

The “Crime as a Disease” Metaphor: Vision, Power, and Collaboration in Social Problems Research

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I told her redneckness has got to be a disease. You catch it on your fingers and it just crawls right up your sleeves.

Lyle Lovett, (1988) “Give Back My Heart” – *Pontiac*

INTRODUCTION

One of the key decisions any society must make is what institutional sector it will use to address the issue of crime.¹ Most industrialized societies have chosen to create a “criminal justice system” that functions to enforce the laws that legislatures have created to govern criminal behaviors and activities. It is to the organizations within this “system” that the State delegates the authority and power to enforce criminal laws, detain, prosecute, and punish/rehabilitate individuals found guilty of violating the criminal law. This includes deprivation of liberty and/or treasure (cash and/or property), and in some instances the use of deadly force. In the minds of most in the United States and many Commonwealth nations, the criminal justice systems we know have seemingly been the same for living memory.

As we move solidly into the twenty-first century there are increasing calls to revisit how we do crime control, as well as reactions to behaviors of criminal justice system(s) organizations. One of the most prominent metaphors being used to make the case for change has been the “crime as disease” metaphor. In essence, it calls for a more health-dominated approach to criminal behaviors than we observed in the previous iteration of the “medical model” of crime

¹ David E. Duffee, “Why is criminal justice theory important?” in *Criminal Justice Theory: Explaining the Nature and Behavior of Criminal Justice*, 2nd edition, by Edward R. Maguire and David E. Duffee (New York, NY: Taylor & Francis, 2015), pp. 5–26.

and rehabilitation. This chapter will examine how the crime as disease metaphor has been developed and may influence future thinking about societal responses to behaviors currently labeled “criminal.”

We open this chapter with a little “good ole boy” sentiment to demonstrate the metaphor of an undesired condition (“redneckness”) as a disease and its acquisition. The ease of transmission (“catch it on your fingers”) and the inevitability of developing the disease capture the essence of the crime-disease metaphor succinctly (and, it’s a great song). As the song progresses, the adjustment to the redneck lifestyle becomes evident and lifelong.

This is an image that many metaphors linking crime to disease promote. Like a disease, crime invades the community and acts upon it like a cancer, an abscess, or a disfiguring stigma. The mere “exposure” to the criminogenic agent leads to the development of a criminal career and/or crime rates in a community. The only hope for society is the development of some vaccine or procedure to “eliminate” the scourge of the criminal disease state. This is similar to the “labeling” process described by some writers in which a label is applied to an individual and the individual becomes essentially what the label suggests (we will address the fallacy in this characterization of labeling theory later).

While some of the imagery of the “crime as a disease” metaphor is purely symbolic, there are many who have taken the metaphor quite literally. Notions that crime violence, mostly, can be studied with the same methodological and statistical approaches as an infectious disease² have been fashionable since the early 1990s.³ In a later section, we will examine the intertwined history of the methods and approaches of so-called “behavioral epidemiology” and the social science disciplines to study crime.

In this paper we want to provide a brief overview of common disease-crime metaphors. This will include attention to the level of crime and criminal behavior addressed in the metaphor. We will then provide a “life-course” analysis of the disease-crime metaphor. Special attention will be paid to issues of transmission and elimination of the crime disease.

² Institute of Medicine & National Research Council. *Contagion of Violence: Workshop Summary*. (Washington, DC: National Academies Press, 2013); Gary Slutkin, *Violence is a Contagious Disease* (Chicago: Cure Violence, n.d.); Charles Ransford, Candice Kane and Gary Slutkin, “Cure violence: A disease control approach to reduce violence and change behavior” in Eve Waltermauer and Timothy A. Akers (eds.), *Epidemiological Criminology: Theory to Practice* (New York, NY: Routledge, 2013), pp. 232–242.

³ James A. Mercy and W. Rodney Hammond, “Preventing Homicide: A Public Health Perspective” in M. Dwayne Smith and Margharet A. Zahn (eds.), *Studying and Preventing Homicide* (Thousand Oaks, CA: Sage, 1999), pp. 274–294.

James A. Mercy and Patrick W. O’Carroll, “New directions in violence prevention: The public health arena,” *Violence and Victims*, 3 no. 4 (1988), 285–301.

COMPARING CRIME TO A VIRUS: A “LIFE-COURSE” ANALYSIS

Life-course theories of criminal behavior, combining bio-psycho-social factors, have become increasingly prominent in criminology since the 1990s.⁴ In essence, such approaches seek to determine what variables are different in the lives of those who progress through “adolescent-limited” deviance on to “life-course persistent” or career criminal status, when compared with others whose deviance career is not persistent or criminal. The focus is on individuals, while looking for commonalities and identifiable “dynamic” risk factors on which we might intervene to prevent persistent criminal behaviors.

Likewise, we can take a “life-course” approach to criminal laws. We can examine why certain criminal definitions were enacted when they were. There are multiple sociological studies of the role of xenophobia/racism in the enactment of drug laws, for example. The “law in action” can be examined to determine reasons for the maintenance of the “law on the books” – sometimes called policy and/or program analysis. We can also examine why criminal statutes are removed from the books. The paucity of such studies probably reflects the reluctance to take criminal laws off the books, even though they may rarely be enforced. Prosecutors do like their hammers!

In this section, we want to examine the “crime as a disease” metaphor from a life-course perspective. We will follow the criminal law and criminal behaviors from “conception” through “elimination.” Special attention will be paid to the issue of “transmission” or “contagion” of crime as a disease. The notion of “elimination” of crime will also be viewed through the public health lens of disease elimination.

IN THE BEGINNING . . .

Let us begin from the notion of “conception.” There is debate about whether “viruses” are alive or in some other state of being.⁵ If we take the ability to replicate as a criterion for being alive, then viruses do fit, but only with the assistance of other organisms (“hosts”). If we require that a living organism be able to perform metabolic processes, they are incapable of doing so, and not considered alive. The origin of viruses is open to question, along with whether or not a virus “lives.”

⁴ Terrie E. Moffitt, “Adolescent-limited and life-course-persistent antisocial behavior: A developmental taxonomy,” *Psychological Review*, 100 (1993), 674–701.

David P. Farrington, “Developmental and life-course criminology: Key theoretical and empirical Issues – 2002 Sutherland Award Address,” *Criminology*, 19 no. 1 (2003), 221–256.

⁵ David R. Wessner, “The origins of viruses,” *Nature Education*, 3 no. 9 (2010), 37.

Likewise, the origin of “crime” requires the use of another organizational entity – a legislative body (“host”). Here again we stress that we are discussing contemporary constitutional democracies where laws are developed through some authorized legislative process. A staple of most conflict and societal reaction (labeling) theories of crime is that the cause of crime is the law itself. The birth of a crime begins when an authorized legislative body defines the behavior/situation/act/intent (hereafter “act”) as a crime. The behavior may have existed previous to the legal definition (i.e., “*mala in se*”), but only after the passage of the definition (i.e., “*mala prohibita*”) can it be said to be a crime for which the State may punish an individual.

Switching from the viral/acute metaphor of crime as disease to crime as a chronic disease suggests employing a different lens. Such a metaphor requires that we view the individual as entering society in a healthy state. It is the accumulation of “insults” to the individual, most allegedly as a result of societal and economic deficits, that leads to the person engaging in criminalized acts. The notion of “toxic environments” and other pollution-themed metaphors⁶ shifts our focus to extra-individual variables in explaining why individuals and groups of individuals engage in criminal acts. “Risk environments,” which include such things as criminalization of substance use, are also called into question by this approach.⁷

In short, the environment creates the problems that lead to criminal behavior. Like many health promotion schemes, educating individuals to make better choices and providing environmental restrictions on the choices available become the approaches of choice to limiting the “spread” of criminality.

At “conception” then, it appears that both a virus and a criminal statute rely on other entities to be “born,” or at least to have an effect. Viruses may lie “dormant” (latency; lysogenic phase)⁸ under certain circumstances. The “law on the books” may also lie dormant, resurrected selectively by prosecutors. We will return to this theme when we visit the “elimination” phase of our analysis. Using the chronic disease metaphor, the conditions that lead to criminal behavior are sown by larger environmental factors, which may include the

⁶ Michael J. Lynch, Kimberley L. Barrett, Paul B. Stretsky, Michael A. Long, Melissa L. Jarrell, and Joshua Ozmy, “Crime as pollution? Theoretical, definitional and policy concerns with conceptualizing crime as pollution,” *American Journal of Criminal Justice*, 40 (2015), 843–860.

⁷ Tim Rhodes, “Risk environments and drug harms: A social science for harm reduction approach,” *International Journal of Drug Policy*, 20 no. 3 (2009), 193–201.

⁸ Ed Yong, “Dormant viruses can hide in our DNA and be passed from parent to child.” <http://blogs.discovermagazine.com/notrocketscience/2010/03/27/dormant-viruses-can-hide-in-our-dna-and-be-passed-from-parent-to-child/>.

law itself. All of these approaches point to something outside of individuals that contribute to “cause” crime and criminal behaviors.

REPRODUCTION

The effect of a virus is often to cause harm to another organism in order for the virus to replicate. Without another organism, a virus cannot continue to exist. The act “criminalized” by the criminal statute/law may have – like our index virus/bacterium – existed prior to the definition of that act as a crime. The reason for the “replication” of the act is what is of interest. We must also examine whether the act in question is replicated by an individual over a life-course, or whether the act is “transmitted” across individuals, who in turn may replicate the act across individual and collective life-courses.

Just as we would expect a virus or bacterium to mutate as a result of replication, we might expect criminal acts to evolve as societal responses change. Two examples of such change might be seen in the development of “designer drugs” to avoid criminal statutes and the evolution of on-line crimes in response to technological changes. The core question remains – why do acts that have been defined as criminal, and for which there are penalties, persist?

In a similar vein, as criminal acts change so might the societal response (criminal law) to the acts be expected to change. The designer drug example reflects attempts by chemists to develop new variants of substances that were not covered by existing criminal statutes, making their new concoctions, well, not criminal. Legislators have moved to define a broader definition of substances (broad spectrum?) to cover those slight chemical variations. In the area of methamphetamine production (and other substances), the criminalization of possession of certain “precursor” materials or amounts of otherwise legally available drugs (e.g., pseudoephedrine) demonstrates legislative attempts to reduce or eliminate the production of illegal drugs.

New developments in material culture, such as computer networks and tools, may also lead to both the evolution of criminal acts and responses to such. For those of us who were conscious before the advent of the internet, watching certain long-form “cons” (confidence games) adapt to the new environment of the internet and email provides another example of crime adapting to new environments. What used to take several weeks of postal correspondence between the “con artist” and the “mark” can now be reduced in time to a few brief email exchanges. What has not changed is the essential approach and process. The “scourge” persists, but in a new technological format.

The evolution of the “dark web” has also allowed certain criminal activities to move into a different domain. For example, trading in various forms of illegal pornography – especially pornography involving minors – has become in some ways more “hidden” than when bulk packages had to be shipped through postal services. The ability of law enforcement agencies to detect these transactions sometimes outpaces the ability of prosecutors to pursue such transactions because legislatures have not kept up with technological changes in terms of providing intervention tools to law enforcement. Almost everyone agrees that legislative action is much slower than technological innovation that facilitates either the commission of crime or the ability to hide such activities.

THE LAW AS VACCINE

The effect of a criminal statute is to provide a definition under which an authorized organization can act against/on an individual or individuals to protect the interests of the State. Ideally, those interests include the safety of the populace. In this case, the law acts more as a vaccine against the crime it has created. Without an authorized agent of the State to enact the criminal statute, even if the behavior criminalized happens, can we say that the crime exists? Is the mere legal definition enough to say we have “crime,” or does it require recognition and reaction from an authorized agent of the State to exist? This is a key component of societal reaction approaches to deviance and crime; without recognition and reaction, there is no crime or deviant act.

Other, more “absolutist” (rather than “relativist”) approaches to crime would state that if the law exists and the behavior occurs, there has been a crime. Likewise, as long as a virus has the potential to invade a host, the virus can continue to “live.” This is the stage at which the usual analogy to crime as a virus/disease takes off. It should be noted here that the metaphor of crime as a disease is generally seen only in terms of violent acts, or those crimes where physical (and sometimes emotional) injuries are a potential outcome. There has been a reverse use of the “broken windows” metaphor to explain rates of sexually-transmitted infections,⁹ but to date there has been little application of the disease metaphor to, say, burglary or car theft. The “crime as a cancer” metaphor may be more widely invoked by politicians than scientists, of course.

⁹ Deborah Cohen et al., “‘Broken windows’ and the risk of gonorrhea,” *American Journal of Public Health*, 90 no. 2 (2000), 230–236.

At this point, we generally see the idea that a violent act by one individual “transmits” another violent act through an adjacent individual, which then becomes replicated through other individuals until some intervention occurs. It should be noted here that researchers in the public health/biomedical field often lump suicidal behaviors into the “violence” category. Yet, in many Western nations, suicide is not a criminal act. Likewise, self-harm such as “cutting” is not a crime, though the ability to seek what would look like deprivation of liberty through civil remedies available to health professionals may exceed those available to criminal justice actors for interpersonal violence. We will return to this point later.

Most of these transmission theories rely on some form of “contagion” to explain the spread of violent behavior among individuals. Contagion theory has been a topic of debate and research in sociology and collective behavior studies from the time of Le Bon¹⁰ in the late nineteenth century. We do not have time here to outline the various approaches to contagion theory. We want to focus on the central feature of many of them, that the contagion is initially an irrational reaction to an event that releases individuals from their usual bonds to society, that they become suggestible, and commit acts unusual to their behavior. The irrationality and suggestibility of such contagious behavior often stand in stark contrast to the instrumental use of violence in gang-related behavior. Likewise, it overlooks the opportunistic nature of most robbery and non-violent crimes such as theft. While it may be possible to find “clusters” of crimes committed in relatively close proximity and time, much of this is driven by choice of the index event. Broadening the time frame (as well as the proximity variable) may reveal a very different picture from contagion.

A second contagion metaphor employed is the “copycat” effect. This is especially useful in studying suicide clusters.¹¹ As noted earlier, in most western societies, suicide and other self-injuring behaviors are not criminal offenses¹². From a crime as disease perspective, then, suicide and other self-directed violence should not be included. When applied to other forms of criminal acts, the evidence on the impact of copycat crimes is weakly supported¹³. Thus, the metaphor of either contagion or copycat crime

¹⁰ Gustave LeBon, *The Crowd: A Study of the Popular Mind* (Digireads.com, 1896[2008]).

¹¹ Madelyn S. Gould, Sylvan Wallenstein, and Collin L. Davidson, “Suicide clusters: A critical review.” *Suicide and Life-Threatening Behavior*, 19 no. 1 (2010), 17–29.

¹² Natalie Rezek, “Is self-harm by cutting a constitutionally protected right?” *Quinnipiac Health Law*, 12 (2009), 303–331.

¹³ Ray Surette, “Cause or catalyst: The interaction of real world and media crime models,” *American Journal of Criminal Justice*, 38 no. 3 (2013), 392–409. Ray Surette, *Media, Crime, and Criminal Justice: Images, Realities and Policies* (Belmont, CA: Cengage, 2015).

to explain the diffusion of criminal behavior in a population is of relatively little empirical value.

ELIMINATION (IN PUBLIC HEALTH TERMS . . .)

Stopping the cycle of replication provides the next level of metaphor in the crime as disease metaphor – i.e., a “cure.” Whether it is presented as a “vaccination” or an “interrupter”¹⁴ (Slutkin, n.d.), the idea is that something will terminate the transmission of the act so that the “cycle of infection” will be disrupted and the act will cease. But, in practical terms, what does a “cure” look like? This section begins with key public health definitions that are often confused when the crime as disease metaphor is employed. Three key distinctions from the work of Dowdle,¹⁵ generally adopted by national and international bodies, will be examined. These are the differences between “control,” “elimination” and “eradication” of a disease:

- *Control*: The reduction of disease incidence, prevalence, morbidity, or mortality to a locally acceptable level as a result of deliberate efforts; continued intervention measures are required to maintain the reduction. Example: diarrheal diseases.
- *Elimination of disease*: Reduction to zero of the incidence of a specified disease in a defined geographical area as a result of deliberate efforts; continued intervention measures are required. Example: neonatal tetanus.
- *Eradication*: Permanent reduction to zero of the worldwide incidence of infection caused by a specific agent as a result of deliberate efforts; intervention measures are no longer needed. Example: smallpox.

People write idealistically and metaphorically “as if” eradication will be the outcome of violence prevention programs (but, rarely other crimes). Yet, the control of crimes, including violence, is the pragmatic goal of most criminal justice efforts.

From the deterrence-focused ideas of the classical philosophers (e.g., Bentham) to the Differential Association/Social Learning (DA/SL) perspectives of sociology,¹⁶ the “interruption” mechanisms that precede the Ceasefire/

¹⁴ Slutkin, *Violence is a Contagious Disease*.

¹⁵ Walter R. Dowdle, “The principles of disease elimination and eradication,” *Morbidity and Mortality Weekly*, 48 (SU01) (1999), 23–27.

¹⁶ Edwin H. Sutherland, *Principles of Criminology*, 4th edition (Philadelphia, PA: Lippincott, 1947); Ronald L. Akers, *Social Learning and Social Structure: A General Theory of Crime and Deviance* (Boston, MA: Northeastern University Press, 1998).

Cure Violence and all other public health approaches to violence are the same – learning. Whether it is the awareness of penalties for breaking the law (deterrence), or the learning not to break the law through interactions with conventional others (DA/SL), the key element is teaching to and learning by potential offenders of the harms and costs of criminal behavior. Knowledge is the inoculation!

Epidemiologists, some of the driving force behind the crime as disease metaphor, have relied on their “holy trinity” of “host-agent-environment” to make the argument that violence (again, relatively little expansion to other crimes) is transmitted from an agent (offender) to a host (victim) via a vector (gun, knife, etc.) within a particular environment. Akers, Potter, and Hill¹⁷ have criticized the use of this metaphor on the basis of a lack of agency on the part of either the agent or the host. In order for the epidemiological metaphor to work, both agent and host would need to demonstrate almost no ability to resist either the commission or the victimization. Human behavior, especially learned criminal behaviors, would seem to defy this lack of agency. However, when combined with the contagion or copycat metaphor, it would appear that only the ability to commit harm has to be learned. Control, elimination, and eradication are all achieved by simply removing the vector. This ends the problem and brings the life course of crime to a conclusion.

ASSESSING THE METAPHOR

Now that we have examined the life-course of criminal law and criminal behaviors through the health metaphor, we want to turn to the function of metaphor as a way of understanding. The crime as a disease metaphor appears in several of the seminal works on metaphor,¹⁸ as well as a full analysis of both the “crime as disease” and “disease as crime” metaphors by one of the editors of this volume.¹⁹

The current presentation will draw selectively from those other works in an attempt to expand them for the purposes of examining how metaphors about crime and disease are used to influence social policy around crime. In this

¹⁷ Timothy A. Akers, Roberto H. Potter, and Carl V. Hill, *Epidemiological Criminology: A Public Health Approach to Crime and Violence* (San Francisco, CA: Jossey-Bass/Wiley, 2013).

¹⁸ Donald Schön, “Generative metaphor: A perspective on problem-setting in social policy,” in Andrew Ortony (ed.), *Metaphor and Thought*, 2nd edition (Cambridge, UK; New York, NY: Cambridge University Press, 1993), pp. 137–163.

¹⁹ Michael Hanne, “Crime and disease: Contagion by metaphor” in Catherine Stanton & Hannah Quirk (eds.), *Criminalising Contagion: Lethal and Ethical Challenges of Disease Transmission and the Criminal Law* (Cambridge, UK: Cambridge University Press, 2016), pp. 35–54.

sense, our primary interest is in what Schön²⁰ terms a “generative metaphor.” Such an approach

treats metaphor as central to the task of accounting for our perspectives on the world; how we think about things, make sense of reality, and set problems we later try to solve. In this second sense, ‘metaphor’ refers both to a certain kind of product – a perspective or frame, a way of looking at things – and to a certain kind of process – a process by which new perspectives on the world come into existence.

Continuing, studying generative metaphor “is nothing less than the question of how we come to see things in new ways . . .”²¹

Schön explores the appeal of the health metaphor in public policy discussions by noting the tendency to conflate “the good life with the healthy life and to make progress synonymous with the eradication of disease.”²² The health metaphor also helps to provide a clear path toward the solution of a social problem such as violence. If the problem can be viewed in terms of a “normative dualism,” then “we shall know in what direction to move. Indeed, the diagnosis and the prescription will seem obvious. This sense of the obviousness of what is wrong and what needs fixing is the hallmark of generative metaphor in the field of social policy.” In sum, observe, diagnose, treat, monitor, and repeat as necessary.

The concept of generative metaphor now needs to be merged with theories of social action. In the [next section](#), we explore merging social constructionist approaches to social problems in order to examine some of the political implications of the medical generative metaphor applied to crime. Such an analysis will lead further to a discussion of status politics and social movements theories.

SOCIAL PATHOLOGY, SOLUTIONS, AND LEADERSHIP – WHY THE MEDICAL METAPHOR MATTERS

“So follow me, it’s good for you, That good old fashioned Medicated Goo, Ooo, ain’t it good for you?”

Winwood and Miller (Traffic), 1969, “Medicated Goo,” *Last Exit*

Not only do metaphors for social problems suggest ways of acting to eliminate the problem, they also suggest a narrative of who should provide the leadership

²⁰ Schön, “Generative metaphor: A perspective on problem-setting in social policy,” p. 137.

²¹ Schön, “Generative metaphor: A perspective on problem-setting in social policy,” p. 138.

²² *Ibid.*, p. 148.

or direction for the problem's solution. This section will take a social problems theory approach to the attempts by public health/biomedical industrial players to "claim" crime as their domain. We will examine the attempts of those players to "frame" the discussion in terms that privilege their professions. Likewise, we will examine how such efforts deprive citizens of fundamental due processes protected by criminal law, but weakened by the use of civil regulatory approaches.

When the author was beginning work in the Division of Violence Prevention at the Centers for Disease Control and Prevention (CDC) in 1998, the Director of the National Center for Injury Prevention and Control, Mark Rosenberg, MD, often reiterated that the criminal justice community had failed to control violence (again, no other crimes were mentioned). It was time for the medical and public health communities to step in and, using the tools of epidemiology, provide the leadership desperately needed.²³ These sentiments were echoed a decade later by physicians such as Slutkin, who parted ways with the police and prosecutor crime control focus of "Cease Fire" to develop the "Cure Violence" approach. The latter has the distinction of being led by physicians and public health professionals rather than criminal justice professionals.

For sociologists working in the specialty area of "social problems," attempts to pathologize and/or medicalize social problems are nothing new.²⁴ This is especially true of "pathologies" that are clearly or borderline criminal. For criminologists and criminal justice theorists, often overlapping with the sociologists, and in the area of "medicalization" of criminal behaviors and related interventions (including corrections), a whole era of criminal justice intervention is known as the "medical model" era. This takes us back to the development of so-called "scientific criminology" under Cesare Lombroso in the late nineteenth century. The arch-positivism of that approach posits that there are identifiable variables that separate criminals from non-criminals. Treatment following some medical or psychological regime was the most effective

²³ Mark L. Rosenberg, Patrick O'Carroll, and, Kenneth E. Powell, "Let's be clear: Violence is a public health problem," *Journal of the American Medical Association*, 267 (1992), 3071–3072; James A. Mercy and W. Rodney Hammond, "Preventing homicide: A public health perspective" in M. Dwayne Smith and Margharet A. Zahn (eds.), *Studying and Preventing Homicide* (Thousand Oaks, CA: Sage, 1999), pp. 274–294; James A. Mercy and Patrick W. O'Carroll, "New directions in violence prevention: The public health arena," *Violence and Victims*, 3 no. 4 (1988), 285–301.

²⁴ Michael Hanne, "Crime and disease: Contagion by metaphor"; Peter Conrad and Joseph W. Schneider, *Deviance and Medicalization: From Badness to Sickness* (Temple University Press, 1980 [2010]); Erdwin H. Pfohl, *The Deviance Process*, 2nd edition (Belmont, CA: Wadsworth Publishing, Company, 1986).

manner of intervention with criminals – as opposed to retribution, incapacitation, or deterrence approaches. Even now, those criminologists who work in life-course and criminogenic risk factor approaches find themselves seeking to avoid a similar positivistic and deterministic perspective. Well, some do . . .

One of the reasons provided by health-oriented crime controllers for allowing them to take the lead on crime policy resides in the methods and statistics they use to study injury and disease. Bluntly put, the methodology matters more than any theories that might guide our interpretation of the results. My colleagues and I have addressed these claims.²⁵ In particular, Tim Akers and I have traced the development of methods and statistics used to study disease and crime since the beginning of the “moral statistics” movement of the early nineteenth century to the present. Jeanne Krider and I examined the application of Kurt Lewin’s applied science model and the “public health” approach to criminal justice issues as early as the mid-1970s.

Jeff Rosky and I examined the multiple meanings of the “public health model” in attempting to determine how it differs from earlier social science approaches to crime. We were unable to find any substantive differences. In the end it is difficult to understand how one professional sector that uses the same research methods and statistics as another can claim any form of superiority over the other in terms of studying and intervening on a social problem. Yet, the pathology metaphors suggest we should do so. Further, no academic specialty plays more than an advisory role (at best) in the criminal justice process. The functions of criminal justice are carried out by those with State-provided authority to do so.

In *Epidemiological Criminology*,²⁶ my colleagues and I provided a brief overview of the development of a social problem and how such processes applied to the recognition of diseases and behaviors as public health and/or criminal justice issues. In an earlier text²⁷ I devoted more space to the definition of social problems following the history of such by theorists such as

²⁵ Timothy A. Akers, Roberto H. Potter, and Carl V. Hill, *Epidemiological Criminology: A Public Health Approach to Crime and Violence* (San Francisco, CA: Jossey-Bass/Wiley, 2013); Roberto H. Potter and Jeanne E. Krider, “Teaching about violence prevention: A bridge between public health and criminal justice educators,” *Journal of Criminal Justice Education*, 11 (2000), 339–351; Roberto H. Potter and Jeffrey W. Rosky, “The iron fist in the latex glove: The intersection of public health and criminal justice,” *American Journal of Criminal Justice*, 38 (2013), 276–282.

²⁶ Akers, Potter, and Hill, *Epidemiological Criminology*.

²⁷ Roberto H. Potter, *Pornography: Group Pressures and Individual Rights* (Sydney: The Federation Press, 1996).

Blumer²⁸ and Spector and Kitsuse.²⁹ In that earlier text, I also devoted more attention to the work of Joseph Gusfeld³⁰ on “symbolic crusades” and “status politics.”

Briefly, the “social constructionist” (SC) approach to social problems research is grounded in the Symbolic Interactionist approaches to deviance (“Labeling theory”) and sociology of knowledge. Its basic premise is that certain social conditions come to be “recognized” as social problems through a process of definition and negotiation by “claims-making groups” which have the social resources necessary to make their definition of the situation the dominant social definition. That is, situations which achieve the status of “social problem” do so through a process of negotiation amongst social groups with varying claims for recognition by the wider society.

Social constructionist approaches often take the form of an analysis of the “career” or “natural history” of a social problem.³¹ Spector and Kitsuse built on the “natural history” approach to social problems and Blumer’s development of the idea. They defined social problems as “the activities of groups making assertions of grievances and claims to organizations, agencies, and institutions about some putative conditions.”³² They call these complainant groups “claims-makers.” It is the job of a theory of social problems to “account for the emergence, maintenance, and history of claim-making and responding activities.” They propose a four-stage model, which subsumes some of Blumer’s ideas and extends them:

Stage 1: The attempts by some group(s) to assert the existence of some condition, define it as offensive, harmful, and otherwise undesirable, to publicize the assertions and stimulate controversy and to create a public or political issue over the matter.

Stage 2: The recognition by some official organization, agency or institution of the group(s) legitimate standing. This may lead to an official

²⁸ Herbert Blumer, “Social problems as collective behavior,” *Social Problems*, 18 no. 3 (1971), 298–306.

²⁹ Malcolm Spector and John Kitsuse, “Social problems: A reformulation,” *Social Problems* 21 no. 2 (1973), 145–159; Malcolm Spector and John Kitsuse, *Constructing Social Problems* (Hawthorne, NY: Walter de Gruyter, 1987).

³⁰ Joseph R. Gusfield, *Symbolic Crusade: Status Politics and the American Temperance Movement* (Urbana, IL: University of Illinois Press, 1963); Joseph R. Gusfield, *The Culture of Public Problems: Drinking-Driving and the Symbolic Order* (Chicago, IL: University of Chicago Press, 1981).

³¹ Blumer, “Social problems as collective behavior”; Spector and Kitsuse, *Constructing Social Problems*; Spector and Kitsuse, “Social problems: A reformulation.”

³² Spector and Kitsuse *Constructing Social Problems*; Spector and Kitsuse, “Social problems: A reformulation,” 146.

investigation of the matter, proposals for reform, and the establishment of an agency to respond to those claims and demands.

Stage 3: The reemergence of claims and demands by the group(s), expressing dissatisfaction with the established procedures for dealing with the imputed conditions, the bureaucratic handling of complaints, and the failure to generate a condition of trust and confidence in the procedures as sympathetic to the complaints, etc.

Stage 4: The rejection by complainant group(s) of the response or lack of response of the agency or institution to their claims and demands, and the development of activities to create alternative, parallel, or counter-institutions as responses to the established procedures.³³

Spector and Kitsuse extended Blumer’s ideas to encompass what happens after claims-making groups become dissatisfied with the almost inevitable perception that official agencies “got it wrong” in their response to the “problem.” They are also more direct about the role of relative power amongst groups to bring their claims to public and official notice, as well as to press their claim further.

For this presentation we want to argue that the natural history of the crime as disease metaphor can be most efficiently tracked back to the late 1980s and early 1990s and the dissatisfaction of biomedical/public health professionals with violence control practices of the time. We suggest here that the social problems career approach of the social constructionists is not linear, but it contains feedback loops that may take the process back to the beginning from any point from Stage 2 to Stage 4 in Spector and Kitsuse’s stages. For at least the past two decades biomedical/public health professionals have attacked criminal justice practices to control violence – again, devoid of attention to other criminal acts – even in the face of declining incidence and rates of violence in the United States. This is especially true of “mass” casualty and murder incidents.

To complete the analysis, we must also examine how professional and other advocacy groups bring their claims to the public. More importantly, how do such groups bring their complaints and putative solutions to the bodies that matter – legislative bodies? The work of Gusfield on “symbolic crusades” is an early example of the study of how certain groups, in that case temperance groups, mobilize social resources to bring about social and/or legislative changes which favor their definition of how society should operate. Gusfield, in later writing about the efforts to define drunk driving as a criminal act, pointed out that the use of “sociological irony” in the symbolic crusade

³³ Spector and Kitsuse, “Social problems: A reformulation,” 147.

perspective does not downplay the very real or perceived injuries which those in an aggrieved group might experience (similar to “realist” criminologies). Rather, it aims to examine the processes by which new or modified moral realities are brought about by the activities of claims-making groups. The types of arguments presented by these groups become the data, suspending concern with the validity of the arguments.

In Gusfield’s study of the Prohibition movement, two concepts become important for our discussion of the crime as disease metaphor: “symbolic crusades” and “status politics.” Alcohol became the *symbol* around which a struggle for “normative dominance” was fought. The idea behind normative dominance is that a particular group’s ways of doing things (“norms”) become *the* way in which *all* people in the social environment *should* do things. The ability of one group to impose its way of living upon others gives that group the important social resource of *prestige*. Associated with prestige are assumptions about the ways in which members of other groups should act toward the prestigious group, and vice versa. Often these assumptions carry ideas about respect due or deference between members of the various groups. This is especially true when the symbols around which prestige is based involve ethnicity or skin color. The ultimate indicator that a group’s norms are those most highly valued in a society comes when those norms are encoded into *law*. Not only is this now a symbolic reference to the superiority of that group’s way of acting (morality), but it is now often accompanied by very real penalties for acting in a contrary manner.

Status politics and symbolic crusades are about either protecting or enhancing the social prestige of a particular group: “Status politics is an effort to control the status of a group by acts which function to raise, lower, or maintain the social status of that group vis-à-vis others in the society . . . Status movements are collective actions which attempt to raise or maintain the prestige of a group . . .”³⁴ It is the relational aspect of prestige that is important here. Prestige, like power (often closely associated), is a social resource that can wax and wane over time. Social prestige exists in relation to one group’s status in comparison with another group.

We would argue that what is unique about the crime as disease metaphor and the movements associated with it is the potential conflict between not only two practice communities – public health/medical services and criminal justice agencies (which includes the legal profession) – but also two academic communities – public health/biomedical sciences versus social science criminology/criminal justice/law. In short, the question is which occupational

³⁴ Gusfield, *Symbolic Crusade*, pp. 19–20.

category will define the problem, provide and direct the programs to control, eliminate, or eradicate the problem, and declare the problem solved? This is an excellent topic around which to conduct academic studies of the civil conflict between occupational groups. To do so requires that we broaden our focus to include the intersection of organizational and social movements/collective behavior³⁵.

These observations and theoretical approaches suggest a series of hypotheses that might be tested by an enterprising young researcher. The first hypothesis is that there is no “public health” or medical intervention to reduce or eliminate any crime that does not rely on previously attempted social science-informed efforts. This would include a range of learning theory, social bonds/control, and deterrence theories, at a minimum.

A second hypothesis that public health/biomedical attempts to “claim” crime as an area of specialty arise at times when traditional medicine and public health efforts are being viewed as failing or ineffective. For example, the public health focus on violence emerged as an outgrowth of behavioral science interventions coming into play to reduce the transmission of HIV when no biomedical interventions appeared to be effective at stemming the epidemic. Likewise, attention to street and intimate violence arose at the same time as deaths from medical mistakes were coming to be recognized as many times greater annually than deaths from criminal and self-directed violence.

A final hypothesis is that public health/medical attempts to “claim” crime as an area of specialty arise at times when the legitimacy of the criminal justice system is being questioned by society. The elevation of criminal and self-directed violence began at the peak of the crime curve that had begun in the late 1970s and peaked in the mid-1990s. In fact, the curve peaked in the same year the National Center for Injury Prevention and Control (NCIPC) was established at the CDC. The writer is fond of saying that, given some of correlational thinking of epidemiology, it was the founding of the NCIPC that “cured” violence – at least until the mid-2010s.

Our hope is that by putting the life-course/natural history of the crime as disease metaphor (as well as Hanne’s disease as crime) into the status of a set of hypotheses, we can begin to predict when such thinking will arise and when it will wane. Criminologists and criminal justice academics and practitioners are well acquainted with the idea of cycles in how we think about crime and corrections and how legislative bodies recycle these ideas in terms of public

³⁵ Gerald F. Davis, Doug McAdam, William Richard, Scott Mayer, and Nathan Zald, (eds.), *Social Movements and Organization Theory* (New York, NY: Cambridge University Press, 2005).

policy and law. Adding the study of which metaphors help to frame these cycles seems to be a worthy effort.

DANGERS OF THE MEDICAL METAPHOR

One of the interesting aspects of metaphor rests in the fact that it always produces this kind of one-sided insight.³⁶

Metaphor is inherently paradoxical. It can create powerful insights that also become distortions, as the way of seeing created through a metaphor becomes a way of *not* seeing.³⁷ (*italics in original*)

The discussion now turns to two antimetaphorical metaphors my cowriters and I have used in an effort to “disenchant” the crime as disease metaphor. Morgan’s statements were developed in his application of metaphorical thinking to the area of organizational studies. We believe they are especially relevant to examining the crime as disease metaphor in terms of social action taken by organized bodies such as professional associations. Our argument here is that the public health/biomedical focus is on outcome – stopping violence (rarely other crimes). The criminal justice focus is not only the outcome of crime prevention and/or control alone, but on the process by which such outcomes are achieved.

VACCINE THINKING

The first is what has been termed the danger of “vaccine thinking,”³⁸ the notion that what works in any one setting will work in all others – or, a problem of generalizability. When biomedical/public health professionals approach crime – again, violence – their approach is generally one of looking for “the” cure, something that will transcend geographic and social boundaries. The expectation is that one definitive program will be developed that will prevent violence among all those to whom the program is administered, just as a vaccine is expected to deliver immunity to a particular disease among all those vaccinated.

This approach belies one of the major issues with most of the biomedical/public health approaches to preventing crime (again, almost exclusively

³⁶ Gareth Morgan, *Images of Organization*, 4th edition (Thousand Oaks, CA: Sage, 1986), p. 13.

³⁷ *Ibid.*, p. 5.

³⁸ Roberto H. Potter, “Jails, public health and generalizability,” *Journal of Correctional Health Care*, 16 no. 4 (2010), 263–272.

violence). There is either a complete lack of scholarship in terms of what has been attempted and found effective or lacking; or, there is a complete disregard for what work has preceded the “discovery” of crime by the biomedical/public health community. Returning to the status politics frame discussed earlier, this provides another reason for exploring the hypotheses provided above. Does one professional group believe its perspective, method, and status to be so much more advanced than another that all previous work in an area can be discounted or dismissed? Or, is it simply that there is a lack of belief that intelligent life lies beyond Medline?

IRON FIST IN THE LATEX GLOVE

We have used the illustrative metaphor from early Critical Criminology of the “iron fist in the velvet glove” to explore the public policy implications of moving certain behaviors from the criminal justice to biomedical/public health domains.³⁹ Among those implications that we explored is the preference of biomedical/public health professionals to move toward regulatory schemes to address currently criminal acts, rather than keeping them in the criminal law domain.⁴⁰

While there are certainly laudable harm reductions that could be achieved using such regulatory tools, there are also some potentially questionable impacts. First among these is the lowering of the threshold for holding persons responsible for their actions. In the criminal justice domain the standard of evidence is “beyond reasonable doubt”; in the regulatory/civil law environment, that standard is “balance of probabilities.” Given that, in the United States, 95% of felony (indictable) convictions are the result of a plea agreement,⁴¹ this might not seem to be much of a concern. However, moving certain acts from the criminal to civil domains also strips certain due process protections from the individual in relation to the power of the state.

One cannot forget that, at least ideally, the criminal justice system is set up to protect the liberties of the individual from the power of the State. Public health, in particular among the biomedical sciences, is concerned with the health of the “herd.” Reconciling those levels of interest and protection remains an area of contention between these two professional and academic domains.

³⁹ Potter and Rosky, “The iron fist in the latex glove.”

⁴⁰ Akers, Potter, and Hill, *Epidemiological Criminology*.

⁴¹ Brian A. Reaves, *Felony Defendants in Large Urban Counties, 2009-Statistical Tables* (Washington, DC: Bureau of Justice Statistics, 2013).

The crime as disease metaphor suggests that a particular professional group has the status and knowledge to provide the answers to the problem of crime, and that their judgment exceeds that of the democratic process. We believe these are matters that require substantial deliberation by the citizens and legislative bodies, not something that should be left only to the lobbying efforts of professional groups. There is a matter of democracy and democratic decision-making that comes into play here, as opposed to the elite-driven models of public decision-making associated with certain forms of governance, whether they describe themselves as progressive or conservative. In the end, we suggest this is a greater social harm than anything beyond a miscarriage of justice in the criminal justice process.

CONCLUSION

This exploration of the crime as disease metaphor has wound its way through several themes. The first was an attempt to examine crime and criminal law from the life course perspective in comparison to the life cycle of a virus or other disease. We next moved into an analysis of the metaphor of crime as disease to examine how it shapes our ways of viewing crime causation and control. This included a special emphasis on the process of social problem creation and the interests of claims-making groups to impose their version of proper behavior and control over a society. We ended with an attempt to critique that approach from a number of perspectives, especially the potential removal of crime control policy from a democratic process to one dominated by a particular set of occupational elites.

None of this analysis of the crime as disease metaphor is intended to suggest that there is not a role in the study of criminal behavior and its control for the biomedical/public health occupations. As we noted at the outset by using the life course perspective as our framework, adding the biomedical approach does improve our understanding of the multiple variables that contribute to behavioral outcomes that have been criminalized by legislative bodies. Such voices are also critical as we attempt to remove certain behaviors from the list of criminal offenses over time, as well as improving our responses to those behaviors that remain criminal.

Rather, this analysis of the disease as crime metaphor is intended to bring a balance back into the discussion of crime, especially violent crime, so that the knowledge generated by social science can be effectively melded with that of the biomedical/public health to control crime. Further, the critique is intended to call to attention the need to increase the interdisciplinary approaches to the study of crime. The notions of “team science” and

“interdisciplinarity” may be new to those in the biomedical/public health sectors, but they have been key elements of social science approaches to crime and criminal behavior for decades.

Finally, we want to stress that criminal justice deals essentially with a moral dimension of human behavior. The distinction between right and wrong enshrined by the criminal law is fundamentally a moral act. The discussion of status politics brings into view how certain groups use the criminal law (as well as regulatory law) to enshrine their group’s morality as the proper way to behave. As Criminal Justice and Criminology academics we seek to overlay at least a patina of science on the effectiveness of the criminal law. We hope that by applying the techniques of science, from social and natural sciences, to the criminal justice process we can improve the effectiveness of the system and enhance the humaneness of that system simultaneously.

One last thought as we close out our discussion of the crime as a disease and other metaphors presented here. It is almost impossible to think about the world of crime and criminal justice without employing some metaphorical frame. Perhaps the best advice for all of our disciplines is never to take your own press seriously.