

EMERALD ADVANCES IN HISTORICAL CRIMINOLOGY

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Approach

Edited by
Thomas J. Kehoe
Jeffrey E. Pfeifer

History & Crime

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History & Crime: A Transdisciplinary Approach

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Chapter 1

Making Sense of History and Crime through a Synthesised Framework

Thomas J. Kehoe and Jeffrey E. Pfeifer

There is a persistent tension in crime studies between scholarship focussed on the present and future versus the past. Here, we are using the term ‘crime studies’ as a broad catchall for all scholarship into crime, policing, forensics, victimology and so on, including, among others, forensic psychology, criminal psychology, criminology and histories of crime. It is a divide that has existed for at least a century, as Paul Knepper and P. J. Ystehede show in the introduction to their handbook on the famous crime scholar Cesare Lombroso. At Lombroso’s funeral, politician and lawyer Agostino Berenini could not decide whether the scholar had been ‘anthropologist, psychologist, psychiatrist, criminologist, hygienicist, sociologist or philosopher’. That Berenini seemingly overlooked ‘historian’ is obviated by his grand assertion that Lombroso had drawn on ancient knowledge to develop his theories and, in turn, had made himself ‘a benefactor of humanity’. He had, in fact, written himself into history, in Berenini’s view.¹ Even so, overlooking historical scholarship as a necessary part of Lombroso’s research reflects a stubbornly entrenched, persistent division in crime studies between present/future-looking scholarship and studies of the past. Our aim in this book is to continue a growing effort to bridge these divides by highlighting some of the research that already does so and by offering a framework for transdisciplinary discourse.

In 2020, a year dominated by the COVID-19 pandemic, the importance of history to understand the present became acutely apparent. The rapid spread of infectious disease not only suddenly and profoundly changed people’s daily lived experience, but also it returned nearly every country to an experience of contagion that many believed was a relic of history, and politicians, journalists and scholars frequently struggled to find a lexicon to adequately describe the many social, cultural and political impacts. Importantly for scholars of crime studies, governments adopted strict, legislatively enforced social controls in the name of public health, including

¹Agostino Berenini quoted in P. Knepper and P. J. Ystehede, ‘Introduction.’ In *The Cesare Lombroso Handbook*, eds. P. Knepper and P. Ystehede (London: Routledge, 2013), 2.

lockdowns, curfews, limits on gatherings and travel restrictions, all enforced by security agencies granted extraordinary powers.² The consequences – unintended and otherwise – of these controls will no doubt keep scholars busy for years to come. But for historically minded scholars, one of the striking and frustrating features of these responses has been their justification on the basis that *this* pandemic is ‘unprecedented’, a word invoked by journalists, politicians and academics.³ It may be argued, however, that there is very little about this pandemic and the subsequent implementation of strict social restrictions that is actually ‘unprecedented’. Disruptions to a peaceful social order, including pandemics, natural disasters, wars and revolutions, are ubiquitous in history, and so too are governments responding to these events with severe restrictions of liberties in pursuit of safety.⁴

This is not a commentary on the validity of public health responses to the pandemic. Rather, use of labels like ‘unprecedented’ highlight an all-too-human willingness to assess the world through one’s own present experience, which is rarely more than anecdotal.⁵ As Kendall Haven shows, this inclination is all the more powerful if a dramatic and emotive story can be woven around the experience.⁶ Something shocking achieves such ends, which as Susan D. Moeller argues has meant that sensationalism has frequently driven journalism.⁷ The mass

²As we write this, our city of Melbourne, for example, is nearing 6 months of lockdown. J. Badge, ‘The problem with policing our way out of a pandemic.’ *Junkee*, 19 October 2020. Available at <https://junkee.com/policing-pandemic/274773>

³The term has been used by politicians, journalists and scholars. A Google search of ‘COVID-19 pandemic unprecedented’ reveals tens of thousands of uses. See, for example, C. Pazarbasioglu and M. Ayhan Kose, ‘Unprecedented damage by COVID-19 requires an unprecedented policy response.’ *Brookings Institute*, 10 July 2020. Available at <https://www.brookings.edu/blog/future-development/2020/07/10/unprecedented-damage-by-covid-19-requires-an-unprecedented-policy-response/>; Z. Yan, ‘Unprecedented pandemic, unprecedented shift, and unprecedented opportunity.’ *Human Behavior and Emerging Technologies* (2020). Available at <https://doi.org/10.1002/hbe2.192>. On the mass use of the word, see: C. Pash, ‘Flattening the unprecedented pandemic buzzword pivot.’ *AdNews*, 15 July 2020. Available at <https://www.adnews.com.au/news/flattening-the-unprecedented-pandemic-buzzword-pivot>

⁴G. Kolata, ‘How pandemics end.’ *The New York Times*, 10 May 2020. Available at <https://www.nytimes.com/2020/05/10/health/coronavirus-plague-pandemic-history.html>

⁵Such tendency spans everything from assessments of social and economic conditions—e.g. G. Rico and E. Anduiza, ‘Economic correlates of populist attitudes: An analysis of nine European countries in the aftermath of the great recession.’ *Acta Politica* 54 (2019): 371–397; T. R. Tyler, ‘Assessing the risk of crime victimization: The integration of personal victimization experience and socially transmitted information.’ *Journal of Social Issues* 40, no. 1 (1984): 27–38 – to decisions about medical conditions and treatment: S. Jaramillo, Z. Horne, and M. Goldwater, ‘The impact of anecdotal information on medical decision-making.’ (2019). Available at <https://psyarxiv.com/r5pmj/>

⁶K. Haven, *Story Proof: The Science Behind the Startling Power of Story* (Westport, CT: Libraries Unlimited, 2007), 3–4.

⁷S. D. Moeller, *Compassion Fatigue: How the Media Sell Disease, Famine, War, and Death* (New York: Routledge, 1999).

panic such narratives can cause in broad swathes of the populace is well known in crime studies.⁸ More often than not, a general failure to appreciate that we have been through similar situations before increases fear during such events, whether about crime waves or infectious disease. Indeed, history shows that fear of crime and of disease are very similar in their base drivers and have often gone hand in hand.⁹

Very broadly then, this book is foremost about reaffirming that information from the past and the accreted knowledge it provides is valuable to current crime studies. Specifically, the danger of such presentist labelling suggests that by definition there is little need for historical assessment. But there is, in fact, very little that is truly without precedent in human experience and government responses, and this is certainly the case with regard to crime and government interventions. This continuity over time suggests that the disciplines of history and the various other disciplines comprising 'crime studies' clearly have the potential to provide important and informative insight into any situation that is not genuinely 'unprecedented'. This assertion will hardly shock historians or, indeed, most scholars. What is less clear, however, is which of the two perspectives – historical or presentist – should be the primary lens through which analysis is conducted. The tension between crime studies and history that we broadly examine in this book tends to result from an assumption that the present is different from the past. Criminal issues today are far from new and therefore it is important to include historical context, as such, the key question becomes, how should crime studies and history be amalgamated? As we show, an answer lies in creating a framework that identifies the goal of the study and a structure for discourse between disciplines.

Here, we seek to examine the complicated relationship between history and crime studies and therefore, centrally, challenge the very notion that there are things about current human behaviour, crime and justice that are truly without precedent. As David Churchill and others in the emerging field of historical criminology have argued – such as Mary Bosworth, Paul Lawrence, Paul Knepper and Henry Yeomans – the very benefit of history to many areas of scholarship is that it challenges the all-too-often unacknowledged assumption that somehow the

⁸There are numerous studies of 'moral panics'. For an overview, see C. Krinsky (ed.), *The Ashgate Research Companion to Moral Panics* (New York: Routledge, 2016). In particular see Krinsky's introductory chapter, 'The moral panic concept.'

⁹M. Warr, 'Fear of crime in the United States: Avenues for research and policy.' *Criminal Justice* 4, no. 4 (2000): 451–489 [esp. 454]. See newer research on fear, crime, and disease: M. Lee, *Inventing Fear of Crime* (New York: Routledge, 2007), esp. 26. On the all-too-common to 'control disease by coercion and punishment' see T. Hoppe, *Punishing Disease: HIV and the Criminalization of Sickness* (Oakland, CA: University of California Press, 2018), 4.

present is fundamentally different from the past.¹⁰ While nearly everyone accepts George Santayana's argument that 'those who forget the past are condemned to repeat it', what this actually means in the practice of scholarship remains insufficiently interrogated.¹¹

Socio-cultural and historical context are salient to analyses of specific cases. It is critical that historical connectivity and patterns not be overlooked. But exactly *how* history should be considered in the context of studies of the present remains unclear, and it is this persistent question that has dogged many attempts to build frameworks for transdisciplinary discourse and interdisciplinary research between history and other areas of crime studies and the question that originally motivated us to compile this book. This question is not easily answered because the relevance of a historical dimension to any particular study is actually among the more difficult to discern. As shown in recent studies in the history of emotion, connections over time must play a role in how certain cultural, societal and even psychological traits are constructed and experienced, though the precise weighting that historical influence should be given when compared to other socio-cultural and spatial factors is hard to assess.¹² As Thomas Kehoe and Michael Pickering write in the conclusion to their 400-year study of fear in Central Europe, it is nearly impossible to identify the line between psychological and sociological experiences that are ubiquitous to all people and that which derives directly from a specific history, the latter also being necessarily culturally and even spatially informed. In many studies, only the broadest conclusions about historical causation may be drawn.¹³ But even if difficult to identify, as scholars of everything from modern

¹⁰D. Churchill, 'History, periodization and the character of contemporary crime control.' *Criminology & Criminal Justice* (2018). doi:10.1177/1748895818811905; D. Churchill, 'What is "Historical Criminology"? Thinking historically about crime and justice.' *British Society of Criminology Newsletter* (2018). For example, see also M. Bosworth, 'The past as a foreign country? Some methodological implications of doing historical Criminology.' *British Journal of Criminology* 41, no. 3 (2001); P. Knepper, *Writing the History of Crime* (London: Bloomsbury Academic, 2016); P. Lawrence, 'History, criminology and the "use" of the past.' *Theoretical Criminology* 16, no. 3 (2012): 313–328; P. Lawrence, 'Historical criminology and the explanatory power of the past.' *Criminology & Criminal Justice* (2018). doi:10.1177/1748895818794237; J. Pratt, 'Criminology and history: Understanding the present.' *Current Issues in Criminal Justice* 8, no. 1 (1996): 60–76.

¹¹G. Santayana, *The Life of Reason or the Phases of Human Progress: Introduction and Reason in Common Sense* (Cambridge, MA: The MIT Press, 2011), 172.

¹²For a recent review of the history of emotions literature, see T. Kehoe and M. Pickering (eds.), *Fear in the German-Speaking World, 1600–2000* (London: Bloomsbury Academic, 2020), 4–8. See some of the classics in this literature: J. Bourke, 'Fear and anxiety: Writing about emotion in modern history.' *History Workshop Journal* 55 (2003): 111–133; M. Laffan and M. Weiss (eds.), *Facing Fear: The History of an Emotion in Global Perspective* (Princeton, NJ: Princeton University Press, 2012); P. N. Stearns and S. J. Matt (eds.), *Doing Emotions History* (Urbana, IL: University of Illinois Press, 2014), 17–40.

¹³T. J. Kehoe and M. Pickering, 'Conclusions.' In *Fear in the German-Speaking World, 1600–2000*, eds. T. J. Kehoe and M. Pickering (London: Bloomsbury Academic, 2020), 277–280.

political science and economics to public health and medicine implicitly recognise, historical context is a critical dimension to how we understand current conditions and situations.¹⁴

Rather than evaluating the importance of history relative to other factors, here we show how scholars are already crossing disciplinary boundaries in studies of crime. In so doing, we illustrate a systematic framework for facilitating transdisciplinary discourse. By exploring the points of connection and divergence between historical studies and the disciplines that have more traditionally been thought of as comprising crime studies (e.g., criminology and forensic psychology), we aim to show the emergence of a transdisciplinary, historically informed approach to researching topics including policing, deviance, victimology, crime perceptions and criminalisation. Specifically, this collection explores the complicated relationship and vague boundaries between scholarship on crime that spans historically focussed studies to the various, ostensibly present- and future-focussed social sciences. The chapters examine different examples of historically informed research and illustrates the utility of historical data and traditional historical methods for presenting theory development, and vice versa. As such, we suggest that a transdisciplinary approach to crime studies already exists and maps a path forward for future scholarship.

Challenging established disciplinary boundaries is hardly new. Over the past 20 years, the boundaries between traditional criminology, sociology, forensic psychology, law and histories of crime have been repeatedly interrogated. Such discussions mirror older interdisciplinary negotiations. In fact, a general failure to appreciate the history of these previous debates has perhaps prevented resolving current interdisciplinary tensions around crime studies. For example, since the emergence in the 1960s of Law Psychology as a defined field (now more commonly known as Forensic Psychology), there has been continuous debate surrounding how the concepts of *law* and *psychology* should be aligned and which should drive the field.¹⁵ Similar debates around history and sociology began in the 1950s.¹⁶ In many cases, the tensions emerge from differing methodological assumptions that affect the weighting of evidence and the resulting conclusions. Resolving such tensions requires finding a mutually intelligible framework for discourse. True consensus may be elusive, but as we show below, where such rules have been

¹⁴See, for example, extensive discussions of terrorism located in historical context – e.g., the classic series of case studies in M. Crenshaw (ed.), *Terrorism in Context* (University Park, PA: The Pennsylvania State University Press, 1995); R. D. Law (ed.), *The Routledge History of Terrorism* (New York: Routledge, 2015)—and of international crime: P. Knepper, *The Invention of International Crime: A Global Issue in the Making, 1881–1914* (London: Palgrave, 2010), particularly 3.

¹⁵S. M. Fulero and L. S. Wrightsman, *Forensic Psychology* (Boston, MA: Cengage, 2008).

¹⁶P. Abrams, 'History, sociology, historical sociology,' *Past & Present* 87 (1980): 3–16. For a more recent treatment see: R. Hollander-Blumoff, 'Law and social psychology methods.' In *Routledge Handbook of Socio-Legal Theory and Methods* (Chapter 12), eds. N. Creutzfeldt, M. Mason, and K. McConnachie (New York: Routledge, 2020).

developed, scholars tend to accept a natural overlap between disciplines and the value of an integrative approach to knowledge creation.

Tensions around disciplinary boundaries remain alive for crime studies. The drivers have seemingly conflicting, yet equally valid, perspectives on the same problems. Issues like deviance, policing, prisons and even the law itself are as much informed by individuals as they are by socio-cultural and historical factors.¹⁷ They are, consequently, the rightful purview of criminology, psychology, sociology, history and many broader interdisciplinary fields, such as culture and gender studies.

Tensions around the relevance of history is therefore just one important dimension to this discussion, but it is perhaps one of the more vexing. In psychology, it has been raised by Bartol and Bartol, who note in the third edition of *The Handbook of Forensic Psychology* that it is not so much a question of whether history has utility, but *how* it fits into otherwise present/future-focussed disciplines.¹⁸ Similarly, the scope of 'historical' criminology also continues to provoke contentious debate around methodological and conceptual differences between history and (sociological) criminology. Despite recent, considerable efforts to bridge the gaps, Bosworth's lament that intractable divisions remain continues to hold true.¹⁹ Histories of crime and historically oriented criminology remain separate, complete with their own journals, listservs and conferences. Using contributions from scholars around the world and from a range of different disciplines, it is our intention in this book to show that many of these conceptual divisions are not maintained by different research-topic foci. Each discipline is interested in crime rates, policing, penology, victimology and criminal motivations. Instead, subtler distinctions in methods, methodology (i.e., the epistemic implications of a particular method), sources, theory and research orientation, whether it past- or present-focussed maintain divisions. Moreover, it is in understanding these differences that a clear and constructive discourse across disciplinary boundaries may be developed.

A Path Forward

We contend that building just such a robust discourse is critical to advancing knowledge in the study of crime. But with so many disciplines involved in a field, finding a unifying structure for that discourse is exceptionally difficult. Yet even though tensions around disciplinary boundaries remain alive for crime studies, one of the best examples of a framework successfully bridging disciplines exists between forensic psychology and law. Models developed by Haney and Monahan

¹⁷Importantly, British Common Law is predicated on the concept of *stare decisis*, which is the following of historical precedent in the analysis of current cases.

¹⁸C. R. Bartol and A. M. Bartol, *Current Perspectives in Forensic Psychology and Criminal Justice* (London: Sage, 2006), 3.

¹⁹Bosworth, 'The past as a foreign country?'

and Walker to transcend disciplinary debates around the mutual utility of psychology and law provide a useful roadmap for other areas in the study of crime.²⁰ Prior to the 1990s when these models were developed, there were seemingly intractable debates about where psychology and law intersect and how scholars should address the overlap. Coming at the problem from opposite sides of the disciplinary divide, each model sought to turn the focus to cross-utility and thereby moved beyond clear differences in research foci and methodology. Interestingly, and importantly, both the Haney and Monahan and Walker models agree that, regardless of the approach to this issue, there is very little which is unprecedented and, as such, historical knowledge is valued through literature reviews in the Haney model and through legal precedent (*stare decisis*) in the Monahan and Walker model. For instance, Haney addressed the tension from a psychological perspective, placing heavy emphasis on its role in the criminal justice system while distinguishing scholarly interest on psychology *in* the criminal justice system from interest on psychology *and* the criminal justice system. The result was a model for categorising scholarship that facilitated discourse by allowing the aims of particular research to be easily identified.

Haney's Psychology-Driven Model

Approach	Focus
Psychology <i>in</i> the criminal justice system	This approach suggests that scholarly focus should be on how psychology may be more effectively employed by the criminal justice system in order to inform and assist at the specific case level. Examples of this approach include the use of psychological experts to testify on a variety of issues such as competency and insanity as well as the selection of jurors.
Psychology <i>and</i> the criminal justice system	This approach suggests that scholarly focus should be on the co-equal and co-joint use of psychological principles to analyse and examine the criminal justice system. Examples of this approach include developing procedures to increase the fairness of line-up process or developing procedural rules for jury instructions.

²⁰C. Haney, 'Psychology and legal change: The impact of a decade.' *Law and Human Behavior* 17 (1993): 371–398; J. Monahan and L. Walker, 'Twenty-five years of social science in law.' *Law and Human Behavior* 35, no. 1 (2011): 72–82.

Monahan and Walker²¹ developed a similar model from a legal studies perspective that relies heavily on an understanding of the legal difference between adjudicative facts and legislative facts. *Adjudicative facts* are particular to the case at hand and are therefore relevant to the outcome of that particular case, whilst *legislative facts* go beyond the case itself and are therefore relevant to subsequent cases. Like Haney, their model also seeks to facilitate a distinction relating to the direction of research and, in turn, discourse, by identifying when psychology is used as a social fact or social authority.

Monahan and Walker's Law-Driven Model

Approach	Focus
Psychology used as social fact	This approach is heavily related to the concept of adjudicative fact and suggests that psychological knowledge and research can be employed within a specific case to assist in 'proving' a legal claim. Examples of this approach include expert testimony in insanity cases and providing statistical proof of trademark infringement.
Psychology used as social authority	This approach is heavily related to the concept of legislative fact and suggests that psychological knowledge and research can be employed across cases (regardless of the specific facts of the case) to assess the quality of a range of practices and processes. Examples of this approach include the development of line-up procedures and protocols for interviewing witnesses.

Although creating different categories, the two models overlap and have permitted robust discourse between forensic psychologists and legal scholars that has been valuable to knowledge advancement. They have achieved this success by facilitating the mutual identification of the nature and import of pieces of work to scholars not versed in the specifics of the discipline from which it emerged. For example, one of the foremost law textbooks on behavioural sciences and the law includes a primer for law students that provides them with an understanding of social science methodology.²²

²¹J. Monahan and L. Walker, *Social Science in Law: Cases and Materials* (St. Paul, MN: Foundation Press, 2018).

²²See footnote 21.