoms, affluence and non-authoritarian arrangements that characterize liberal democracies at the end of the 20th century. His presentational style says precisely the same thing. The message is that crime is nothing to get excited about. Its a fact of life. Get used to it. What we must do is understand crime in dispassionate terms, quite removed from the drama and political posturing that so often distort its nature. It is a feature of our way of life and we must work hard to prevent it as and when we can.

This exhortation to work at crime prevention is evidently an important part of this story, because it is the one point at which Felson's prose displays the slightest hint of passion. Murder, violence, drug-gangs, armed robbers, opportunistic sex offenders – none of these enrage him at all, but critics who point to displacement as a reason to doubt the effectiveness of crime prevention are singled out for moral outrage. 'It is', he says, 'a disgrace to use 'displacement' as an excuse to hold back creativity in preventing crime' (p. 142). We might interpret this mild but uncharacteristic outburst as Felson springing to the defence of his practitioner-heroes in response to criticism from the abstract know-nothing theorists of the academy.

In the recent past, crime was always a sign or a symptom, indicative of social dislocation or personal maladjustment. Now crime is what it is and nothing more. It is a reality. A normal social fact. It is to be engaged in its own terms, for its own sake, and not as a metaphor or mediator for something else. The problem of crime is cause for neither idealism nor despair. As Felson puts it: 'Criminology in the past has swung between utopianism and hopelessness. I am arguing for something different: a non-utopian optimism.' (p. 164). It calls

for matter-of-fact interventions and routine precautions. We need to build it into our habits and routines in the same undemonstrative way that preventative medicine has us wash our hands, brush our teeth, and clean the bathroom.

Frank Tannenbaum coined the phrase 'the dramatization of evil' to describe how we, as society, react to offending. Marcus Felson's project is the de-dramatization of crime. His goal is naturalistic understanding, as a basis for calm, routinized counter-measures. And if the book's style and substance epitomize the criminology of everyday life, so too do its practical proposals, which reproduce all the standard prescriptions of that genre (see generally Garland, 1996). The usual preference for situational adjustment over social engineering is clearly stated here: 'do not try to improve human character. You are certain to fail' and: 'Try to block crime in a practical, natural, and simple way, at low social and economic cost' (p. 166). So too is the irrelevance of the criminal justice state to the control of much criminal offending: we need to 'put criminal justice into smaller perspective' (p. 7). Crime control ought to become a generalized, de-differentiated activity, built into the routines and consciousness of all citizens: 'The best policy is to regard most strangers and even neighbors with a moderate dose of benign suspicion' (p. 43). Above all, it should no longer be monopolized by the state with its misguided political agendas and its lack of local knowledge:

> Crime prevention strategies have been foolish and ineffective. Leadership fell into the hands of naive ideologies, first liberal and then conservative. The first proposed to reduce crime by trying to make government good to people, assuming they would be good in return. The pendulum then moved toward the equally naive position that a government bad to people will get them to be good in return. The issue is not how good or bad government is to people but whether public places are designed and organized to allow people to control their own environments informally' (p. 145).

The book's explanations and practical proposals are often persuasive, and amount to a forceful restatement of social structure's role in the distribution of crime. But they will surely not pass uncriticized into the criminological canon. Felson's rather monomaniacal focus on 'supply-side' issues of opportunity and control has the effect of silencing questions of motivation which have been a central focus for much criminological research and which are especially important where offense-behavior appears unusually cruel or inhumane. Those who believe that cultural norms play an independent role in shaping conduct, and that these norms have changed with the coming of late modernity, will be dismayed by Felson's resolute avoidance of such questions: 'The most important method is not teaching or building character, but rather keeping young people under some degree of supervision' (p. 24)... 'The United States is not psychologically or culturally more violent than other countries: its citizens just deliver worse injuries' (p. 34), and by his implicit assumption that a generalized propensity to criminal conduct is something of a constant in human history. Radicals will object that the theory represents an uncritical

accommodation to the social structures of late modernity (render them a little less criminogenic, otherwise they're fine), that it too readily separates out questions of crime from questions of social justice, and that it fails to point to the dangers of commodification and mal-distribution of security that are liable to accompany a crime prevention strategy that depends so much upon private initiative rather than state provision.

But my concern here is not with the book's criminological value – rather, the claim I am making here is a claim in the sociology of knowledge. I am arguing that Felson's work – and by extension that of the whole genre I have termed the criminologies of everyday life – can be understood as responses to, and the product of, a particular kind of social organization: one in which high rates of crime have become a normal social fact. The social structure of late modernity 'delivers' crime opportunities in a regular, recurring, widespread manner, and does so in a way that is qualitatively different from the social structure of the first two thirds of the 20th century. In that earlier period, criminological inquiry assumed that crime was an aberrational phenomenon, an interruption to the normal course of events, and sought to understand what was wrong with the individuals responsible. In the late 20th century it is harder to think of crime in this way. Our knowledge of crime's generality makes it clear that there may be nothing special about offenders, and nothing unusual about the occurrence of criminal events.[4] Criminology's usual concern with the question of individual differentiation (and sometimes group differentiation) thus begins to give way to a concern with the structural generation of the mass of criminal events.

My claim, then, is that Felson's work is itself socially structured, or at least located within a social field that has structured its possibility and its reception. It is a criminology made possible, desirable and relevant by identifiable features of late modern social organization. Felson's argument is that today's social structures routinely produce crime events, or at least 'supply opportunities' and 'produce chances' for crime – which, with the addition of a 'likely offender' result in actual offences. I want to make a related claim which is that these same social structures also supply the opportunity and produce the chances for a new form of *criminology* – and Marcus Felson (for whatever biographical, institutional and intellectual reasons) has turned out to be the 'likely offender' who has exploited that opportunity. Not that this 'just happened'. Despite his anti-theoretical posture, Felson didn't 'go out and gather facts about crime from nature herself'. That part of Felson's naturalism is bogus and self-contradictory, as are all philosophical positions that claim to be 'anti-philosophical'. Felson, together with others such as Ronald Clarke – has clearly embarked upon a theoretical reorientation that would shift criminology's object of study from the criminal individual or disorganized group to

[4] For a discussion of the evidence of the widespread prevalence of criminal conduct, see Gabor (1994).

the criminal event and the criminogenic situation. My point is not to deny them credit for this intellectual undertaking – merely to point to the social conditions that facilitated it. This, after all, is quite a fitting application of Felson's theory to its own intellectual production. If 'opportunity makes the thief' why wouldn't it also make the theorist?

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Index

Alexander, 176, 206
anonymity:
  expectation of, 61–2, 64–5
anti-social behaviour orders, 73, 78–9, 85, 88, 128–30, 136
Aquinas, 149
Armstrong, 129–31
Ashworth, 62, 67, 73, 78–9, 82
audit, 204, 208
autonomisation, 203
autonomy, 64, 170
Ayres, 102

Baier, 206
Bandura, 148, 153–4, 158–61, 163
Barker, 186
Barr, 101, 183
Barry, 184
Beccaria, 3
Becker, 9
behaviourism, 160
Bennett, 216
Berrueta-Clement, 156
Bichler-Robertson, 107
Blakely, 102–3, 198
Bottoms, 22–3, 78, 114, 121, 159, 185–7, 194, 198, 202
Bourdieu, 186
Bourne, 163–4
Braithwaite, 18–19
brandnames, 208
Brantingham, 114
breath testing, 166–7
Briar, 3
Broadbent, 207
broken windows, 219
Brown, 157
Burt, 3

Caller-ID, 104–5
Cambridge City Council
  code of practice, 70, 72
Cambridge Institute of Criminology, 11
careers, 110
causes versus choice, 151–6
CCTV, 59–75, 98, 104–5, 126–9, 131, 138–43, 177, 196, 204, 208
  collateral non-crime-preventive uses, 71–3
  crime preventive uses, 19–20, 65–6, 115–16
  effect of privacy and anonymity, 62–5
  in mass private space, 73–5
  proposed limitations on, 68–75
  regulation of, 60–1
Champion, 200
changing people versus influencing choices, 156–7
Charlesworth, 203
Chomsky, 160
city centre pubs, 186–7
Clarke, 2–3, 8–10, 17, 23, 27, 33, 40–3, 47–50, 52–3, 55–6, 59, 77, 97–9, 102, 107–9, 113–17, 119, 121–2, 147, 150–1, 155, 157–8, 162–3, 165, 168–9, 171, 175, 181, 183, 194–7, 199, 219, 223
club goods, 183–4, 200
Cohen, 12, 149, 181, 194
Coleman A, 196
Coleman J, 184
Colquhoun, 3–4, 6–7, 12
communitarianism, 201
  view of responsibility, 45–7
consequentialist perspective, 18–20, 117
Conservative government, 10, 196
Conservative Party, 12
conservative values, 108–9
Consortium for Longitudinal Studies, 156
consumerisation, 203
contributory fault, 53–5
Cooke, 163–4
Cornish, 8, 10, 175
corporate crimes, 98
Costello, 117
Crawford, 8, 22, 39, 98, 175, 197, 201–2, 204–5
crime control, 2, 4, 6–8, 12–14, 41, 110, 177–9, 197
  economic rationality of, 13
crime pattern theory, 97, 194
crime prevention, 19–20, 23, 26, 44, 57, 116, 158, 164, 172, 185, 201, 221–2
  environmental crime prevention, 109
  legitimising role of, 61, 65–8
  responsibility for, 44
  see also situational crime prevention

crime rates, 114
  normality of high rates, 215–17
criminality, 7, 11, 40
criminal justice, 4, 10–11, 188
  managerialism within, 202
criminal justice state, 2–4, 6–7, 11, 13, 216, 222
criminogenic products, 107
criminogenic situations, 181–2, 187–8, 217, 224
  sociological theory of, 184–9
criminologists
  ethical duty of, 118–20
  lack of interest in SCP, 119–20
  preference for social reform, 98–9, 108–9
criminology, 8–9, 13, 40, 43, 57, 109–10, 147–9, 219, 221
  as positive science, 4–6, 181
  contrasts within, 149–59, 221
  criminologies of everyday life, 194, 215–24
  criminologies of place, 194
  criminology of the other, 215–16
  criminology of the self, 216
Croft, 10
cross-level adequacy, 176–80, 187

Davis, 14
de-dramatization of crime, 195, 216, 222
defensive space, 9
Department of the Environment, 196
deterrence, 2, 4, 65–6, 102, 128
developmental psychology, 160
differential protection, 25–6
Dimock, 21
displacement, 25–6, 98, 101–2, 110, 113–4, 221
dispositional theories, 147, 154
Donzelot, 202
Douglas, 1, 188
Duff, 19–20, 26, 29–30, 55, 71, 85, 106, 115
Dworkin, 19, 24, 66
Dwyer, 101

Eck, 109
economic analysis (*see also* market)
  of crime, 9, 13
  of victims, 54
economic growth, 4, 12
economic reasoning, 11
economics, 110
Eden, 38, 56
Ekblom, 8, 100, 164
Ellickson, 78, 87–8
Elster, 42
Ericson, 177, 205
Estébe, 202
European Convention on Human Rights, 61, 83
European Union, 178

Evans, 209
exclusion, 14, 22–3 , 73, 77–9, 81–95, 104, 114, 117–18, 132–6, 143–4, 201
  based on previous criminal offending, 90–2
  brief exclusions, 92–3
  profile-based exclusions, 88–90
  right of access to public space, 61–5
Eysenck, 158

family, 155
fare evasion, 167–70
Farrington, 98
Feinberg, 66, 73, 87
Feldman, 61, 63, 83, 94
Felson, 2, 8, 17, 40–3, 47–50, 52–3, 55–6, 97, 99, 102, 108, 116, 155, 175, 177–82, 186, 194–5, 197, 207, 215–24
Ferri, 4–6
Field, 182–3
fortress society (*see also* gated communities), 102–3, 114, 116
freedom of expression, 62, 67
freedom of movement, 73, 77, 79–86, 95, 103
Freud, 161
Fukuyama, 204

Gabor, 11, 223
Gaebler, 202–3
Gambetta, 204–5
Gardner, 73, 79, 97
Garland, 6–7, 9, 11, 13–14, 23, 109, 150, 176, 180–1, 186, 188, 194–5, 202, 210, 215–16, 222
Garofalo, 4
gated communities (*see also* fortress society), 102–3, 116, 201
generality of deviance, 11–13
Giddens, 177, 185, 187, 198, 205, 208–9
Gilling, 108
Gladstone Report, 4
Glaucon, 41, 57
Glaze, 171
Glueck, 149
Golding, 188
Goldstein, 9
Gottfredson, 11, 13
governing at a distance, 202–4, 206
Grabosky, 209
graffiti, 171
Gray, 74, 81, 84–6
gun lobby, 105

Haggerty, 177, 205
Hardin, 184
Harel, 53–5
Hargreaves Heap, 184
Harris, 183
Hart, 19
hate crimes, 98

Heal, 7–8
Hesseling, 98
Hirschi, 11, 13
Hobbes, 21
Homel, 107, 162, 196
Home Office, 5–6, 8–11, 23, 118–19, 196
Hope, 182–4, 186–7, 197, 200
Hough, 8, 195
Houghton, 107
Hughes, 98, 175
Hunter, 107

Inness, 62
institutions, 1, 7, 11, 38, 43, 185, 188
  institutional epistemology, 1, 7, 11
  institutional practices, 176–80
intervention
  theory of, 187
intimacy concerns, 62–3

Jacobs, 9
Jeffrey, 9
Johnson, 13
Johnston, 113
Jones, 13, 203

Kelling, 88, 171, 201, 219
Kempa, 200
Kleinig, 21
known offenders, 90–2, 131–2, 134, 156
Komiya, 205
Kramer, 206
Krimsky, 188

Labour government, 196
Labour Party, 12
Lacey, 199
landlord
  duties of, 50–1
Lash, 199
Lasley, 103
late modernity
  social structure of, 178, 209, 215, 222–3
Laycock, 7–8
Leadbeater, 204, 209
Left Realists, 108
legitimacy, 61, 65–8, 189
Levi, 183
Levitt, 102
Lianos, 170
liberal democratic society, 43, 47–8, 108
libertarian responsibility, 44–7
liberty, 79, 81–6, 95, 105
Loader, 184, 198
Locke, 43
Lombroso, 4

Macaulay, 207
Macneil, 207
macro-level, 177, 181, 184, 186
Magnusson, 158
Major, 152
managerialism, 202, 207
  institutionalising distrust, 207–8
  managerialist reforms, 202–4, 206
market, 183
  market-based government, 202
  marketetisation of security, 200
  market in crime prevention, 203
Marshall, 26, 71, 85, 106
Martin, 9
Martinson, 150
mass private property, 125–6, 143–4, 206
Matthew, 103
Matza, 3, 151, 161, 217–19, 221
Mayhew, 8, 107
McCord, 149
McGuire, 157
Merrill, 51
Merton, 12
Michael, 60
Mill, 43
Miller, 149
Mischel, 9
modernity - *see* late modernity
moral disengagement, 161, 164–5
Morgan, 155
Moriyama, 205
Morris, 55
Mouzelis, 176, 188
mundane delinquent, 218
Murphy, 67
Murray, 155
Myhre, 170

Nagel, 63
natural crime prevention, 9
naturalism, 186, 218–19, 221–3
Nelken, 188, 197, 205–6
Neu, 207
Newburn, 13, 203
Newman, 9, 102, 199, 201, 208
normality of crime, 11–12
Norris, 129–31, 177
Nozick, 19, 45

offence principle, 87
O'Malley, 98, 177–8, 195, 205, 209
opportunities for crime, 9, 97, 109–10
  providing, 55–7
orderly environments, 197–8, 201
organisations, 185
organised crime, 98
Osborne, 202–3

Painter, 98
partnership, 202
Pease, 8, 14, 23, 101, 107, 183

Peel, 44, 139
Pettit, 18–19
Phillips, 66
Piliavin, 3
Plato, 41
Police Architectural Liaison Officers, 196
political freedoms, 62
potential offenders, 28–30
Power, 204, 206–7
Poyner, 8, 98
pragmatism, 150, 155–6, 172, 175–6, 180, 216
privacy, 61–5, 72
private sector policing, 13–14, 104, 199
  private security industry, 12–14
private security guards, 93, 125–6, 143–4
  arrest powers, 93
  functions of, 126–43
  public relations aspect, 127–8
  relationship with police, 138–44
problem-oriented policing, 9, 109
professions
  disqualification from, 91
propensities versus situations, 157–9
proportionality, 78, 82
public goods, 182–4, 200
public/private distinction, 54, 202–3
public space, 61–5, 73, 77–95, 104
  public/private distinction, 79–89, 125–6, 136, 143–4, 206
punishment, 5

Radzinowicz, 11, 139
Rand, 45
rational choice theory, 9, 97, 150, 154, 162, 164, 177, 194, 196–8
Rayan, 63
Raz, 24
rehabilitation, 6, 157
responsibilisation, 202
responsibility
  models of, 52–5
rights, 92, 101, 118, 120
  property rights, 132, 136
  right against torture, 67–8
  rights of access, 81, 95, 103
  rights of privacy and anonymity, 61–5, 72
  role in limiting crime-preventive interventions, 66–8
Riley, 166
risk, 188, 205
  risk profiles, 129–31
Roberts, 64
Rose, 177, 201, 203
Rosso, 170
routine activity theory, 9, 97, 177–81, 184–9, 194, 197, 215, 217, 221
routinisation, 185

Sampson, 201
Schauer, 66
Scheid, 50–2
Schoeman, 62–3
schools
  burglary of, 186
Schweinhart, 156
Scottish Council on Crime, 6–7
search
  of private premises, 67–8
Sears catalogue
  as aid to predicting burglary rates, 220
Sedley, 85, 132–3
Seidman, 54
Sennet, 200, 208
Seve, 108
sexual assaults, 98
Shapland, 99, 117–18, 121, 130
Shearing, 13, 19, 21, 29–30, 73–4, 103, 118, 125, 130, 139, 144, 184, 200, 206
Sherman, 98, 113
side-constrained consequentialism, 19–20
situational crime prevention, 159–62
  action-research methodology, 101, 108
  allocating burdens, 47–52
  and bonds of social life, 45
  and careers, 110
  and crime control, 11–14
  and shift of trust, 21, 24, 29–30, 39–41
  and trust relations, 193–210
  benefits and burdens, 115–17
  cost allocations for crime prevention, 43–7
  cost-effectiveness of, 23–31
  costs of, 43–4
  de-differentiation of criminal, 195, 201, 222
  defensible space, 198–202
  different meanings of, 99, 195
  difficulties of implementation, 121–2
  disappearance of, 2–8
  ends of, 20–1
  failure to acknowledge importance of situations, 171–2
  historical inevitability of, 177
  hostility to academic theories, 9, 43, 147, 219, 221
  interaction between motivation and opportunity, 97, 109–10
  irksome precautions, 106, 114
  lack of scale of harms, 188
  moral vision, 41–3
  naturalistic understanding, 186, 218–19, 221–3
  normative assumptions, 197–8
  offering direction for research, 10
  origins of 148–9
  parochialism of, 176
  political message, 197
  political reflexivity, 179–80

situational crime prevention (*cont*):
profiling as genuine strategy, 89–90
re-emergence of, 8–11
relationship with criminology, 109–10, 147–9
responsibility for crime prevention, 47–52
social assumptions, 38–41
social vision, 108
values of, 108–9, 114–15
ways of altering the environment, 195
situations (*see also* criminogenic situations, situational crime prevention)
connection with persons, 193
situational/dispositional conflict, 9, 157–9
situational positivism, 176, 180
Skinner, 160
Skinns, 66
Skogan, 128, 219
Sloan-Howitt, 171
Smith, 193
Snyder, 102–3, 198
social cognitive theory, 148, 171
as theoretical underpinning for SCP, 162–3
social contract theory, 43
social cost of crime, 182
social exclusion - *see* exclusion
Social Exclusion Unit, 201
social geography, 110
social hygiene, 5
social prevention, 4–5
social sciences, 185
sociological theory, 176–7, 184–9
sociologists, 151–2, 154
sociology of knowledge, 217, 223
Socrates, 41
Sparks, 185, 197
speed cameras, 104–5, 163–5
Spelman, 109
Spitzer, 200
Stenning, 13, 118, 125, 130, 139, 184
street barriers, 103
Sunstein, 42
surveillance (*see also* CCTV), 121, 177, 183, 185, 196, 199, 204, 207
types of, 59–60
Sutton, 98
Sykes, 161

Tannenbaum, 222
Taylor, 88, 202
temptation, 55–7
territorialisation, 198–202
Thatcher, 154
Therborn, 188
Tilley, 8
Tonry, 29
trust, 21, 24, 29–30, 38–41, 193–210
environment of trust, 206
forms of, 205–6
interpersonal trust, 40–1
technologies of distrust, 210
transformation of trust, 206–9
trust relations, 193–210
Tyler, 206

urban governance, 198–210
Urry, 199
utilitarianism, 117

vagrancy laws
unconstitutionality of, 81
victim
blaming, 106–7, 114
self-exclusion, 27–8
self-protective responsibility, 27–8, 31–3
victim-centered perspective, 11, 13–14
von Hirsch, 19, 21, 29–30, 73–4, 78, 82, 87–8, 91–2, 103, 105, 118, 129, 139, 144, 184, 196

Wacquant, 186
Wakefield, 29, 73, 75, 77, 84, 90, 92, 118, 184, 196
Waldron, 82, 84
Walker, 6–7, 155, 184
Wasik, 30, 33, 91
Weidner, 169
Weikart, 156
Weisburd, 98, 162, 183, 197
White, 73, 79, 158
Wikström, 187
Wiles, 114, 121, 198
Wilkins, 3
Wilson, 9, 88, 149–51, 153–7, 172, 181, 201, 219
Wortley, 162

Young, 198, 208
young people in groups, 130, 132–3, 135–6, 141

zero tolerance, 12