What is Crime? Why is Criminology?

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I want to begin by thanking ASC President, Robert Agnew (2011), for writing *Toward a Unified Criminology,* for designating the theme of the 2013 American Society Criminology as "Expanding the Core," and for suggesting a Presidential Panel on rethinking definitions of crime. For criminologists like myself who have concluded that criminological inquiry should not be limited the narrow suite of harms defined as crime by law, this invitation from an ASC president to explore alternative approaches to defining the content of criminology is welcome.

My overall goal here is to establish the reasonableness of five claims. First, debates over the definition of crime have been part of criminology since its very beginnings. Second, the intersection of World War II, the post-war doctrine of American exceptionalism, McCarthy era anti-communism and the dominance of structural-functionalism as a meta-framework for sociological inquiry resulted a state-centric criminology. Third, the dominant focus on state definitions of crime created a constrained and inverted criminology in which the gravest social injuries receive the least attention. Fourth, periodic emergence of what Cohen (1988) termed "anti-criminology" has been and remains a critical balance wheel, connecting criminology with emerging societal challenges. Fifth, the study of *analogous social injury* offers framework through which criminologists can and should interrogate the social forces that result in the criminalization of some harms while leaving equally or more destructive social injuries outside the reach of law and the current "core" of criminology.

ORTHODOX[1] CRIMINOLOGY AND THE PROBLEM OF CRIME

Ongoing questions about the meaning of crime and the purpose of criminology are expressions of two key characteristics of criminology. The first is that criminology is a subject matter more than an academic discipline. The second is that criminology occupies the contradictory position of being a framework for intellectual inquiry into matters of crime and justice while simultaneously operating as an extension of the political state.

The core social science disciplines of anthropology, history, geography, psychology and sociology each developed distinct theoretical and methodological frameworks. Criminology, much like other topical fields such as political science or gerontology, relies primarily on general theories from core social science disciplines to create mid-range explanations for behaviors associated with the making, breaking, and enforcement of law. In the matter of methodology, criminology has been an aggregator, bringing the tools created by methodologists, statisticians and qualitative analysts in other fields to bear on the subject matter of crime and justice.

There have been attempts to develop "general" theories within criminology. Invariably, however, these have tended to be mid-range theories with theoretical underpinnings in other disciplines. Whether it is theories of deterrence with their blend of utilitarian and economic models of rational choice (Zimring and Hawkins, 1973), differential association with its foundation in sociological theories of socialization (Sutherland, 1939), control theory's mix of operant conditioning and social learning

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[1] I use the term "orthodox" criminology rather than the more prevalent "mainstream" criminology to foreground my contention that the routine acceptance of law as the basis for criminology is a belief system rather than a purely analytic decision, and to problematize the automatic relegation of other approaches to some supposed margin of the field implied by the term "mainstream."

theories (Hirschi, 1969), or labeling theory with its symbolic interactionist foundations (Becker, 1963; Lemert, 1967), most criminological explanations for non-conformity are derived from pre-existing sociological or psychological theories of human behavior. The relevance of this for understanding debates about the definition of crime is that it has opened criminology to a wide variety of approaches to understanding the human condition. This openness increases the potential for diverse definition of crime and justice. However, it also means that criminology is not *disciplined* into either theoretical or methodological unity. This has opened the door for conflict over the nature of its subject matter and the overall purpose of the field.

Criminology is not just a hybrid academic area of study. It also serves as an extension of the political state. It is state power, not intellectual agendas, that determines what behaviors are legal, which are illegal, and among those that are illegal, which will be nominated as serious crimes, which will be lesser offenses or minor infractions, and which will be treated as non-criminal administrative matters. In class-divided societies, these determinations are shaped substantially by the interests of dominant classes (Chambliss, 1971; Quinney, 1974). Consequently, a criminology that studies only behaviors criminalized by the state is inevitably part of the social apparatus for reproducing existing class arrangements and their consequent inequalities.

Challenges to the orthodox definitions of crime likewise have political dimensions. As Carlan (1992:54) notes, "the very task of theory is to engage in a struggle for power over the 'meaning of things.' " All struggles for power are political, and thus there is an ineluctable political dimension to debates over the definition of crime, despite

orthodox view that criminology is a value neutral enterprise devoid of political agendas or consequences (Dantzker and Hunter, 2006:7).

Orthodox criminology has accepted that its core project is to explain the causes and find solutions for *the crime problem*, that is, for behaviors that meet two criteria: they are of public concern *and* are criminalized by the state. Acts criminalized by the state, but of little public concern (e.g. tax evasion), and acts of public concern not criminalized by the state (e.g. deep social inequality) are treated as, *sui generis,* outside the criminological project.

Those who have challenged the orthodox project have typically argued for definitions of crime that would expand the criminological horizon beyond the crime problem to include some portion of what I term *the problem of crime.* The problem of crime encompasses both the ways in which law and justice systems do and the ways in which they *do not* address human behaviors and organizational arrangements that are injurious to the life and well-being of people, other living beings, and the biosphere. Those concerned with understanding the problem of crime, rather than just some element of the crime problem, typically offer an alternative to the orthodox definition of crime and some accompanying alternative vision of the overall criminological project.

FORGETTING WHAT WE KNEW: EARLY CRITIQUES OF LEGALISM IN CRIMINOLOGY

From an etymological standpoint the word "crime" has two primary meanings. These are,

1) An action or omission that constitutes an offense that may be prosecuted by the state and is punishable by law, and

2) An action or activity that, *although not illegal*, is considered to be evil, shameful, or wrong.

Moreover, the second meaning, crime as an evil or sinful act, preceded its contemporary usage as an act in violation of law (OED, 2013). Given this dual meaning of the word "crime," criminology has long struggled with the tensions between limiting itself to the study of violations of criminal law, and being the study of troubling acts and events that, while not illegal under criminal law, or in some cases, any law, represent significant sources of social injury.

There is nothing new about debates over the definition of crime. Concerns about the meaning of "crime" as the appropriate starting point for criminological inquiry have been part of criminology since the late 19th century. Rafael Garafolo, arguably the first sociological criminologist, held that focusing criminological inquiry solely on behaviors designated criminal by law is tautological. Specifically, he writes:

> "The attempt to show us what the law views as crime ends in our being told that crime, in the eyes of the law, is the doing of that which the law itself forbade" (Garafolo: 1885/1914: 59).

In a 1918 textbook, U.S. sociologist Maurice Parmalee expressed similar doubts about the efficacy of a legalistic definition of crime, although his concerns were informed more by history and anthropology than jurisprudence. Six years before the first edition of Sutherland's (1924) *Criminology* (sometimes mischaracterized as the first American criminology textbook) Parmalee writes:

"The legal definition of crime is hardly broad enough for our purpose, because the crimes which the law has designated have varied greatly from time to time and from place to place" (Parmalee, 1918:8).

In the first edition of *Criminology,* Edwin Sutherland (1924: 20) followed these earlier founders, observing, "The legal definition of crime is purely formal, and quite inadequate."

In 1937, Thorsten Sellin famously argued that criminology could never truly claim to be a science as long as it allowed legislators and judges to determine its subject matter. In Sellin's view, scientific inquiry is based on the study of the "natural properties" of some category of objects, behaviors, or events. Legislative designations of certain behaviors as criminal, he noted, create the appearance of a common category of behavior, however, these appearances are "external similarities" created by virtue of having been given the common label of crime.

Instead of studying behaviors designated as crime by law, Sellin (1937) argued that criminology should focus on "violations of conduct norms," that is, behaviors that contravene established and expected behaviors within social groups, whether or not those behaviors are criminalized by the state. Sellin's approach was intellectually interesting, logically argued, and consistent with what was then, and remains now, the central focus of criminological inquiry – discovering the etiology and affecting control of individual wrongdoing. Nevertheless, Sellin's proposal that criminologists study the violation of conduct norms did little to change the hold of legalism on criminology, although it did influence Cohen's (1954) and Miller's (1955) approaches to theorizing juvenile delinquency. In addition to Garafalo, Parmalee, Sutherland and Sellin, a number of other

prominent pre-World War II criminologists such as Fred Haynes (1930), Frank

Tannenbaum (1938) and Donald Taft, 1946) similarly acknowledged the limitations of a

criminology limited to juridical definitions of crime.

In the 1940s Edwin Sutherland raised a different challenge to criminological

orthodoxy with his contention that criminologists should add regulatory and civil

violations of the "white collar" kind to their subject matter (Sutherland, 1940; 1945). By

suggesting that criminology should add the study of regulatory and civil violations to its

subject matter, Sutherland touched off a heated debate in criminology about *what laws*

should be used as a starting point for criminological inquiry (Burgess, 1950; Tappan,

1947; Hartung, 1950).

Sutherland (1949, 1985) pushed criminological boundaries even further in his

volume *White Collar Crime* by suggesting that the level of *social injury* resulting from

legal transgressions rather than the severity of the penalty, be it criminal or civil, should

determine a topic's relevance within criminology. He further broke with criminological

tradition by studying *corporations* rather than individual wrongdoers in his actual

research into white-collar violations. The implications of Sutherland's emphasis on social

injury and corporations as wrongdoers would both mobilize and confuse the study of

upper world wrongdoing in the latter part of the 20th century (Kramer, 1984).

Although Sutherland argued that criminology should include the study of

regulatory and civil violations of law by both individuals and corporation, he did not

suggest that criminology should cease its dependence on law, only that criminologists

should expand the legal framework within which they operate (Kramer, 1982). However,

the wide disparity Sutherland noted between the punishments meted out for corporate and

white collar crime and those applied to crimes for which the poor and the non-white populate America's justice system foregrounded the relationship between class power. In making this evident, Sutherland, perhaps inadvertently, suggested that criminological analysis requires class analysis. Also, by suggesting that social injury rather than penal severity should be used to identify relevant criminological subject matter, Sutherland opened the door to the idea that *injury* rather than legislative and judicial determinations could serve as a starting point for criminological inquiry. In doing so, Sutherland pointed toward the possibility of a criminology focused as much on the role of structural arrangements in generating social injury as on individual miscreants. From there it might have been a relatively short intellectual step to expanding the core of criminology beyond categories created by law. It was a step, however, that was not taken for nearly two decades, and then only limitedly.

While many criminologists writing prior to World War II recognized the limitations of a strictly legalist approach, they typically did not pursue the meta-theoretical implications of this recognition. While acknowledging the limits of criminal law as a basis for criminology, in what became a characteristic move, most early and mid- 20th century criminologists sidestepped this inconvenient truth by devoting the bulk of their texts to the etiology and control of behaviors defined as criminal by law, particularly those that appeared to be more common among society's poorer strata.

CRIMINOLOGY AND AMERICAN EXCEPTIONALISM

The Great Depression created an intellectual environment in which theories that approached social systems as important causes of social troubles gained intellectual traction in the face of the mass unemployment, social dislocations and human miseries

that could not be easily explained as the consequence of individual failings or small group dynamics. It was also in the depths of the Great Depression that three influential theories of crime emerged that located the causes of crime in social systems rather than individual dysfunction: Merton's (1938) theory of social structure and anomie, Sutherland's (1939) notion of differential social organization, and Sellin's (1938) theory of culture conflict. Taken to their logical conclusions, each suggested that core features of America's social structure would need to be changed in order to ameliorate the crime problem. These radical implications, however, were quickly tamed by World War II, the subsequent climate of triumphalism, post-war beliefs in American exceptionalism, and McCarthy era fears that voicing criticism of U.S. policy or U.S. society could lead to accusations of Communist leanings. These forces narrowed the intellectual space for sociological inquiry that suggested social problems, including crime, might be rooted in the basic arrangements of American society.

By the onset of World War II, structural-functionalism, with its presumption that societies are characterized by stasis and consensus, and that social troubles are typically aberrations to otherwise smoothly-operating social systems, had already obtained significant influence as a meta-framework for social inquiry (Bannister, 1991). Because this approach was consistent with the view that the U.S. social order was a consensual, pluralistic arrangement, it gained increasing popularity in the climate of national solidarity ushered in by World War II (Terkel, 1997). The popularity of structural functionalism was further strengthened by it belief in American exceptionalism that came to dominate academic thought in the wake of the U.S. victory in World War II (Gouldner, 1980). This belief held that the United States had largely solved the problems of class

conflict that had beset the Depression era, and that the society was on a unique trajectory toward social equality and social peace (Lipset, 1997; Schlesinger, 1949).

The turn away from analyses that sought the causes of social problems in the wider political-economic and social order, particularly analyses informed by Marxian theories, was further accelerated by McCarthy-era repressions of academics who could be characterized as "communists," "fellow-travelers," or insufficiently supportive of what Mills (1964) termed "the American Celebration" (Schrecker, 1986). Thus, by the onset of the 1950s, sociology, and criminology along with it, could fairly be characterized as a structural-functionalist enterprise dominated by the modernist belief that social problems could and should be addressed through the value-free applications of science and technology (Aronowitz, 2012).

CONSTRAINED CRIMINOLOGY

By the end of World War II, criminology had lost whatever limited radical instincts it had acquired during the Depression. Sellin's critic of cultural conflict was largely forgotten. The more macro-sociological portion of Sutherland's theorizing, i.e. differential social organization, was displaced by far greater interest in the social psychological dynamics of differential association at the individual and small group level. Similarly, the potentially radical implications of Sutherland's suggestion that the problem of "white collar crime" was rooted in the structure of capitalist corporations fell by the wayside. Merton's theory of social structure and anomie led to far more inquiries into anomie as a social psychological condition than into the macro-social forces creating anomie. What emerged in the 1950s was a constrained and inverted criminology that

gave shape to today's criminological orthodoxy. The constraints come in three forms:

legalist constraints, corporate constraints, and professional constraints.

LEGALIST CONSTRAINT.

By legalist constraint I mean the difficulty of incorporating harmful and even

brutal conditions and behaviors into criminology unless they are prohibited by law. There

are many examples of legalist constraint in criminology, but here I will focus on just one

– lynching. From the end of Reconstruction until the onset of World War II, the states of

the former Confederate States of America practiced legal racial apartheid, colloquially

known as Jim Crow. Southern laws of racial apartheid enforced racial segregation, denied

African-Americans fundamental rights of citizenship, and constrained the majority to

conditions of poverty through daily oppressions, violence and murder (Blackmon, 2008).

From the late 19th century until World War II, the lynching and burning of black men for

supposed crimes in the absence of evidence or judicial procedure was common in many

states of the Deep South (Wilkerson, 2010). The purpose of these lynchings was to "give

dramatic warning to all black inhabitants that the iron clad system of white supremacy

was not to be challenged by deed, word or even thought" (Friedman, 1993:1912). It was a

reign of terror, pure and simple.

Even though Jim Crow's carnival of death, violence and trampling of human

rights and human dignity was widespread in the Deep South, the emerging discipline of

criminology had little to say about it. My review of criminology textbooks published

between 1900 and 1960 found few mention of lynching and almost none about the other

abuses of American apartheid. In his 1924 edition of *Criminology*, Sutherland does

devote several pages to the matter of lynching, but not as a form of criminality, but as a sociologically interesting example of conflicts between popular justice and formal justice.

During the first two decades of the 20th century, when many of the emergent luminaries of criminology were living and working in Chicago, that city was a major destination for African-Americans fleeing the violence in Southern states. Stories of the terror of Jim Crow and about people seeking refuge from it in Northern cities were common fare in Chicago's newspapers (Krist, 2012). It is unlikely that early 20th century criminologists such as Shaw, McKay, Reckless, Sutherland and others who lived or spent some time in Chicago were unaware of these news reports.

In the early 1900s the NAACP launched a nationwide campaign to make lynching illegal. The first such attempt, the Dyer Anti-Lynching Bill, was introduced in Congress in 1922. The resulting political battles, filibuster by Southern senators, and subsequent defeat of that bill and those that followed almost annually were periodic front-page news for three decades. Over 200 anti-lynching laws were defeated between 1922 and 1960, not by majority sentiment, but through filibusters by Southern senators (Stolberg, 2005). It strains credibility to think that during the first half of the 20th century, criminologists would have been unaware that extra-judicial murder was a common strategy to preserve racial apartheid in the South. Yet, they remained silent, constrained, some perhaps by their own racist inclinations, but much more likely by the legalist framework within which they worked, a framework that located lynching beyond their understanding of the subject matter and purpose of criminology.

Without drawing the parallel too tightly, I want to suggest the silence of early 20th century U.S. criminology regarding lynching is not entirely unlike the practice of German

criminology which supported or remained silent about Nazi practices of ethnic cleansing and extermination of Jews and other "deviants" (Wetzell, 2000; Rafter, 2008). For African Americans living in the post-Reconstruction South, Jim Crow *was* a Holocaust (Gibson, 2013). Nor did U.S. criminologists face the threats to life and liberty that confronted German scholars who challenged Nazi ideas and policies. Nevertheless, I have yet to find evidence that criminology made common cause with the anti-lynching movement. Rather, criminologists appear to have largely excluded it from their analyses and writings.

Lynching, of course, is just one of the many forms of harm that, by virtue of their legality, are beyond the scope of a legalist criminology. It does, however, point to the intellectual and moral dangers facing a criminology that allows itself to be constrained by state definitions of what is and is not appropriate subject matter. It also shows how a state-centric criminology can contribute to the reproduction of a social imaginary in which everyday forms of exploitation, expropriation, and violations of human rights appear to be normative, or at least, sufficiently unimportant to warrant criminological inquiry.

CORPORATE CONSTRAINT.

An important part of the social imaginary created by legalist criminology is that, with the exception of those types of corporate behaviors explicitly criminalized by law, the social injuries and harms resulting from corporate pursuit of profit and power are not subjects for criminological inquiry. We can look in many places for examples of legal social injuries committed in the pursuit of profit: the multi-decades effort of Big Tobacco to hide the truth about the dangers of tobacco from

consumers (tobacco.org, n.d.; 1978; Pringle, 1998) the promotion and sale in

developing countries of products so harmful they could not be sold in the United

States (Dowie, 1979), the promotion of invasive medical procedures and tests, not

because they are necessary for treatment, but because they are profitable

(Rosenthal, 2014), the financial wrongdoings and state-corporate collusions at the

root of the Great Recession (Barak, 2012), "legal" environmental harms resulting in

death, disease, and financial loss (Lynch and Stretesky, 2013), or climate change

denial projects designed for the explicit purpose of protecting fossil fuel industry

profits (Kramer and Michalowski, 2012).

The crux of the problem here is that the social classes that control and most

benefit from the corporate pursuit of profit are the same social classes that exert

powerful agenda-setting pressures when it comes to law making and law

enforcement priorities. I am not suggesting that the investor class and its allies

wholly control the law making process, or that they are necessarily interested in

ensuring that criminal laws target certain crimes and certain class and racial

categories (e.g. drug use and the low income offenders of color). There is, however,

ample evidence that these classes are very interested, and are very capable of

mobilizing powerful political forces against ideas, social movements, or legislative

proposals that would criminalize the harms from which they most benefit (Kessler,

1990; Piven and Cloward, 1979). To the extent that orthodox criminology excludes

legal harms that benefit powerful political-economic agenda-setters, it becomes a

co-facilitator of those harms.

PROFESSIONAL CONSTRAINT.

In 1976, shortly after completing my doctoral studies, I published an article

in *Sociological Inquiry* that explored repressive elements of criminal justice

practices in the United States (Michalowski and Bohlander, 1976). After reading it,

my doctoral supervisor cautioned me to "stay in the mainstream if you want to have

a career in criminology." It was an honest warning from a caring mentor who feared

I did not realize there would be professional penalties for stepping outside the

established legalist orthodoxy.

For me the warning was explicit. For the majority of criminologists who have

entered the field over the last forty years, however, messages about "staying in the

mainstream" are more subtle, more the product of Bandurian (1977) social learning

than overt direction. These messages are absorbed, osmosis-like, through observing

the professional reward system in criminology. The close links between empiricism,

research funding, publication in "high impact" journals, and faculty appointments in

"prestigious" universities are obvious and normative. Here and there one finds a few

outliers in the upper reaches of the Academy who have not followed the prescribed

intellectual path. For the most part, however, writings by criminologists who step

outside the field's legalist and empiricist orthodoxy are rarely found in the highest

impact journals, and the authors of these works are rarely part of the professoriate

of prestigious universities. With fewer mentors to point emergent criminologists

toward critical and non-legalistic modes of inquiry, and many examples of the

rewards for successful accomplishments within the orthodox métier, the structure

of the criminological discipline constrains explorations outside its orthodox parameters.

The state, corporate and professional constraints on criminology ensure that criminological inquiry will characteristically focus, not just on acts formally designated a crime by law, but on those localized and individualistic crimes that populate courts, jails and prisons with low-income offenders who are also disproportionately members of racial or ethnic minorities (Austin and Irwin, 2011; Russell-Brown, 2008). It also leads to an inversion of criminology that disconnects it from many of the most serious problems threatening safety, security and well-being.

CRIMINOLOGICAL INVERSION

The consequence of a constrained criminology is that attention and research efforts become tilted primarily toward the least widespread, and arguably, less harmful forms of social injury (Michalowski, 2009). David Friedrichs described this characteristic of orthodox criminology as "an *inverse relationship* between the level of harms caused by some human (individual or organizational) activity and the level of criminological concern" (Friedrichs, 2009:1). The essence of this inversion is rooted in the far greater attention given by orthodox criminology to interpersonal and individualistic forms of wrongdoing as compared to impersonal and organizational forms of social injury.

Face-to-face forms of violence such as murder, rape and robbery, individual or small group crimes against property such as burglary and theft, and patterns of personalized deviance such as the use of criminalized drugs receive the bulk of

criminological attention. This comes in the form of studies into the etiology of these behaviors or analyses of the methods and institutions for arresting, adjudicating and punishing those accused of such crimes. By contrast, corporate or other organizational forms of law-breaking that lack direct personal or temporal connections between the victim and the offender, and where the offense is rooted in deviant organizational culture rather than the malfeasance of criminally-minded individuals, receive far less attention, even when the acts in question would fit a legalist definition of crime. By extension, the systems designed to control organizational deviance are studied far less often by criminologists than those parts of the justice system designed to control interpersonal and/or individualized offenses.

The "inversion" in this relationship is that the harms caused by organizational wrongdoing affect far more people and cause far more injury to humans, other living organisms, and in some cases the planet itself, than do face-to-face and individualized crimes. This reflects the reality that individuals acting alone or in small groups, even as suicide bombers or school shooters, can harm only a relatively limited number of people. Corporate criminality and other forms of organizational wrongdoing, by contrast, can harm tens of thousands, even millions with the stroke of a pen, which in this case is, indeed, mightier than the sword - or gun (Hillyard et. al. 2004; Presser, 2013).

Figure 1 offers a visual representation of size of victim pools and the expanse of harms in the contemporary age. Figure 2 offers a visual representation of how

criminal justice, orthodox criminology and contemporary culture invert this pyramid in terms of its attention and effort.
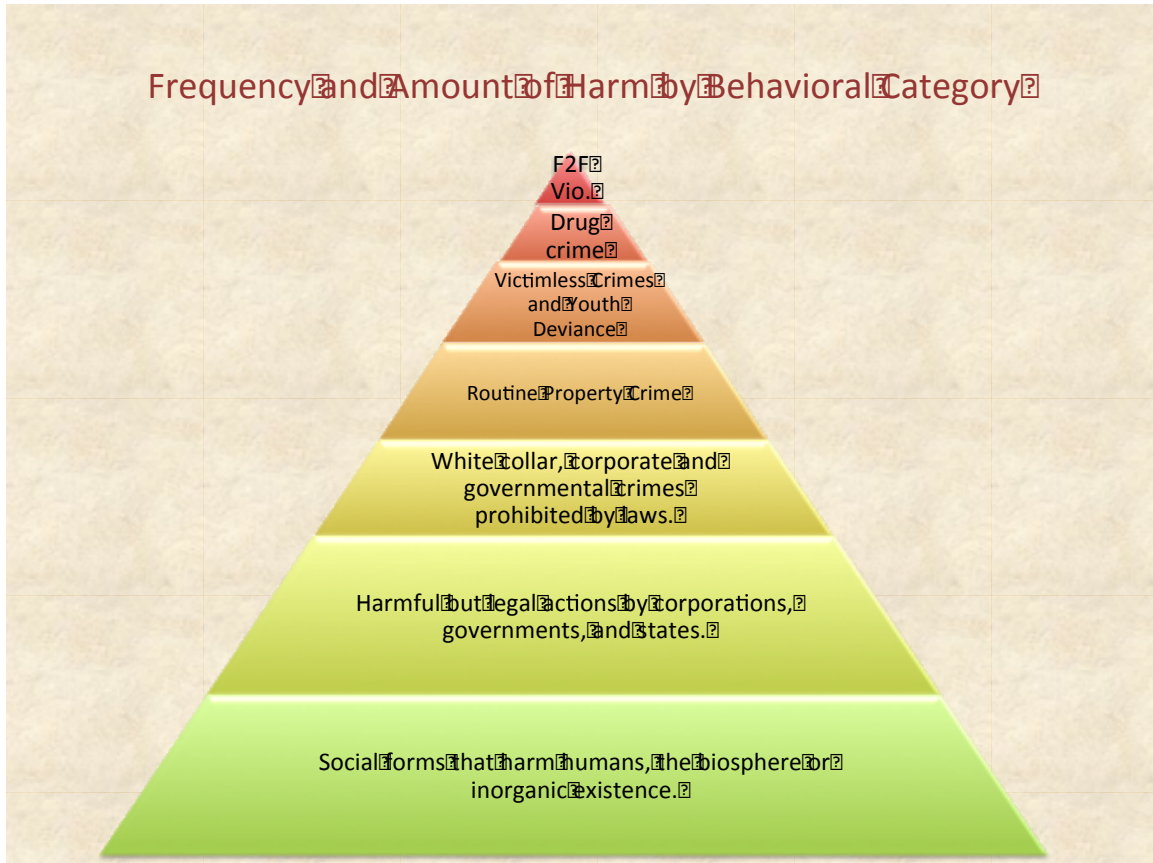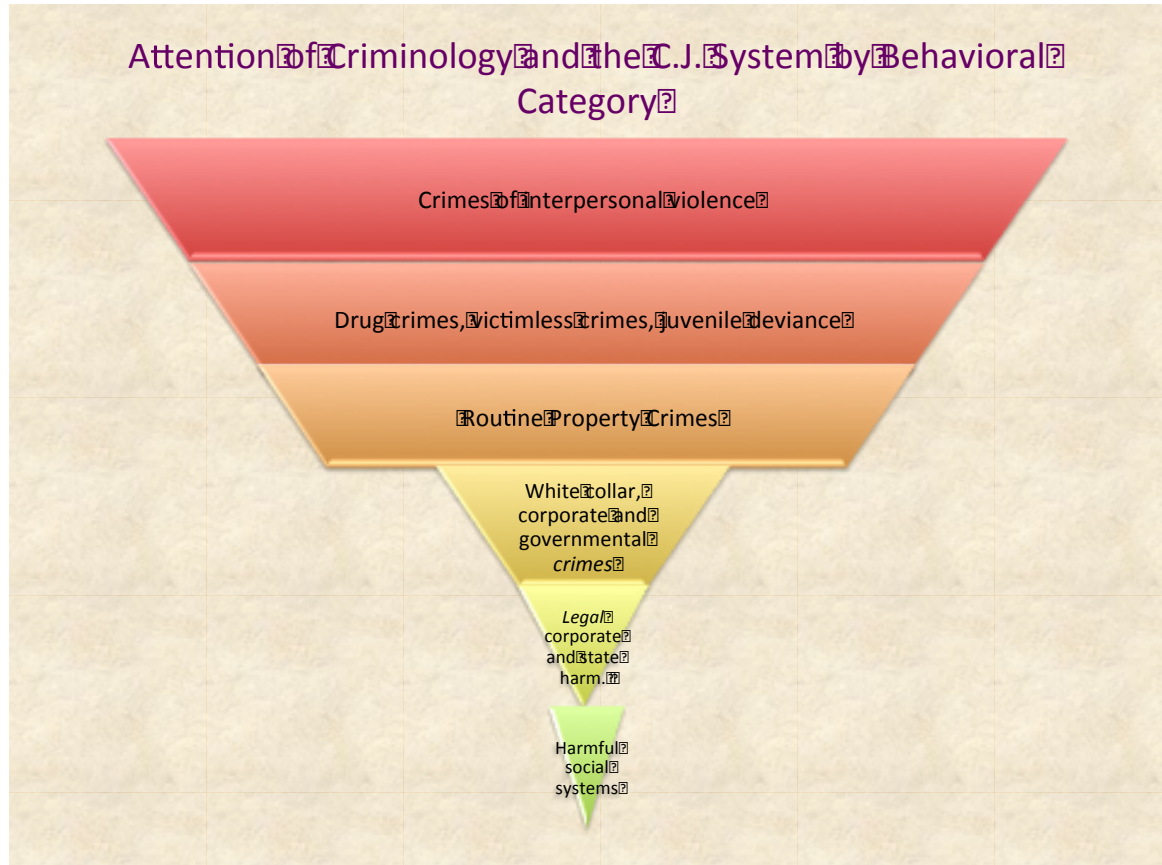
Figure 1

Frequency and Amount of Harm by Behavioral Category

F2F Vio.

Drug crime

Victimless Crimes and Youth Deviance

Routine Property Crime

White collar, corporate and governmental crimes prohibited by laws.

Harmful but legal actions by corporations, governments, and states.

Social forms that harm humans, the biosphere or inorganic existence.

Figure 2

Attention of Criminology and the C.J. System by Behavioral Category

Crimes of interpersonal violence

Drug crimes, victimless crimes, juvenile deviance

Routine Property Crimes

White collar, corporate and governmental *crimes*

Legal corporate and state harm.

Harmful social systems

Figures 1 and 2 are meant to be illustrative rather than exact quantitative representations. The goals is to offer a visual representation of how the constraints on orthodox criminology deflect its attention away from the gravest contemporary threats faced by people, humans as a species, and the biosphere.

The inversion of attention in criminology, however, is neither absolute nor does it describe the whole of the field. Since the late 1960s, there have been alternative visions of criminology that have challenged the inverted vision. These have been central to keeping criminology in touch with important changes in society

THE EMERGENCE OF CRITICAL INQUIRY

By the late 1950s, the structural-functionalist hegemony that dominated the World War II and the immediate post-war era was showing some signs of stress. One of the earliest challenges to the dominant structural-functionalist ideology in sociology came from C. Wright Mills. In his breakout work, *The Power Elite*, Mills (1956) openly questioned the validity of American exceptionalism, arguing that the United States had not achieved the peaceful and stable balance between the interests of labor and capital that exceptionalist believed to be the case. Three years later, in *The Sociological Imagination,* Mills (1959) challenged the structural-functionalist claim that "abstract empiricism" and technological analysis could produce value-neutral solutions to social problems.

Neither *The Power* Elite nor *The Sociological Imagination* were particularly well-received or influential within the mainstream of sociology in the 1950s, and they had almost no impact on criminological thought at that time (Aronowitz, 2012). However, the relative domestic peace and belief in American exceptionalism that dominated the 1950s was increasingly challenged by events in the 1960s and 1970s. A new stridency in the Civil Rights Movement (Raines, 1983), urban uprisings, often sparked by some incident of police brutality in an African-American community (U.S. Riot Commission, 1968), a growing anti-Vietnam war movement (DeBenedetti, 1990), unsettling changes in social norms surrounding gender and sexuality (Allyn, 2001), and the emergence of a popular culture of youth resistance (Roszak, 1995) sparked a reinvigorated critique of American society. Where there had once been a relatively unquestioned confidence in the ability of a new class of technocrats in science and technology to deliver society from the social

distortions of poverty, inequality, and wide power gaps, there were now emergent

pockets of doubt and challenge. In this context, Noam Chomsky (1969:3) wrote:

> What grounds are there for supposing that those whose claim to
>
> power is based on knowledge and technique will be more benign in their
>
> exercise of power than those whose claim is based on wealth or
>
> aristocratic origin? On the contrary, one might expect the new mandarin to
>
> be dangerously arrogant, aggressive and incapable of adjusting to failure,
>
> as compared with his predecessor, whose claim to power was not
>
> diminished by honesty as to the limitations of his knowledge, lack of work
>
> to do or demonstrable mistakes.'

The Academy, and criminology along with it, was not immune to the social

disruptions and dissident challenges of the age. By the late-1960s groups of radical,

Anglophone criminologists had emerged in the United States, Britain, and Australia.

These unorthodox criminologists questioned claim that criminology was a value-neutral

inquiry into the causes of crime, and offered alternative approaches. One of the more

influential arguments was put forth by Herman and Julia Schwendinger (1970) in their

admonition that criminologists should focus on "violations of human rights" rather than

the orthodox criminological catalogue with its disproportionate attention to crimes by

poor people of color, its inattention to the depredations of political and economic elite,

and its widespread tolerance of crimes and social injuries committed against women and

minorities.

The early practitioners of what was then termed "radical criminology" sought to

analyze the linkages between the operations of post-war monopoly capitalism and social

injustices such as class domination, economic inequalities, racism, and sexism, as well as the broad racial and class disparities in justice system practices. In addition to academic inquiry, radical criminology emphasized the importance of *praxis,* that is, revealing the true dynamics of power by struggling against it (Platt, 1974). Following this model, radical criminologists in a number of U.S. urban centers became directly involved in political struggles for prison abolition, community control over policing, and racial and sexual equality.

Intellectual and political challenges to criminological orthodoxy were not limited to U.S. criminology. One of the most influential early works of this dissident criminology, *The New Criminology,* was authored by the British scholars, Ian Taylor, Paul Walton and Jock Young (1973). Tony Platt, a central figure in the radicalization of the Berkeley School of Criminology prior to its elimination was also from Britain. Other British scholars such as Stanley Cohen (1972), Stephen Box (1971) and Stuart Hall (1975) played important roles in the evolution of a critical criminology centered around an emerging critique of domination.

The early efforts to build a radical criminology became the seedbed out of which grew many "anti-criminologies," to use Stan Cohen's (1988) term. Key among these were various forms of identity criminology focused on how the legal and cultural control of race, gender, sexuality, and sexual orientation served to reproduce both these specific architectures of dominance and the overall structuration of capitalist society (Britton, 2000; Woods, 2012; Ross, 2010). Those anti-criminologies now grouped collectively under the label of "cultural criminology" brought new attention to youth culture as resistance, the constitutive role of mass media in creating dominant images of crime, and

the discursive practices of both domination and resistance surrounding criminalization and punishment (Ferrell, 1995). Yet another group of critical criminologists argued for the study of social injuries resulting from the intersection of corporate interests and political states, but which are shielded from aggressive legal controls by the ability of corporate and governmental actors to shape law and justice priorities (Michalowski and Kramer, 2006). Growing environmental concerns, particularly increasing concerns over global climate change, led to the emergence of a critical "green criminology." This subset of critical criminology argued that that more criminological attention should be given to the causes and consequences of ecological wrongdoing, including legally permissible forms of environmental damage (Beirne and South, 2012; Lynch and Stretesky, 2014). Some critical criminologists called for retiring the term and practice of "criminology" altogether because of its unavoidable link to law, and replacing it with the discipline of "zemiology," that is the study of "harm" - *zemos*, in Greek (Hillyard et. al., 2004; Presser, 2013). Most recently ASC President Robert Agnew (2011) proposed an "integrated criminology" in which legal "blameworthy harm" would be part of the subject matter of criminology.

The history, complexity and debates within critical criminology have been documented elsewhere, (DeKesseredy and Dragiewicz, 2012), so I will not delve deeper into it here. Suffice it to say that over the last four decades, critical criminology in all its variations became an established part of the criminological discipline, even as it continued to be perceived as peripheral to the "core" of the discipline in the eyes of many of its practitioners.

REDEFINING CRIME, REDEFINING CRIMINOLOGY

The definition of crime and the substance of criminology exist in a mutually constitutive relationship. The usual view is that the definition of crime determines the substance of criminology. I want to flip this notion by suggesting that we move toward a different understanding of crime by reconsidering the purpose of criminology. My approach is somewhat similar to that suggested by the zemiologists, but with several differences. First, I do not think that crime as defined by law should cease being a meaningful category for criminological inquiry. Indeed, it remains a central figure within the sociological criminology I imagine. However, both state-prohibited crimes and state authorized mechanisms for its control should be transformed from unquestioned frames for determining the foci of criminological inquiry into the problematized consequences of wider patterns of social relations and social structures that shape both the production of social injury *and* our understanding and treatment of it. To return to an earlier point: Criminology should be rooted in the study of the problem of crime, that is, the processes through which perceived troubles are or are not criminalized, rather than the study of the crime problem, that is, those acts which have already been criminalized.

In 1985, I first proposed that criminologists make "analogous social injuries" a component of the criminological core equivalent to acts defined as crimes by law. I defined analogous social injuries as "legally permissible acts or sets of conditions whose consequences are similar to those of illegal acts" (Michalowski, 1985: 317). The specific behaviors or conditions that comprise the category of analogous social injury" consist of those that cause "violent injury or untimely death, illness or disease, deprivation of

adequate food, clothing, shelter or medical care, and reduction or elimination of opportunities for effective participation in decision making processes that effect individuals' lives" (Michalowski, 2009:321).

My central argument is that a core purpose of criminology, the answer to the question of "why is criminology?" should be to engage in deep and thick analysis of the social forces that render some forms of social injury the subject of vigorous state control, result in others being nominally prohibited but practically tolerated, and still others being allowed to operate mostly or entirely outside the jurisdiction of laws, courts and penal sanctions. It is through analyses of how economic, political, social, and cultural forces lead to the construction of what a society imagines to be its "crime problem" that we can arrive at a clearer understanding of the full range of social injuries in that society and the operations of law and its subsidiary institutions of control.

I am not suggesting that individual criminologists study only the macro-social forces leading to social injury, legal designations of crime, and adjudicatory and penal practices. There are many specific forms of crime, social injuries and state responses that require focused and detailed analysis. However, what I am suggesting, is that whatever the specific topic, it should always be located within the understanding that the acts, events or conditions under study are embedded in wider social, economic and political arrangements that are causal to their appearance, the meaning given to them, and the legal strategies designed to control or ignore them.

To advance this study of analogous social injury, Figure 3 offers a model that sets forth the bare bones of the relationship between social forces that produce dominant and

resistant understandings of what social injuries should be criminalized, and what

structures and processes should be used to control them.

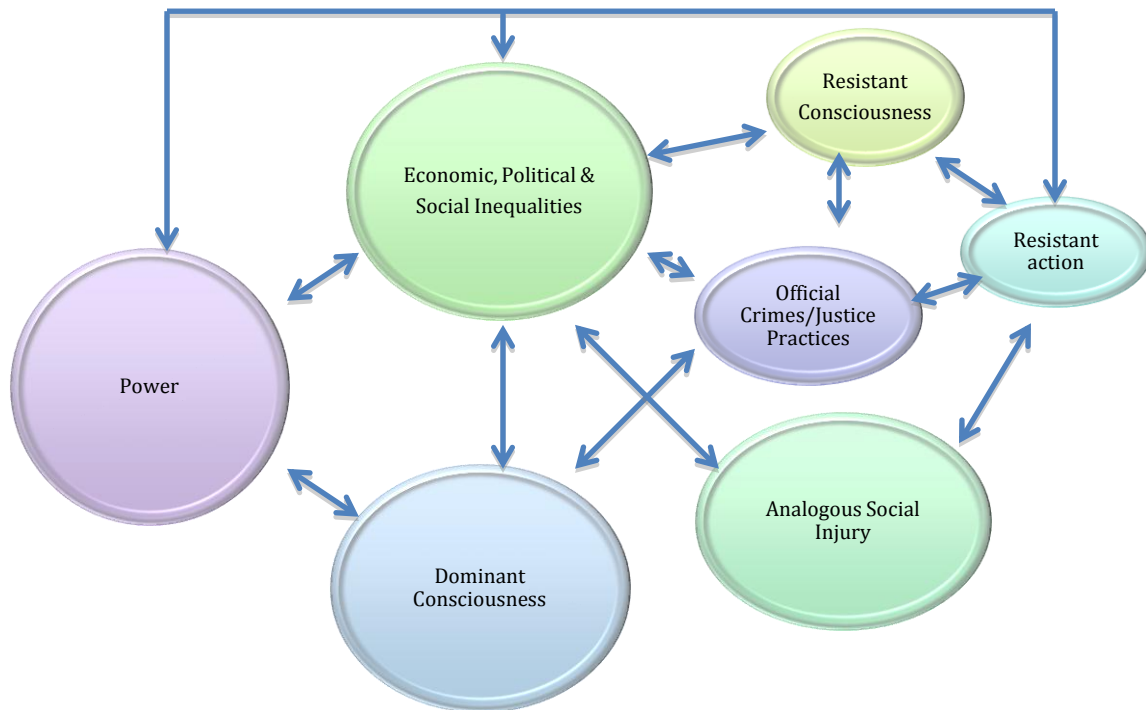**Figure 3**

Power, Consciousness and Harm

Figure 3 offers a very provisional model of the feedback loops through which the

interplay of power, domination and consciousness produce inequality in its various

forms, and how the interplay of inequality and dominant consciousness generates

categories of illegal and legal social injury, as well as both consciousness and actions that

resists the dominant definitions of what is and is not "crime." Space does not permit a full

explication of this model. I offer it here as a brief meta-theoretical introduction to how we

can begin to rethink the criminological core in ways that enable it to incorporate the

broader sociological processes through within which societies produce, come to define and then seek to control *selected* forms of social injury. The model asks us to problematize the concept of crime and then seek to understand how that concept came to be imbued with meaning and action within any specific sociological configuration.

CONCLUSION: CRITICAL IQUIRY AND THE FUTURE OF CRIMINOLOGY

For the last 40 years, critical criminology has served as the conscience and searchlight of the wider discipline. In the 1970s, radical criminologists challenged orthodox criminology to see racism, sexism, and police brutality as important criminological topics at a time when such concerns had little place in the "core" of criminology. Critical criminologists worked to make corporate criminality, the wrongdoings of political states, violations of human rights, and the oppression and victimization of racial minorities, women and the LGBTQ community topics of concern, research and activism within criminology.

Many of these topics are still considered by some to be outside the "mainstream." Yet, by the 2012 American Society of Criminology meeting, these concerns were part of many papers and panels at that meeting. Today the American Society of Criminology houses large and vibrant divisions of Women and Crime, People of Color and Crime, and Critical Criminology. Each of these divisions fields a journal. A number of other journals addressing these and other critical topics operate outside the ASC, as well. Interest and activism around green criminology and queer criminology are likewise topics of growing in interest both inside and outside the ASC.

It might be argued that the emergence of diverse critical criminologies signifies a

Balkanization of the field or a ghettoization of critical approaches within criminology more generally. Perhaps. Perhaps not. What is clear, however, is that the continual contestation of topical boundaries by critical criminologists has played an important role in expanding the criminological horizon. Few today would argue that domestic violence, or hate crime, or racial injustice are not important criminological topics. It was not always so. These topics moved from periphery to accepted parts of criminological inquiry, largely because critical analysts and activists pressed for their inclusion. As global climate change continues to increase social conflict and societal disruptions, green criminology is likewise on its way to becoming a recognized arena for criminological inquiry.

Critical inquiry with its challenges to criminological orthodoxy, whatever it happens to be, is essential if criminology is to remain relevant to significant and emerging problems in a changing world. Critical inquiry directs us to try to see around cultural corners, to recognize what is coming one street over, to reveal what is hidden from our ordinary awareness by legalistic definitions of crime and dominant framings of "reality." Without its critical scholars the field stagnates. As a discipline, criminology can best make use of the message its critical wing has been delivering for four decades by moving away from its legalist orthodoxy and embracing a more genuinely sociological understanding of the problem of crime.

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