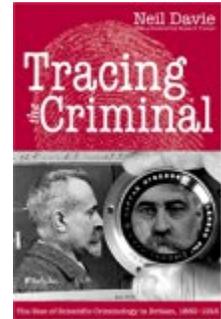


# H-Net Reviews

in the Humanities & Social Sciences

Neil Davie. *Tracing the Criminal: The Rise of Scientific Criminology in Britain, 1860-1918*. Turner. Oxford: Bradwell Press, 2005. 304 pp. \$65.00 (cloth), ISBN 978-0-9548683-1-4.

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## Written on the Body

In October 2005, the California Legislative Analyst's Office reviewed the impact of the state's "three strikes and you're out" law. Among its findings was the fact that the "strikers" committed only a very small proportion, about 11 percent, of the state's felonies. Moreover, only about 37 percent of second and third strikers were convicted of crimes against persons. By far, the largest percentage of second and third strikes, 53 percent, were convictions on charges of burglary or drug-related offenses. California residents may be surprised to find out that in Britain the "three strikes and you're out" law actually has a very long lineage. Its first incarnation appeared in 1869 when William Gladstone's Liberal government proposed a crime bill that included a clause mandating a minimum seven-year sentence for any felon convicted of a third offense. This clause eventually was dropped by the government when it was noted, among other things, that even minor third offenses might result in lengthy terms of incarceration. Its second incarnation came about forty years later in the guise of the 1908 Prevention of Crime Bill introduced by another Liberal government. This time, persons whose third conviction carried a minimum sentence of three years could be incarcerated indefinitely. Unlike its predecessor, this bill was passed into law, although it rarely was implemented. Fewer than six hundred people eventually were imprisoned under its provisions in a purpose-built prison on the Isle of Wight. The historical persistence of the "three strikes and you're out" principle of judicial crime prevention illustrates one of the key lessons to be learned from Neil Davie's account of the rise of criminological science in Victorian and Edwardian Britain; that is, both policymakers and

the public are still trapped within the paradigms of an ideology of crime and punishment that was born more than a century-and-a-half ago. This paradigm oscillates between several poles. At one extreme, there are "environmentalists" who, roughly speaking, attribute crime largely to forces beyond the immediate control of the criminal. In this view, society, poverty, unemployment, or other factors are fundamentally responsible for the making of a criminal. At another extreme lay what may be called the "individualists." For these advocates, criminality is fundamentally the result of individual moral failure. To them, there may be facilitating factors, such as poverty or unemployment, but criminals are born and not made. A third group may be labeled "racialists." According to this group, there are inescapable genetic factors that invariably lead to a life of crime and criminality. It is the seepage of this last set of ideas into mainstream criminology that is the principal focus of this book.

These paradigmatic poles may serve as a useful heuristic device, especially during this earlier era when such ideologies were accentuated especially by the political divisions between socialists, Christian moralists, and social Darwinists. On the ground, however, contemporary practice was much more of a muddle and initially concerned with finding a method by which a criminal could be identified based upon reliable scientific criteria. Some of the earliest attempts to do so lay in the early nineteenth century when phrenologists and physiognomists applied their alleged skills to the problem. The application of nineteenth-century positivist science to criminology, however, later was pioneered by

less glamorous practitioners. The passage of the Act for the Better Government of Convict Prisons in 1850 and later the Prisons Act in 1865 created for the first time a corps of professional prison doctors. The work of these men reveals most fully the extent to which contemporary criminological theory was accepted and incorporated into the daily practices of prisons. Symptomatic of their intention to apply science to criminology was their attempt to employ photographic evidence in order to identify *criminal-types*. But their work also expressed an amalgam of contemporary theories, as one might expect, rather than a doctrinaire acceptance of only one paradigm. They had come to accept, for example, that criminals were mentally or congenitally weak or weak-minded, that they probably were some sort of regressive evolutionary accident, and that their moral degeneracy was inheritable. By the third quarter of the nineteenth century, unlike many of their Continental colleagues, British criminologists had begun to retreat from grand theory and, as others have argued, to adopt a more individualistic, case-oriented approach. Mainstream criminology, in true Victorian fashion, emphasized individualistic moral responsibility for crime and moral reform for punishment. Still, as Davie shows, sections of the profession never entirely abandoned the notion that portions of the criminal *residuum* were the result of a form of hereditary atavism. While, on the whole, they may have refused to accept entirely the claims of someone such as Cesare Lombroso, whose criminal anthropology asserted that “born criminal-types” could be identified through certain physical manifestations or *stigmata*, they nonetheless accepted some aspects of the general argument that criminality was the expression of a degenerate physical type. Indeed by 1890, a consensus appears to have emerged that maintained the notion that criminality was born out of the complex and reciprocal interchange of biology and environment. Moreover, the results of this peculiar interaction of biology and environment readily could be recognized in the existence of a distinct class or race of habitual criminals. Throughout this period, there was a popular horror of and a professional fascination with the problem of the habitual criminal and re-

cidivism. Hence the repeated efforts to legislate a “three strikes and you’re out” law. However, as the California statistics indicate, the “strikers” group was responsible for a relatively small percentage of the state’s felonies. Although nineteenth- and early twentieth-century criminologists in Britain did not have the same statistical armory at hand, they nonetheless understood that chronic repeat offenders constituted only a small portion of their own crime problem. Davie convincingly argues that the recognition of this very phenomenon served to erect a bridge linking proto-eugenic theories of biological determinism with mainstream criminology, the latter of which continued to assert the individual moral responsibility of the criminal.

Thus, if not all criminals were predisposed by heredity to a life of crime, small groups of criminologists in the late Victorian and Edwardian eras accepted the notion that a small proportion of them were so inclined and that this proportion was growing. To these new racialists, the threats were manifold: the dilution of the “British” racial stock, the eventual demographic victory of racial degenerates, and the collapse of civilized society under the weight of an expanding criminal class. The solutions they proposed were equally apocalyptic: racial segregation, forced sterilization, and preventive imprisonment.

By the onset of the First World War, the majority of criminologists nevertheless retained the notion that crime was a moral failure and not a genetic one. Victorian and Edwardian criminal policy had been based upon the principle that character was built and not made. Thus, criminals deserved punishment, but they also could be rehabilitated. However, as this book ably shows, contrary to what one might assume, criminology’s contact with nineteenth-century science was not an altogether humane or successful one. The convergence of the two disciplines led down many blind alleys and many dead ends, some of which had dire effects. As Davie concludes, this history should prove a salutary warning to those who place, or perhaps misplace, their faith in the ability of criminological science to solve the “crime problem.”

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