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SOCIOLOGY AND THE STEREOTYPE OF THE CRIMINAL



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THE STEREOTYPE OF
THE CRIMINAL



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SOCIOLOGY AND
THE STEREOTYPE OF
THE CRIMINAL

DENNIS CHAPMAN



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OF THE CRIMINAL

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TO PAULINE AND TERENCE MORRIS

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Preface

The object of this essay is to present a study of a matter of great public and professional concern, using the methods of functional analysis.

The products of the essay are hypotheses and *not* conclusions. This is inevitable from the anecdotal nature of the evidence. It is, however, important to assert that many of the works in this field that have the appearance of system are in fact no more substantial, since they fail to take account of the social determination of, rather than the scientific discrimination in, the selection of the evidence.

Much of the data employed comes from newspapers. This method has been chosen not only for its obvious convenience, but to display the function of newspaper reporting in creating the stereotypes which control our thinking about crime.

The substance of the essay is an argument that much of the work done by social scientists in the field of Criminology has been unprofitable because it has begun with definitions – stereotypes – which have determined the course of the inquiry and the conclusions that have emerged. The result of this has been the production of a vast and complex literature, but no substantial progress in social change. Lack of progress has begun to lead to a reconsideration of fundamentals, especially in the U.S.A., but the commonest reaction in Britain is to argue that lack of success is evidence of the need of more studies for the same kind as those that have been made in the past. It would be arrogant to suggest that the literature is valueless, for not only has it provided much new information about such behaviours as shop-lifting or thefts from employers, but methods have been steadily refined, sampling methods have been improved, statistical significance recognized as important – if albeit a trifle reluctantly – and the values of objective tests and the necessity of replicability are now appreciated by many scholars.

The next step, the author would argue, is to establish by

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empirical inquiry the extent to which behaviours that are disapproved or illegal are normal in the culture, and the extent to which they are functional or dysfunctional. This may well prove to be a great act of human liberation, such as the studies of Kinsey and his colleagues are slowly becoming recognized as being.

If this could be achieved, then a datum would exist for a critical examination of the institutions of social control and for their modification without further delaying for the diffusion of awareness to create what is called 'public opinion'.

The selection of the stereotype of the criminal for discussion was largely accidental – in that it had its origin in the author's childhood reading of Oscar Wilde's 'Soul of Man Under Socialism' and his 'Ballad of Reading Gaol' and was not fundamental to the main theoretical purpose of the essay, which is to show the consequences in society of the stereotype in determining social behaviour. Many other stereotypes await analysis, those, for example, of women, the poor, the rich, the coloured, and the Jew.

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The author wishes to record his debt to a criminal organization, which, to its obvious advantage, served during the war as a unit of the National Fire Service, and as such was organized as a university extra-mural class, to which the author was a tutor. The members of this class, with their extensive knowledge of crime, their pride of craftsmanship, and their personal experience of the prison system and the police force, combined with a remarkable intellectual detachment, were largely responsible for reorientating the author's thinking on the subjects dealt with in the following pages.

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CHAPTER ONE

Introduction

SOCIOLOGY AS A SCIENCE AND THE STUDY OF CRIME

Sociology is a science. It arises from the recognition of order in society. The discipline describes this order and its antecedents, and from these predicts the future course of human behaviour. A definition as austere as this is not readily acceptable to the layman or even to many social scientists because, first, it asserts that human behaviour is predictable and thus conflicts with ideas of free-will, and, second, it implies that all social processes are of interest to the sociologist and that he does not necessarily accept the popular valuations of different social processes that divide them into good, to be encouraged, and bad, to be discouraged.

Functional analysis in sociology describes the imperatives for the survival of a given social system and in particular examines the great variety of functional alternatives that have arisen with the increase of production over the needs of subsistence. This process has accompanied what was the central interest of classical sociology, the transformation of social relationships from status to contract, from *Gemeinschaft* to *Gesellschaft*, or from primary to secondary group relationships. The climax of this development in interest has been the concept of *anomie* and the associated concept of *alienation* in sociology and corresponding concepts in psycho-analytic social psychology. The process has been one in which relationships between one person and another give way to relationships between one person and groups, these groups becoming larger and more remote and nameless. The change is a continuous reduction in the element of identification with the 'other' in the relationship and a corresponding and increasing interest in the material products of the relationship.

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This formulation derives from the concepts of *mechanical* and *organic solidarity* of Durkheim, the transformation of relationships from persons to positions, the concept of *bureaucracy* in Weber, the *Generalized Other* of G. H. Mead and the concept of *stereotypes* employed in social psychology (Mead, 1934). Relationships become a technique for the manipulation of symbols, the success of which manipulation produces advantage in status, power, or material. The criminal is discussed in his role as scapegoat; what remains to be explored is the relevance of role theory to the criminal's acceptance of and adaptation to the role of scapegoat.

Human society is characterized by rationality, that is, ends can be expressed symbolically and means can be appraised in terms of effort, and economical choices made; from past experience rules can be stated. Thus, over a wide range of behaviours, the best means for ends which command general acceptance are known and inculcated. Likewise, rules have been established that depend not on primary rationality, but simply on the basis that any rule that makes for predictability of behaviour increases the efficiency of society (even though there may be other rules that might be more economical). It is customary to describe such mechanisms as folkways and mores. Complex societies have, however, hierarchical social systems, with differential distributions of status, power, reward, and property, and, in that there is a high correlation between the possession of any one of these attributes and the rest, both customary and statute law tend to control behaviour in the interests of the groups with high scores on these variables. Social control is, however, not simply exercised through administrative and punitive organizations, but is supported by elaborate symbolic systems which are learned and become cues to behaviour. The control of the apparatus for the diffusion of the symbolic system is distributed in much the same way as status, power, reward, and property. In popular language this is described as the 'Establishment'.

The importance of this argument depends on the observation that actions need not be directed to ends but may arise from stimuli which may be symbolic, or may arise from conditioning (may be fetishistic), or may result from the reification or

personification of concepts. This corresponds to the concept of the displaced goal in social psychology.

The range of social control is large and complex, from inhibitions acquired in infancy before speech and rational thought – the conscience or superego – through ethics taught as a technique of social adjustment or as a part of divine revelation, to the control of law. Parents are the agents through which many of the mechanisms operate, and those elements of the ideology that can be implanted before rational thought is developed become a permanent addition to a continuously implanted ideology in successive generations.

In a society divided into groups with and without power, the legal system and the ideology function together to maintain the existing social structure. At the same time, the diffusion of the ideology, even among sociologists, makes a scientific appraisal of the situation difficult. Some inkling of this situation has, however, been possible when looking at other societies; thus we find the popular concept of the 'slave mentality' applied to the 'victims' of the ideologies of other social systems. It is therefore not surprising that 'crime' and 'delinquency' greatly preoccupy social scientists and that they generally accept the thesis that crime is bad, that society could function without crime, and that crime is a special category of behaviour with special discoverable causes. It is further believed that if these causes were known, crime would be prevented. There are many other associated theses, such as those concerned with the distinguishing characteristics of criminals or the modifications of the treatment of criminals that would transform them into non-criminals.

THE THESIS

The thesis of this study is broadly to argue the negative of all the foregoing. The thesis is, however, elaborate and must be presented in many parts.

1. That any behaviour that has a disapproved form also has objectively identical forms that are neutral or approved.
2. That if a behaviour is seen as goal-seeking, then the choice of the form of behaviour between objectively identical forms –

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approved, neutral, or disapproved – may depend on chance, knowledge, learning, or training.

3. That apart from the factor of conviction there are no differences between criminals and non-criminals.
4. That criminal behaviour is general, but the incidence of conviction is controlled in part by chance and in part by social processes which divide society into the criminal and non-criminal classes, the former corresponding to, roughly, the poor and underprivileged.
5. That a 'crime' is a behaviour, defined in place and time, of a person, in some cases with another person (victim), with police, lawyers, magistrates, and/or judges and juries.¹ All these variables are causal in the scientific sense.
6. That all the foregoing operate to select individuals from a larger universe of individuals with identical behaviours, both objectively and symbolically cued, and that, therefore, no test of the familiar hypotheses about crime is possible unless the scientist selects his subjects independently of the social system.
7. That crime is a functional part of the social system. This part of the thesis has itself several parts. The first is that the designation of certain actions as permitted, tolerated, or condemned in different circumstances is arbitrary; the second is that there is a lack of correspondence between the ideology and behaviour; and the third is that there is differential treatment of different social groups for behaviours which are objectively identical, identical in that they transgress the same traditional mores, but different in their treatment at law. The designation and social isolation of a relatively small group of victims permit the guilt of others to be symbolically discharged; the identification of the criminal class and its social ostracism permit the reduction of social-class hostility by deflecting aggression that could otherwise be directed towards those with status, power, reward, and property. A special part of the ideology functions to prevent the designated criminal from escaping from his sacrificial role, and institutional record-keeping maintains his identity.
8. That, following this, there is a special problem of the immunity of certain members of society and certain groups. This arises mainly from the protective institutional environment in which they pass part, or all, of their lives, or in which

¹ 'A criminality which is regulated partly by chronology, partly by longitude, does not easily admit of scientific discussion' (Ellis, 1914, p. 2).

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they spend part of their time or engage in some of their activities.

9. That associated with this are covert social processes which extend whole or partial immunity to, or reduce the impact of, the legal system on members of certain social groups.
10. That associated with the general thesis is a separate problem – that of the legal system as a crime-creating institution. That is, once an institution is created it develops a dynamic of its own and becomes involved in the behaviour with which it is concerned as a participant and, in special circumstances, as an instigator. It may do this in response to social pressures, e.g. the demand that ‘criminals’ shall be caught and punished.
11. Finally, that the general preoccupation with contravention of the mores in symbolic culture – except, perhaps, some of the graphic arts – can be functionally related to the real situation expounded in items one to ten.

The exposition of this set of related theses presents difficulties. To test many of them would require great expenditure of time and treasure, nor can many of them be verified from such data as are available from administrative sources, because the theses question the very basis of the administrative process. Published work in the field of criminology is of some assistance, but most of it accepts as a basis the results of the administrative, legal, and social systems which identify the criminal and again cannot be used to criticize these systems. In consequence, this study will present tentative arguments based on fragmentary and anecdotal data not crucial in themselves but persuasive enough, it is hoped, to compel consideration of the argument.

It is recognized that, while one or more cases chosen fortuitously may suggest hypotheses, they cannot establish theories. On the other hand, it is important to appreciate that a general theory must account for all the instances that are found.

THE FALLACY OF RATIONALITY

Much of the evidence that will be discussed arises from the application of naïve or mechanical concepts of rationality to the problems of social control; the assumptions, for example, that if there are criminals they must differ in discoverable ways from non-criminals or that if punishment fails in its aims then

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penal reform is justified. Some sociologists do not study the changes in the penal system as a social process that is part of the larger social process, but as an evolutionary tendency towards enlightenment that is to be encouraged. Sociologists are thereby involved in reform movements, often devoting a major part of their texts to propounding preventive or remedial policies, or even in participating in the parliamentary process of law-making and in the administration of justice; in all this the fallacy of rationality is displayed. In this, sociology appears to be less effective than anthropology, which has successfully studied the processes of social control using functional analysis and appears to be able to avoid the 'rational' fallacy. Merton illustrates the issue thus: 'some conception like that of latent function has very often, almost invariably, been employed by social scientists observing a *standardized practice designed to achieve an objective which one knows from accredited physical science cannot be thus achieved*. This would plainly be the case, for example, with Pueblo rituals dealing with rain or fertility' (Merton, 1957, p. 65).

In criminology the existence of latent function is generally ignored.

Difficulties arise at every stage of the analysis, beginning with the identification of the data, behaviours or action, persons or actors.

Only brief reference need be made to the problem of definition: crime is defined in law; a criminal is a person convicted of a crime. Other authors have noted the extraordinary variety of possible crimes and the somewhat arbitrary nature of the division of crime into indictable and non-indictable offences, serious and less serious – or the apparently inconsistent pattern of punishment possible for different offences and the differences in the extent to which powers to punish are employed by judges and magistrates in different situations. Here is a rich field for sociological analysis, as yet only lightly cultivated, and, here again, it has been studied in terms of rationality or 'justice' (Wootton, 1963; Hood, 1962).

Dissatisfaction with the apparently arbitrary nature of legal definition, and the confusion arising from the inclusion of actions of such variety and the exclusion of many behaviours of

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interest to some sociologists and psychologists, have led to attempts to extend the field to include 'social pathology' on the one hand and the study of psychopaths on the other – the term socio-path has not yet come into use, but the literature on 'problem families' and the like displays the fact that he has been identified if not as yet labelled. This has been the approach of Barbara Wootton, who defines social pathology in terms of action and expenditure by the administrative organs of the state. By so doing, she concentrates on the behavioural problems of the poor, since the agencies with which she is concerned are almost all derived from the Poor Law: in consequence the behaviour of those who can maintain themselves is not considered (Wootton, 1959, p. 14). A valuable attempt to solve the problem appears in the 'Report of the Committee on Homosexual Offences and Prostitution' (1957, pp. 9 and 10) which states:

"There appears to be no unquestioned definition of what constitutes or ought to constitute a crime. To define it as "an act which is punished by the State" does not answer the question. What acts ought to be punished by the State? We have therefore worked with our own formulation of the function of the criminal law so far as it concerns the subjects of this enquiry. In this field, its function as we see it is to preserve public order and decency, to protect the citizen from what is offensive or injurious, and to provide sufficient safeguards against exploitations and corruption of others, particularly those who are especially vulnerable because they are young, weak in body or mind, inexperienced, or in a state of special physical, official or economic dependence."

Useful though this is, it does not get over the problem that the discernment of offences for scientific purposes must be independent of administrative processes.

AN ANALYTICAL MODEL

To cope with these difficulties what is needed is a set of operational definitions which would make it possible to identify behaviours and to account for the degree of approval or disapproval they invoke and the social consequences of approval or disapproval.

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In a scientific analysis (outside sociology) any phenomenon that occurs as the result of the interaction of many variables can be studied by reference to the part played by any one of them. If the absence of any variable is accompanied by the absence of the phenomenon, then the variable may be considered as causal. Such a model would lead, if applied to crime, to such a conclusion as that the cause of crime is legislation – a conclusion that might at first sight appear irritating or even absurd. Yet the modification or repeal of laws is frequently advocated to achieve this end, as witness the recent attempt to raise the age of criminal responsibility of children from 8 years to 12 (which has resulted in a typically British decision to fix it at 10).

In spite of the offence to common sense of using the scientific model, it will be persisted in, in the hope that the result will justify the means.

Thus for any behaviour we may isolate the following variables, absence of which, or variations of which, may be crucial in determining crime or non-crime.

1. The actor.
2. The action.
3. The object of the action.
4. The result of the action.
5. The place of the action.
6. The time of the action.
7. The social environment of the action.
8. The observation of the action.
9. The reporting of the action.
10. The reference of the action to the courts.
11. Trial and conviction.
12. Appeal and confirmation.

Two simple illustrations will serve to exemplify these arguments. The crucial importance of the actor is evident when it is considered that no action of the royal Head of State can be criminal, and there is much legislation which designates actions as legal or illegal depending upon the time of day or the day of the week when they take place.

In practice most writers on, and students of, social pathology solve the problems presented here by first treating the statistical evidence of all crime as revealing the problem and then selecting for study a group of specialists, for example, the offenders against the laws of property, the violent or sexual offenders.

The purpose of the analysis set out above is to call attention to the fact that identical actions with identical results can be criminal or non-criminal or even virtuous, dependent upon the age, sex, status, or profession of the actor, the age, sex, status, or other social characteristics of the object, the time or place of the action, and the observation, reporting, and trial of the actor.

THE UNDERLYING PROBLEM

The main thesis of this essay having thus been presented in as economical a fashion as possible, a brief discussion of some of the underlying issues will be attempted before the exposition of particular arguments.

The essential question that has to be answered is: why is it thought necessary to have a special theory or a number of special theories to account for behaviour prohibited by law? The answer offered here is that this happens because workers in this field begin with a definition of the situation, a stereotype, which determines their thinking and their researches.

Why, for example, when we have well-developed theories of learning which are assumed to have general application, are these only rarely employed to account for criminal behaviour, and new theories developed when established theories are found to be inadequate? (Wolfgang and Ferracuti, 1967, p. 148 *et seq.*). Why also is so much attention devoted to the aetiology of the occupational choice of whores and prostitutes rather than to a general consideration of occupational choice, for which material exists scattered throughout the literature? Learning theory can throw light on the choice of both means and ends, and socialization theory has much to contribute to the understanding of aggression, of which illegal aggression is but a small part.

A second area in which difficulties arise is in the assumption that the crime that is settled by the conviction of a criminal

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represents crime as a whole. There are many problems here. In crimes of property there is a continuous variation between $\frac{1}{2}$ d and infinity, and the question of the value threshold and changes in the value threshold must be taken into account; whereas in some crimes of violence the data are discontinuous. Estimates differ both as to the proportion of different crimes which come to light and as to the extent to which the criminality of different groups in the population is known. In general it is believed that about 20 per cent of crimes against property are cleared up, but the majority of murderers are discovered, although this latter success is probably the result of ignoring the practice of ending the lives of those dying in great pain and of allowing grossly defective children to die of systematic neglect at birth.

In that it is a widespread practice to minimize the defective nature of official statistics for scientific purposes, it may be useful to state why it is considered that the under-reporting of crime is systematic.

First, there is much crime within families and organizations, the reporting of which depends on the solidarity of the group and on the status of the participant.

Second, the detection of crime is in part a function of the social range of the police, who are drawn from the lower middle class and from the working class and, in addition, find their social relations restricted by their occupation.¹ In general, the effectiveness of the police may be expected to decline as the social-class area of the problem is raised; this is offset in part by specialization, e.g. the 'fraud squad' (Banton, 1964, p. 176).

Third, on general grounds we should expect the same patterns of occupational choice in relation to approved and disapproved occupations, the poor and ill-educated in unskilled and semi-skilled pursuits and the middle class in the clerical and professional fields. This pattern of occupational choice has two influences: first, that, all other things being equal, the higher the skill and the higher the status, the greater the chances of success; and, second, in that the unskilled is likely to be concerned with property (scrap metal, for example) and the skilled with

¹ Royal Commission on the Police (1962), appendix to the minutes of evidence (1-10), pp. 17-18; also Banton (1964), especially Chapters 8 and 9 and p. 249.

symbols and paper (cheques), the chances of concealment are much greater for the latter. Compare the problems of concealing a quantity of lead with those of hiding from the inland revenue authority entries in accounts of which you are the legitimate custodian.

A fourth source of systematic error, discussed in detail later, arises from the interaction of privacy and police practice. In working-class districts the police observe crime on patrol or are called in to mediate in disputes, some of which may involve crime. In middle-class districts, the police patrol much less frequently and are called in generally only when there is an invasion from outside. Middle-class crimes such as defrauding the inland revenue may be the cause of envy amongst less fortunate members of the same class, but rarely the subject of a report by them to the revenue authorities.

Another part of the thesis deals with punishment and the social role of the prisoner. Imprisonment as a technique of social change did not develop on the basis of any evidence, but as an historical accident. The sentence to death by the method of cortical dislocation by hanging is as accidental in origin as it is technically primitive. These forms of punishment demonstrably fail in their avowed objectives, as does flogging, yet methods of education based on well-established theory and practice are still not employed. Moreover, even where the use of such practices is declining they are still retained for certain classes of persons, e.g. flogging of children in the Isle of Man, convicts in prison,¹ the inhabitants of colonial territories, and the caning of boys under 18 in a Naval training establishment;² and, in spite of all that is known about capital punishment, its use was extended in an 'Emergency' in British Guiana (1964).

A clue to the underlying problem is given by parliamentary practice. Where there is an issue in biology, chemistry, physics, engineering, or economics (agriculture, defence, industry, or trade), policy is determined by the government on the advice of experts and enforced by the Whips; where, on the other hand, it is an issue in the field of human relations, like capital punishment or homosexuality, it becomes, to quote the Rt. Hon.

¹ Abolished by Section 65 of the Criminal Justice Act 1967.

² Abolished 9 May 1967.

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Harold Wilson, member for the Huyton division of Lancashire (now Prime Minister), a 'matter of deep conscience' – that is, not subject to rational thought.

In a society where there is much ambivalence and confusion about morals (including crime), the difficulty of controlling and resolving the resulting tension is acute.

Techniques of conflict resolution are many and not all of them are consciously recognized as such. They include movements of wide religious, social, and political reform, the reform of the law and of the penal system through Parliament (here we find the direct intervention of the social scientist), and organizations devoted to the protection of the individual and the improvement of justice. The responses of the institutions and organizations of social control are ambivalent, and in general we may note a resistance to change and a tendency to offer symbolic changes in place of real ones. The Royal Commission may be relied on both to delay change by up to five years and to present ambiguous and often conflicting recommendations.

Professor Robert Park said, 'We are always passing laws in America. We might as well get up and dance. The laws are largely to relieve emotion, and the legislatures are quite unaware of the fact.'¹

These 'real' activities are important in the long run, but marginal in the immediate situation. Here forms of symbolic tension-resolution predominate. There is the dramatic form of 'popular' fiction, the drama, radio, television, where the author describes either murder or major crimes against property by persons generally of unattractive appearance and unpleasant social and personal characteristics, crimes which are almost inevitably solved by charming and highly intelligent policemen and detectives who only raise their voices and never their hands in moments of extreme exasperation. Incidentally, identical behaviours form the subject-matter of the next most popular form of drama, the spy story. Here the murders and thefts are undertaken by the charming ones, their victims (from behind the Iron Curtain) the ugly ones. It is interesting to observe the parts played by well-known television actors as they switch roles from night to night.

¹ Quoted in Sutherland & Cressey, *Principles of Criminology* (1955).

Introduction

The stereotype presented in dramatic form is generally diffused and it permits both the direction of the aggression of the majority towards the under-privileged and the redefinition of the situation of the majority in relation to their own moral conflicts.¹

There is, however, much literature and drama and some cinema which provide profound insights into the nature of aggression and of social conflict. There is likewise much which illuminates the social processes of institutions. This material is often profoundly disturbing at the time of its first appearance and stimulates hostile responses; nevertheless, it endures and is an agent of social change.

In that this essay appears to argue against the main stream of theoretical explanations of selected human behaviours, the concept of crime and its place in the content of sociological theory will be examined.

Very little sociological theory has been explicitly propounded in the precise form familiar in physics or chemistry. Marx attempted such a presentation in his law of falling profits, Engel, in his law of the relationship between income and expenditure on food, and, more recently, a number of phenomena have been shown to have growth patterns of a form which can be expressed mathematically (Young, 1965). Most theory is a description of general tendencies expressed in literary form or in models; that is, descriptions of patterns or sequences of events found in a variety of social situations. Such primitive theories allow some predictions to be made, permit some persons as individuals or administrators to achieve their aims with a greater economy of effort than without them, or allow the observer to 'understand' a situation. This often means simply to achieve a position of intellectual 'rest'; that is, to stop thinking about the problem. Much of the controversy around sociological theory arises out of failure to agree on definitions, failure to agree upon what variables are to be isolated for the purpose of discussion, and failure to agree on the objects of sociological inquiry. A further complication is that much sociological theory has inevitably been

¹ It is significant that a recent review of the penal system is called 'The War Against Crime in England and Wales 1959-1964' (1964) - thus confirming the stereotype of the criminal as the enemy.