Crime, Histoire & Sociétés / Crime, History & Societies

Vol. 18, n°1 | 2014
Varia

# Rethinking the state monopolisation thesis : the historiography of policing and criminal justice in nineteenth-century England

David C. Churchill

OpenEdition Journals

**Electronic version**
URL: http://journals.openedition.org/chs/1471
DOI: 10.4000/chs.1471
ISSN: 1663-4837

**Publisher**
Librairie Droz

**Printed version**
Date of publication: 1 July 2014
Number of pages: 131-152
ISBN: 978-2-600-01935-4
ISSN: 1422-0857

**Electronic reference**
David C. Churchill, « Rethinking the state monopolisation thesis : the historiography of policing and criminal justice in nineteenth-century England », *Crime, Histoire & Sociétés / Crime, History & Societies* [Online], Vol. 18, n°1 | 2014, Online since 01 July 2017, connection on 16 March 2020. URL : http://journals.openedition.org/chs/1471 ; DOI : https://doi.org/10.4000/chs.1471

# Rethinking the state monopolisation thesis : the historiography of policing and criminal justice in nineteenth-century England[1]

David C. Churchill[2]

*Cet article examine la manière dont les historiens ont interprété l'évolution de la relation entre la criminalité, l'action de la police et l'État dans l'Angleterre du XIX^e^ siècle. Plus spécifiquement, il retrace l'influence de la thèse de la monopolisation par l'État – l'idée d'une « société policée ». Le poids de ce modèle est évalué en comparant des travaux relatifs à la justice pénale des XVIII^e^ et XIX^e^ siècles, et en pointant les discontinuités frappantes dans la manière dont ils ont traité certaines questions-clés. L'article présente ensuite une critique de la thèse de la monopolisation étatique, avant de dégager les priorités des recherches à venir. Ces orientations nouvelles devraient conduire à une vision plus sophistiquée de la gouvernance de la criminalité dans l'Angleterre moderne, et amener l'histoire pénale du XIX^e^ siècle à étudier l'expérience vécue des gens ordinaires.*

*This article reviews how historians have interpreted the changing relationship between crime, policing and the state in nineteenth-century England. Specifically, it traces the influence of the state monopolisation thesis – the idea of the 'policed society'. The impact of this model is assessed by comparing studies of eighteenth- and nineteenth-century criminal justice, and exposing stark discontinuities in their treatments of key subjects. This article proceeds to critique the state monopolisation thesis, before outlining priorities for further research. These new directions promise to lead to a more sophisticated account of the governance of crime in modern England, and to return nineteenth-century criminal justice history to the study of ordinary people and their lived experiences.*

[1] An earlier version of this paper was presented at the 'work in progress' seminar of the International Centre for the History of Crime, Policing and Justice at The Open University on 21 July 2010. I am grateful to the attendees for their reflections on my argument. I would also like to thank those who have discussed these issues with me at greater length, especially my supervisors Paul Lawrence and Ros Crone, as well as Jennifer Davis, Francis Dodsworth, Clive Emsley, Vic Gatrell, Pete King, Chris Williams, and three anonymous readers for this journal.

[2] David Churchill is Economic History Society Anniversary Research Fellow at the Institute of Historical Research / Birkbeck, University of London. He recently completed his doctoral thesis, 'Crime, policing and control in Leeds, c.1830-1890', at The Open University. He also works on leisure and popular culture, and is author of 'Living in a leisure town : residential reactions to the growth of popular tourism in Southend, 1870-1890', *Urban History*, forthcoming, 2014, 41, 1.

## INTRODUCTION

The nineteenth century occupies a key conceptual space in the historiography of crime and justice. As in so many fields of social experience, it witnessed manifold changes which, retrospectively, seem to herald the arrival of 'modern' arrangements.[3] One might cite, for example, the abolition of public bodily punishments, or the accumulation of criminal statistics. This essay, however, reviews a particular conception of modern law-enforcement, which has long been central to criminal justice history.[4] This is the state monopolisation thesis: the idea that the governance of crime transferred from the people to the police in the nineteenth century. This interpretation found several enthusiastic subscribers amongst pioneering historians of crime, yet moreover, it continues to shape the terms of debate in histories of nineteenth-century crime and justice, most of which as a consequence remain skewed towards state institutions.

This article starts by explicating the state monopolisation thesis, through the writings of various theorists who propounded the idea, before exploring how its central claims became integrated into social histories of crime. After reviewing the ambiguous position of this idea in the current historiography, there follows an analysis of certain key subjects in criminal justice history, which demonstrates that similar assumptions about the role of the state in crime control have long structured research on nineteenth-century criminal justice. The subsequent section mounts an extended critique of the state monopolisation thesis, based upon both its inherent deficiencies and its present historiographical incongruity. The remainder of this essay proceeds to chart a few broad directions for future research, which together promise to provide a fresh perspective on the chronology of criminal justice history, and to reorient historical studies of crime in modern England in stimulating and profitable ways.

## THE STATE MONOPOLISATION THESIS

From the 1960s onwards, there emerged a collection of abstract, theoretical accounts of the transformation of criminal justice in modern times, which advanced a consistent narrative of historical change. The contributors were social scientists who, adapting well established modernisation narratives, emphasised the state's assumption of unprecedented dominion over crime control in the transition to industrial capitalism. Each of these studies approached the problem in its own distinctive fashion, and characterised the development in unique terms. They all, however, presented a common narrative: as part of the modernisation process, power to determine the response to crime was removed from the hands of the civilian public, and entrusted exclusively to state agencies and the formal criminal justice system. These theorists were all, therefore, proponents of a particular interpretation of modern crime control – the state monopolisation thesis. This section explores

[3] On modernisation narratives and the nineteenth century, see Price (1999, introduction).

[4] This essay does not, therefore, provide a comprehensive summary of major work on nineteenth-century crime, policing and justice: additional recent reviews include Emsley (2005); Smith (2007a); Williams (2008).

some prominent statements of this position, before demonstrating how several social historians came to interpret the course of crime history in precisely the same fashion.

The version of the state monopolisation thesis most familiar to historians is probably Allan Silver's account of the 'policed society'. In a trailblazing essay much cited by early social historians of crime, Silver argued that a key role of the modern police was to relieve 'ordinary respectable citizens of the obligation or necessity to discharge police functions'.[5] Before the nineteenth century, members of the elite were personally responsible for the administration of policing and the criminal law, which exposed the social order to acute strain in times of riot. By the early 1800s, the ruling class had grown increasingly demoralised under this burden – the emerging commercial and industrial elite especially so – and so threw their weight behind a 'bureaucratic police system'. This led in turn to the imposition of a quite novel, impersonal regime of discipline : in place of elite personal authority, which had secured communal order in the pre-modern era, came direct rule by professional police forces, which ensured social stability in the industrial age.[6]

While Silver was chiefly concerned with the state's enlarged claims to maintain public order, others focused centrally on the response to crime itself. Ten years later, Steven Spitzer and Andrew Scull similarly argued that the formation of capitalist market relations in the early nineteenth century swept away the communal social relations which had sustained eighteenth-century criminal justice, and called forth heightened demands for public order and preventative policing.[7] This led in turn to the socialisation of crime control : over the course of the nineteenth century, 'the management of crime was rationalised and transformed into a responsibility of the state.'[8] Spitzer later explicated the consequences of this seismic transition at somewhat greater length :

> Under the spur of the rationalization process, proprietary, hereditary, and other pre-bureaucratic forms of indirect rule were gradually replaced by hierarchically organized "public" organizations. These organizations, which came to include what we know today as the criminal justice system, were specially designed to achieve a more thorough and effective penetration of subject populations and to remain more responsive to the dictates of central authority.[9]

Although he framed the issue in rather less conventional terms, criminologist Nils Christie made the same essential argument. He asserted that, during industrialisation, western states and an army of lawyers stole criminal 'conflicts' from their citizens, thereby relegating the victim of crime to the margins of the criminal justice process.[10] This formed part of his more general view, that the rise of industrial capitalism had sapped ordinary people of the capacity to participate in the governance of social life and to shape their own futures :

---

5 Silver (1967, p. 8)

6 *Ibid.*, pp. 9-12.

7 Spitzer, Scull (1977, pp. 276-283).

8 *Ibid.*, p. 281.

9 Spitzer (1979, p. 200).

10 Christie (1977, pp. 1-5).

> [h]ighly industrialised societies face major problems in organising their members in ways such that a decent quota take part in any activity at all…In this perspective, it will easily be seen that [criminal] conflicts represent a *potential for activity, for participation*. Modern criminal control systems represent one of the many cases of lost opportunities for involving citizens in tasks that are of immediate importance to them. Ours is a society of task-monopolists.[11]

Christie's essay is best remembered as a foundational document in the restorative justice movement: it issued a call to return criminal conflicts to the people, and so to bring the victim centre stage in the judicial process. For present purposes, however, it was but one formulation of a familiar narrative of policing and crime control during the birth of the modern state.

Pioneering historians of crime rapidly imbibed this common narrative of modernisation, rationalisation and monopolisation. The idea that the modern state progressively assumed control over the response to crime – to the exclusion of the people – formed part of the discipline's early common sense. Bruce Lenman and Geoffrey Parker thus plotted the transition from 'community' to 'state' law in Europe, driven by urbanisation, the erosion of 'face-to-face' communities, and the growing gulf between rich and poor.[12] This process came to fruition, they argued, with the expansion of state authority after the French Revolution: through sweeping reforms in policing and punishment, 'the state's control over the everyday lives of its subjects…grew ever closer'.[13] Dealing specifically with England, Douglas Hay and Francis Snyder agreed that the arrival of the new police, and their supposed assumption of the power to prosecute, nurtured an increasingly intrusive nineteenth-century state:

> [t]he broad purposes of Peel and Chadwick were ultimately realised, and it is incontestable that they advocated a new kind of state power: rationally planned, publicly funded, bureaucratically controlled, centrally directed, and reaching into every neighbourhood which might secrete crime and disorder…Control of prosecution means in large measure control of the power embodied in the criminal law. The police came largely to control prosecution: the issue henceforth was to be who controlled the police.[14]

Finally, Vic Gatrell charted the formation of a nineteenth-century police bureaucracy – the 'policeman-state' – which assumed an ever-increasing capacity to identify and target new objects of power.[15] In the process, it vanquished private and communal alternatives to its own supremacy:

> as the [nineteenth] century wore on the English judicial system came very near to as total a regulation of even petty – let alone serious – deviance as has ever been achieved. A professional police and in some urban centres a professional magistracy were diminishing the opportunities for informal justice and extra-judicial settlement of the kind so common in earlier eras.[16]

---

11 *Ibid.*, p. 7, original emphasis.

12 Lenman, Parker (1980, pp. 34-38).

13 *Ibid.*, p. 44.

14 Hay, Snyder (1989, p. 51).

15 Gatrell (1990, pp. 257-260).

16 Gatrell (1980, p. 244).

Of course, few historians would nowadays assent to such sweeping statements. Since the 1980s, scholars have become increasingly sceptical as to whether the early nineteenth-century criminal justice reforms marked a radical departure from previous arrangements. In particular, studies of the new police forces repeatedly highlighted their continuities with the supposedly corrupt and inefficient bodies which they replaced.[17] In this respect, researchers implicitly questioned those confident theories of state monopolisation, by demonstrating that the new police were unlikely agents of disruptive modernisation in crime control. More directly, several scholars challenged the state monopolisation thesis on a more abstract level. Michael Ignatieff argued that pioneering historians had been lured into an almost exclusive focus on the state by its mythical monopoly over punitive practice. He understood that histories of punishment – like those of police – were locked into a simplistic dichotomy between the pre-modern and the modern, the 'customary' and the 'bureaucratic'.[18] In response, he urged researchers to look beyond state institutions :

> [w]e have always known that prisons and the courts handled only a tiny fraction of delinquency known to the police – now we must begin, if we can, to uncover the network which handled the 'dark figure'[,] which recovered stolen goods, visited retribution on known villains, demarcated the respectable and hid the innocent and delivered up the guilty.[19]

David Sugarman's contemporaneous analysis of private law made parallel criticisms,[20] and in due course other leading scholars came to bemoan the paucity of research on informal, non-state criminal justice in the nineteenth century.[21] Most recently, Lucia Zedner has asserted that the new police's monopoly over crime control was only ever 'symbolic'.[22] At least amongst historians, the state monopolisation thesis clearly no longer enjoys its former status as the master narrative of modern criminal justice history.

Yet if historians have long understood that the state monopolisation thesis is a flawed narrative, they have done little to challenge its claims directly. Surprisingly, no researcher has yet set out to evaluate empirically the extent to which the nineteenth-century state assumed control over the governance of crime.[23] One is therefore left primarily to infer the deficiencies of the 'policeman-state' argument from work on the shortcomings of the new police. However, just because the new police did not mark a clear break from previous forms of police organisation, it does not necessarily follow that they were an inadequate means of establishing substantive state control over the response to crime. In other words, in the absence of dedicated research on

---

17 Philips (1977, pp. 59-61) ; Field (1981, pp. 47-50) ; Emsley (1983, pp. 71-73). For similar work on penal reform, see DeLacy (1981).

18 Ignatieff (1983a, p. 190).

19 Ignatieff (1983a, pp. 205-206 ; 1979, pp. 444-445 ; 1983b, pp. 170-171).

20 Sugarman (1983, pp. 224-230).

21 Sharpe (1988, p. 132) ; Knafla (1996, pp. 37-39).

22 Zedner (2006, pp. 81-82).

23 However, two unpublished studies address this question more directly than most : Davis (1984a) ; Barrett (1996).

how crime was dealt with in practice, there remains no adequate challenge to the notion of the 'policed society'.

Furthermore, although historians are rightly suspicious of the state monopolisation thesis, they have yet to formulate a satisfactory alternative. Perhaps for this reason, despite all the criticism it has attracted, the essential claims of monopolisation theory have been repeated by several scholars, including those usually critical of the likes of Hay and Gatrell. Thus, for Clive Emsley too, '[t]he development of bureaucratic, professional policing in the century and a half following 1829 also saw a marked decline in public vigilance and participation in the pursuit of offenders…the detection and prevention of crime had become their [the police's] job as the professionals.'[24] This model remains the default position of some historians because recent work has tended to sidestep such broad issues as the relationship between crime control and the modern state. Persuaded by the critiques of Ignatieff and others, most historians have instead eschewed such grand questions altogether. In so doing, they have perhaps forgotten that Ignatieff's piece was not just a critique, but also a call for further research, and for a change of direction in criminal justice history. Therefore, by avoiding the challenge presented by the state monopolisation thesis, historians have missed an opportunity to probe more deeply the issues it raises, and to situate their work in a broader perspective.

Perhaps more surprisingly, there remain ways in which the state monopolisation thesis, for all the criticism it has attracted, continues to structure research into modern criminal justice history. While a few scholars have stood by the basic narrative of state monopolisation, its most enduring legacy is more subtle, in informing the shape of the literature as a whole. Specifically, most studies of nineteenth-century criminal justice focus overwhelmingly on state institutions of policing and punishment, and thereby neglect the role of civil society and private individuals in determining the response to crime. This structural imbalance in the historiography means that although most historians no longer subscribe to the state monopolisation thesis as such, they nonetheless remain preoccupied by those aspects of the criminal justice process which monopolisation theorists sought to privilege. In order to demonstrate the consequences of this emphasis on the state for our understanding of particular issues, the following section contrasts the treatment of key subjects in eighteenth- and nineteenth-century criminal justice history. In their studies of criminal statistics, discretion and attitudes towards criminal justice, historians of these two periods are guided by rather different assumptions about the nature of law-enforcement in the past, and the extent to which it was driven by the priorities of the state or of ordinary people.

## FROM 'GOLDEN AGE' TO 'POLICED SOCIETY'

In the study of criminal statistics, analysts are usually tasked with discerning 'real' trends in law-breaking from the autonomous 'control' effect of law-enforcement. For historians of the eighteenth century, the central 'control' variable is the propensity of victims of crime to prosecute. John Beattie, who offered the

[24] Emsley (1996a, p. 259). Others to repeat the same basic argument in recent times include D.J.V. Jones (1992, p. 29) and Shpayer-Makov (2002, p. 119).

first extensive analysis of crime rates in this period, recognised that indictment rates were the product of complex negotiations between criminals and victims, and so were vulnerable to distortion by variations in prosecutorial practice.[25] He resolved, however, that long-term studies could nonetheless uncover the deep structural factors which influenced criminal offending, including the impact of war, economic performance and the urban environment.[26] Hay went a little further, arguing that the absence of professional police forces safeguarded eighteenth-century statistics against gross misrepresentation by 'control' factors or political manipulation.[27] Others, however, were more troubled by the impact of prosecutorial decision-making upon the statistical record. King argued that the 'dark figure' of unrecorded crime was so large that even small changes in victims' willingness to prosecute would leave a telling impression upon the statistical record.[28] On this basis, he disputed any straightforward connection between dearth and theft in this period,[29] and even used indictment rates to chart changing public attitudes towards particular classes of criminal (rather than 'real' levels of offending).[30] Historians of the eighteenth century thus divide over the extent to which fluctuations in criminal statistics reflect changes in law-breaking or prosecutorial response.

While students of nineteenth-century crime rates have grappled with similar issues,[31] they have for the most part been preoccupied by a quite different 'control' effect – the impact of formal policing. This is not to say that, in principle, they have been ignorant of other 'control' factors : historians have always understood that public attitudes shaped the statistics,[32] and have pointed to the impact of changes in criminal justice administration upon crime rates.[33] However, debate about possible distortions in nineteenth-century statistics has otherwise centred predominantly on the effects of changes in police policy. John Tobias, for example, essentially reduced the explanation of local fluctuations in indictable crime rates to changes in police leadership.[34] More recently, the dispute over police manipulation of criminal returns has contributed to a perception of nineteenth-century law-enforcement as a game in which the police hold all the cards. Howard Taylor thus asserted that crime rates were rationed by a cost-sensitive Exchequer, and by police chiefs concerned to present impressive 'clear-up' rates.[35] While his analysis has been rejected by several scholars, it is remarkable that none have explicitly objected to the assumption that the power to criminalise rests near-exclusively with the police. Although Robert Morris noted

---

25 Beattie (1986, pp. 199-202). For his earlier reflections upon potential distortions in the data, see Beattie (1974, pp. 53-57).

26 Beattie (1986, chapter five).

27 Hay (1982, pp. 150-52).

28 King (2000, pp. 130-34).

29 *Ibid.*, chapter five.

30 Including juvenile offenders : see King (2006a, pp. 106-110).

31 Though note that some scholars have used the statistics to rather different ends : see for example Williams (2000).

32 Gatrell (1980, pp. 243, 247-249).

33 Gatrell, Hadden (1972, pp. 355-357) ; Philips (1977, pp. 133-135).

34 Tobias (1972, pp. 298-302).

35 H. Taylor (1998).

in passing that there was 'no state monopoly of prosecution',[36] he largely concerned himself with the lack of direct evidence to support Taylor's thesis.[37] Such work gives the impression that priorities in nineteenth-century criminal justice were dictated from 'above' (by the police), rather than delivered from 'below' (by the people). This is directly opposite to the impression one gains from eighteenth-century scholarship. As a consequence, the victim of crime goes from being a key character in eighteenth-century studies to all but disappearing from view in the age of the new police.

Underlying these divergent views of the 'control' factor are contrary assessments of discretion in the criminal justice process. Scholars of the eighteenth century have long emphasised the importance of decision-making by various parties, especially the private prosecutor. Prosecutors came from almost all ranks of eighteenth-century society : while the middling sorts made most extensive use of the criminal law, studies of the summary courts indicate that the labouring poor acted as prosecutors much more often than previously thought.[38] With the discretion to prosecute came power, and historians have long been attentive to how the poor could, in certain circumstances, use the law against their betters.[39] In an age of private prosecution, victims were afforded impressive control over the resolution of criminal encounters. Instead of going to law, they frequently resorted to various alternative sanctions.[40] Prosecution was thus the exception rather than the norm ; according to one historian, 'the victim had immense freedom of manoeuvre' in settling criminal matters outside of court.[41] Many have thus concluded that the eighteenth century hosted a highly participatory and discretionary process of law-enforcement.

Discretion also features in accounts of nineteenth-century crime control, yet it is usually confined to the ranks of the new police. While a few pioneering scholars risked reducing policemen almost to slavish automatons of their employers, the subsequent generation of historians has characterised the ordinary constable as discretionary law-enforcer. They have uncovered substantial evidence of beat-level compromises, which often subverted the intentions of legislators and police chiefs.[42] Furthermore, the realisation that the character of policing depended upon the attitudes of the rank-and-file has fuelled a wave of scholarship on the social history of policemen themselves. Considerable attention has thus been devoted to their outlook and occupational culture, as well as their terms of employment, working conditions and so forth.[43] This is now a specialist field in its own right, attracting scholars interested as much in labour relations as policing itself. Nevertheless, much scholarship on the beat constable remains underpinned by the assumption that discretion in the criminal justice process was effectively transferred from victim to policeman in the early nineteenth century.

---

36 Morris (2001, p. 113).

37 *Ibid.* (pp. 119-123).

38 King (1984, pp. 29-34 ; 2000, pp. 35-39) ; Beattie (1986, pp. 8-10, 193-196) ; King (2004, pp. 144-146).

39 See Hay (1989, pp. 354-360).

40 Beattie (1986, pp. 39-40) ; King (2000, pp. 22-27).

41 King (2000, p. 17).

42 See especially Inwood (1990) ; Davies, (1991, pp. 90-99) ; Petrow (1994, chapters 5-10).

43 Steedman (1984) ; Emsley (1996a, chapters 9-10) ; Lawrence (2000) ; Shpayer-Makov (2002) ; Clapson, Emsley (2002) ; Lawrence (2003) ; Klein (2010) ; Shpayer-Makov (2011).

Lastly, visions of the nineteenth-century transformation in law-enforcement are embedded in research on popular reactions and responses to criminal justice. Scholars of the eighteenth century take as their subject attitudes towards the criminal law. Early research into the Game Laws and hanging rituals highlighted points of conflict between the labouring poor and elite administrators of justice.[44] Subsequent critics, however, took issue with this apparent fixation on 'protest' crime and class injustice : they argued that popular indignation commonly centred not on the law *per se*, but on the failure of elite figures to respect legal restrictions to their personal authority.[45] Meanwhile, the discovery that labouring people made substantial use of the law led some to argue that popular hostility was more moderate than first thought.[46] Indeed, over the years, historians became increasingly cautious about making broad statements on this subject, recognising that attitudes towards the law were volatile and complex ; if anything, cynicism rather than hostility was the most common sentiment.[47]

Studies of popular responses to law-enforcement in the nineteenth century, by contrast, dwell overwhelmingly on attitudes towards the police. Again, much early scholarship pointed up antagonism and conflict. Robert Storch uncovered radical political opposition to the new forces, anti-police riots, and the prevalence of assaults on police officers.[48] Gatrell maintained this decided focus upon hatred and hostility, reading the late-nineteenth-century decline of assaults on policemen as reflecting the triumph of repression rather than the flowering of consent.[49] Others, however, objected that police-public relations were far more complex than this. Carolyn Steedman argued that vicious antagonism between police and public was actually fairly muted ; instead, contempt pervaded working-class attitudes towards the police.[50] More decisively, Emsley argued that attitudes must have been contingent and contradictory, given the diversity of police duties.[51] Mindful of police discretion and operational restraint, some have even asserted that 'policing by consent' was in large measure achieved by the late nineteenth century.[52] In broad terms, this intellectual progression mirrors the increasingly nuanced interpretations of popular attitudes towards the eighteenth-century criminal law ; the key difference is that the police, rather than the law itself, is the subject of debate.

We are thus faced with two distinct bodies of scholarship. While there are parallels in interpretation, the objects of interpretation are profoundly different.[53] The above studies present the eighteenth century as an age of participatory,

---

44 Hay (1975a) ; Linebaugh (1975) ; Thompson (1977).

45 Brewer, Styles (1980, pp. 15-18). See also Thompson (1977, pp. 262-66).

46 Langbein (1983, pp. 101-105) ; King (1984, pp. 29-34, 52-56). See also Philips (1977, pp. 127-29, 285-86).

47 King (2000, pp. 365-367).

48 Storch (1975, 1976, pp. 502-508).

49 Gatrell (1990, pp. 282-87).

50 Steedman (1984, pp. 67-68).

51 Emsley (1983, pp. 151-160 ; 1996a, pp. 78-84).

52 D. Taylor (1997, chapter four, p. 138).

53 Miles Taylor has noticed this contrast (1997, pp. 165-166), though his analysis of its roots diverges from mine.

discretionary justice, in the absence of professional police forces.[54] Classically, this accounted for the centrality of the bloody code as a means of maintaining order: '[i]n place of police…propertied Englishmen had a fat and swelling sheaf of laws which threatened thieves with death.'[55] The business of law-enforcement – prosecution, but also identifying suspects and tracing stolen goods – was delegated substantively to victims of crime themselves.[56] Before the new police, as one historian has put it, 'the victim of crime was his or her own "policeman"'.[57] Eighteenth-century criminal justice historiography thus separates law-enforcement from police activity, thrusting the victim to the heart of the analysis. The result is a view of the period as 'the golden age of discretionary justice'.[58] Yet this settlement mutates as we approach the nineteenth century. Processes of law-enforcement are no longer the object of attention, but instead a particular state institution – the new police – dominates the historiographical landscape. The historiography of nineteenth-century criminal justice is thus in a curious position: it remains to a considerable extent skewed towards the priorities of an overarching modernisation narrative which historians have long recognised is inadequate and misleading.

## A FLAWED NARRATIVE

Although few scholars now repeat the confident narrative of state monopolisation which was once commonplace, the idea of the 'policed society' retains a subtle influence within criminal justice history. The specific interpretation has now gone out of fashion, yet it continues to inform the kinds of questions which historians ask about crime and justice in the nineteenth century, and the way they go about answering them. It is therefore necessary to return briefly to the chief deficiencies of the monopolisation thesis itself. Firstly, there is the problem of the 'dark figure' of unrecorded crime, which stands as testament to innumerable independent refusals to grant the authorities jurisdiction over particular offences (and so offenders) for a variety of reasons.[59] Perhaps for this reason, Gatrell ventured to argue that the dark figure gradually receded from the mid-nineteenth century: 'in the long term the gap between recorded and actual indictable crime *narrowed*, and narrowed at an acceptably constant rate…we may assert it as a principle…that the rate of recorded crime crept ever closer to the rate of actual crime.'[60] Whatever one's view of criminal statistics, the erosion of the dark figure is a necessary consequence of the state taking a greater effective role in responding to crime. It is therefore worth stressing that Gatrell's assertion is pure speculation. It holds water only in that it accords with his broader view of the dramatic extension of police authority over crime control (it is in fact inferred from that more general claim). The moment we question the core

54 See also Innes, Styles (1986, pp. 403-406).

55 Hay (1975b, p. 18).

56 Beattie (1986, pp. 35-38); King (2000, pp. 20-22).

57 D.J.V. Jones (1992, p. 202).

58 King (2000, p. 1).

59 A leading expert's best guess is that there are today eleven crimes committed for every one reported to the authorities: Maguire (2007, pp. 272-273).

60 Gatrell (1980, pp. 250-251, original emphasis).

monopolisation narrative, however, the dark figure returns to haunt the analysis ; in reality, of course, it never went away.[61]

More concretely, there is a substantial empirical hole at the heart of the state monopolisation thesis, concerning the supposed transition from private to police prosecution. The divergent priorities of crime historians of the eighteenth and nineteenth centuries rest upon the notion that the new police quickly assumed the task of law-enforcement, which depends in turn upon substantive police control over the criminal prosecution. For Hay in particular, the coming of police prosecution was crucial in dividing Victorian criminal justice from the preceding era.[62] Unfortunately, the timing and consequences of this process remain relatively poorly understood.[63] However, existing research suggests that the police directed most theft prosecutions only by the 1880s, and that charges of common assault were still routinely handled by private individuals by this point. In other words, police prosecution developed piecemeal, and there remained a significant role for victims of crime in bringing cases before magistrates.[64] Such a chequered path to police control reveals the flimsy empirical basis for the abrupt shift in the terms of historiographical reference which divides eighteenth- and nineteenth-century criminal justice history.

Besides these specific weaknesses, the notion of a monopolistic nineteenth-century criminal justice state stands awkwardly alongside research on adjacent periods. In particular, recent reappraisals of policing before the new police challenge the conventional chronology. In recent years, several scholars have uncovered improvements in eighteenth-century policing in unprecedented detail.[65] Research on London suggests that efficient and sophisticated police organisations preceded the Metropolitan Police,[66] prompting some to backdate the narrative of police monopolisation : Robert Shoemaker argued that the apprehension of thieves became primarily a police responsibility in the final quarter of the eighteenth century, while Bruce Smith asserted that police officers had assumed control over most prosecutions by the early nineteenth century.[67] From a provincial perspective, David Lemmings has reinterpreted the long eighteenth century as an era of declining popular participation in the legal process ; by 1800, he contends, systems of governance and law-enforcement were in large measure controlled by professionals, and informed increasingly by parliamentary statute rather than common law traditions.[68] There are good grounds for disputing such broad claims, especially as most of this work (Lemmings's aside) is based exclusively on particular parts of London.[69] Nonetheless,

---

61 For an analysis of nineteenth-century crime which highlights the depth of the dark figure, see Davis (1984a, chapters 2-3).

62 Hay, Snyder (1989, pp. 43-47).

63 Historians have repeatedly called for further research in this area : see Hay (1984, p. 9) ; Emsley (1996b, p. 76) ; Smith (2007a, p. 621).

64 See Davis (1989a) ; Emsley, Storch (1993, pp. 48-49, 57) ; Mellearts (2000, pp. 21-29) ; B. Godfrey (2008, pp. 172-175).

65 Two key early contributions in this field were Styles (1983) and Paley (1989).

66 Reynolds (1998) ; Beattie (2001) ; Harris (2004).

67 Shoemaker (2004, chapter two) ; Smith (2006, 2007b).

68 Lemmings (2011).

69 For a critique of Smith's thesis on these grounds, see Landau (2005).

these revisions to the 'classic' view of eighteenth-century law-enforcement outlined above throw the significance of nineteenth-century police reforms into question.

Meanwhile, students of contemporary policing have further complicated the conventional story of state monopolisation by charting the pluralisation of crime control responsibilities in the later twentieth century. Since the 1970s, according to David Garland, the state has progressively withdrawn from its privileged position in the provision of police protection, and sought increasingly to co-ordinate the activities of commercial security providers, community organisations and private individuals.[70] Garland's work, which sets the reconfiguration of policing in the context of escalating crime rates and the state's growing appreciation of its own limitations, is but the most widely read statement of a broadly accepted narrative.[71] By tracing similar developments back to the 1950s, others have trampled more substantively on the conventional view of police history.[72] This recent 'pluralisation' of police authorities has even led some scholars to retreat from the concept of 'policing' itself, in an attempt to escape the traditional state-centrism of criminology.[73] While these authors rarely question the narrative of state monopolisation under the new police, they have nevertheless further undermined the idea that direct state control over the governance of crime is the natural *telos* of historical development.

Because most historians remain preoccupied by the police and the criminal justice system, their work rarely engages with alternative approaches to the nineteenth-century state.[74] These approaches, which are now widely discussed in other fields of social history, focus on the extensive role of voluntary institutions and private individuals in responding to social problems.[75] For instance, research on the history of welfare explores how state-sponsored relief (via the poor law) was supplemented by a whole 'economy of makeshifts', comprising personal savings, family assistance, charitable provision and mutual support.[76] This kind of work allows a more nuanced account of changes in welfare provision – including the enlargement and specialisation of state provision from the late nineteenth century onwards – which does not rely on the teleological props of 'whiggish' histories. Reviewing this productive area of scholarship, Alan Kidd thus interprets the modern evolution of relief systems as shifts within a 'mixed economy of welfare', rather than as the gradual rise of the welfare state.[77]

By contrast, histories of crime in the nineteenth century are dominated by state systems of policing and punishment. Recent studies have foregrounded local initiative in criminal justice reform, helpfully complicating the familiar legislative

---

70 Garland (1996). See further Garland (2001).

71 See also Reiner (1992) ; Bayley, Shearing (1996) ; Crawford (2003).

72 T. Jones, Newburn (2002).

73 See for example T. Jones (2007).

74 Martin Wiener fails to appreciate this in his analysis of the shifting priorities of modern social history (1994, pp. 297-304).

75 For helpful overviews, see Thane (1990, pp. 1-2, 34-37, 45-47) ; Mandler (2006, pp. 9-13, 18-21) ; Devereaux (2009, pp. 749-751). Some work in this area engages directly with Michel Foucault's theory of 'governmentality', which invites an analysis of civil society and the state working as a unit rather than in isolation : see Baldwin (2006, pp. 52-54, 66).

76 Crowther (1982) ; Ross (1983) ; Vincent (1991, pp. 5-22) ; Kidd (1999).

77 Kidd (2002, pp. 328, 339-340). See also Finlayson (1990).

narrative,[78] yet the story of how crime was dealt with in practice remains largely a tale of policemen, magistrates, judges and gaolers. The consequent disparity with other branches of social history was already visible by 1990, in the *Cambridge social history of Britain*. While many essays in this collection rejected state-centred approaches,[79] Gatrell's treatment of crime remained fixated with the state apparatus of surveillance and control.[80] Although Gatrell advanced his own distinctive interpretation, his overriding focus on state institutions in itself reflected a structural imbalance in criminal justice history. Of course, the governance of crime may operate according to a unique logic, and there is no reason why criminal justice historians should *necessarily* adopt the same perspective as their colleagues working in other areas. However, their reluctance to approach crime and justice in a wider perspective means that we are probably missing instructive parallels between (say) criminal justice and welfare, and that we remain uncertain as to precisely what distinguished criminal justice from other spheres of experience and authority in the nineteenth century.

## PUTTING THE PEOPLE BACK IN : DIRECTIONS FOR FURTHER RESEARCH

Although several scholars have outlined the limits of the state monopolisation thesis in theory, there has been no sustained attempt to construct a viable alternative, based on detailed historical research. What remains, therefore, is to outline an empirical strategy for producing a more balanced account of crime and control in the nineteenth century. Naturally, this is a challenging enterprise : unlike scholars interested in criminal justice institutions, those exploring lay responses to crime have no dedicated pool of source material to exploit.[81] There are, however, disparate collections of valuable records, which shed light on popular participation and discretion in the governance of crime. What follows outlines a few key themes which require particular scholarly attention, rather than providing a comprehensive assessment of research priorities in this area.

Firstly, more research is needed on prosecution. While the social profile of prosecutors is fairly well-established,[82] their exact role in the legal process remains unclear.[83] Specifically, we need to know who actually conducted proceedings in court, whether policemen were able to bring criminal charges without the victim's support,[84] and what discretion victims retained, including as witnesses in police-led prosecutions. Work in this area must therefore go beyond identifying 'prosecutors'

78 See especially Philips, Storch (1999) ; King (2006b).

79 Most strikingly in Frank Prochaska's essay on charity (1990), which stood in place of a study of the poor law and state welfare. See further Wiener (1994, pp. 304-307) ; Koditschek (1993, pp. 78-80).

80 Gatrell (1990).

81 This may in part account for the excessive focus upon state agencies by historians of the nineteenth century, yet, as the works cited below indicate, there has always been scope for constructing an alternative interpretation using familiar and accessible sources.

82 Philips (1977, pp. 127-129) ; Davis (1984b, pp. 318-320) ; Rudé (1985, chapter four) ; D.J.V. Jones (1992, p. 21).

83 Though, for helpful outline guides to prosecution processes, see Hay, Snyder (1989, pp. 38-39) ; Emsley, Storch (1993).

84 On this point, see Emsley, Storch (1993, pp. 50-51) ; Mellearts (2000, pp. 24-26).

as recorded in the court recognisances, to examine carefully the process of bringing individual cases to court, through depositions and newspaper reports.[85] There is also scope for further work on the role of voluntary associations in prosecuting offenders, and the relationships they established with the police and magistrates in particular localities.[86]

More broadly, there is a lack of dedicated research on popular participation in law-enforcement. In particular, police occurrence books preserve evidence of victims reporting crimes to the police ; although this is a critical stage of the modern criminal justice process, historians have yet to study it in any detail.[87] Similarly, the civilian role in pursuing and detaining suspects warrants due consideration. The only substantial study of civilian apprehension is Andrew Barrett's doctoral thesis, which demonstrated that the new police did not rapidly assume sole responsibility for catching felons in Cheshire.[88] Lastly, while eighteenth-century historians have shown that victims and the press were active in criminal investigation,[89] the few studies of detection available for the nineteenth century focus exclusively on the police.[90] Research from the records of individual criminal cases would give us a better indication of how civilian systems of investigation meshed with those of the police in particular contexts. Taken together, such alternative approaches to the study of law-enforcement would lead to a more sophisticated understanding of how particular criminals were brought to court, and therefore the extent to which the priorities of nineteenth-century criminal justice were determined by the public rather than the police.

Finally, we must supplement existing studies of how ordinary people confronted crime outside of the criminal justice system.[91] As Jennifer Davis observed many years ago, 'prosecutions did not replace informal sanctions against perceived wrongdoing, but were used in addition to them.'[92] Victims of theft drew upon the law selectively, often preferring to secure the return of stolen goods, financial compensation, or elicit an apology from the offender. Employers also took advantage of such private settlements, dealing with individual employees on a case-by-case basis.[93] There also remains scope for further work on violent and shaming punishments. Despite rapid and highly disruptive urbanisation, key rituals of norm-enforcement and 'self-policing' – including 'rough music' and the 'fair fight' – remained accessible in particular urban and rural communities late into the nineteenth century.[94] Although a few historians have discussed these subjects, other fields of enquiry remain almost untouched, despite decades of research in criminal justice history. In particular, scholars have neglected to investigate autonomous civilian efforts to prevent crime.

---

85 See Hay, Snyder (1989, p. 38, n.119). The exemplary study here is Davis (1989a).

86 See Philips (1989) ; Stevenson (2004).

87 Though see Davis (1989a).

88 Barrett (1996, chapter four).

89 See especially Styles (1989).

90 See most recently Shpayer-Makov (2011).

91 In addition to what follows, see Emsley (2010, pp. 188-192) ; D.J.V. Jones (1992, pp. 4-12).

92 Davis (1989a, p. 425).

93 Davis (1989a) ; Locker (2005).

94 Thompson (1993) ; Conley (1991, pp. 22-28) ; Hammerton (1992, pp. 18-22) ; Woods (1985, pp. 175-177) ; Davis (1989b, pp. 71-72) ; Wood (2003, 2004, chapters three and four).

There is, however, no shortage of source material on this subject: the nineteenth century was a period of considerable innovation in the provision of security commodities (including locks, safes and, eventually, burglary insurance),[95] while the police and the press were instrumental in encouraging ordinary people to safeguard their property themselves, rather than relying solely on police protection.[96]

None of this, of course, involves abandoning the traditional subject matter of criminal justice history. A history of crime and policing with the police left out would obviously present a grossly skewed account of the nineteenth-century experience. Instead, we must work towards a holistic portrayal of policing and crime control in this period, which combines research on the new police with work on autonomous, popular responses to crime.[97] Pursued effectively, this kind of research has the potential to reinvigorate nineteenth-century crime history, breathe new life into old debates, and shed light on aspects of social experience which have for too long remained shrouded in obscurity.

Reorienting criminal justice history in this way promises to reveal how far the response to crime was shared between civil society and the state. Research on the contribution of the press, private companies and ordinary people to criminal justice and crime control will demonstrate that dealing with crime was not simply the job of the new police. It will also be important to evaluate whether these disparate tactics of crime control were integrated into a coherent overall strategy (and, if so, by what means), or if in fact the response to crime was more a site of conflict between the various interested parties. This kind of approach will allow historians to compare the governance of crime with responses to the other great social problems of this period, and therefore to reassess the apparent exceptionalism of the criminal justice state in Victorian England.

These new perspectives will, in turn, prepare historians to construct a more nuanced chronology of policing and criminal justice in the modern era. The crutch of the 'policed society' and cognate theories is clearly no longer an adequate means of organising research on crime and control. Recent attempts to backdate the process of state monopolisation to the eighteenth century have helped to undercut existing grand narratives, yet they are plainly inadequate as attempts to explicate the evolving relationship between crime control and the modern state. An alternative approach is therefore needed, which can capture the novelty of criminal justice arrangements in each period, rather than struggling to pinpoint a single, discrete moment of transition from communal to state governance of crime. Hence, we must move beyond the idea of the 'policed society', to develop a new model which can synthesise the tangled history of crime, state and society from the eighteenth to the twentieth century. However, only once we have re-evaluated the complex nature of crime control and resolution in the age of the new police can we reconceptualise the evolving relationship between crime and the state over a longer period.

Finally, a close, empirical interrogation of the state monopolisation thesis offers the opportunity to resist the increasingly institutional focus of much research in our field. As an infant discipline, modern crime history largely (though never

95 On the latter, see the excellent recent study by Moss (2011).

96 See Churchill (2012a).

97 This is the approach adopted by Churchill (2012b).

entirely) mutated from the study of people and their conflicts into the study of the criminal justice system. While the rich realm of social experience remains visible at the margins, the structure of state institutions and the behaviour of particular administrators tend to take pride of place. Many practitioners who foregrounded such issues did so because they wanted to reassess the history of the English state,[98] and they have certainly made a valuable contribution to this enterprise.[99] Of course, 'criminal justice history' – a term which itself betrays the legacy of this shift – remains a broad church : some scholars are interested in administrative processes,[100] others in comparative histories,[101] still others in connecting the history of crime with contemporary criminology.[102] Therefore, it only remains to emphasise that the research programme outlined above will allow crime historians to return decisively to the study of ordinary people and their experience of negotiating authority, rather than fleshing out in ever more minute detail the structure and characteristics of particular institutions and agencies. Such work will underscore that crime – and the response to it – were core constituents of everyday life in the past, and contribute substantially to the study of that mass of human experience lost to passage of time.

David C. Churchill
Institute of Historical Research
Senate House
Malet Street
London
dc253@le.ac.uk

## REFERENCES

Baldwin, P., The Victorian state in comparative perspective, *in* Mandler, P. (ed.), *Liberty and authority in Victorian Britain*, Oxford, Oxford University Press, 2006, pp. 51-67.

Barrett, A.A., *The system of criminal justice in Cheshire, 1820-1875*, unpublished Ph.D. thesis, University of Keele, 1996.

Bayley, D.H., Shearing, C.D., The future of policing, *Law & society review*, 1996, 30, 3, pp. 585-606.

Beattie, J.M., The pattern of crime in England 1660-1800, *Past and present*, 1974, 62, pp. 47-95.

Beattie, J.M., *Crime and the courts in England 1660-1800*, Oxford, Oxford University Press, 1986.

Beattie, J.M., *Policing and punishment in London, 1660-1750 : urban crime and the limits of terror*, Oxford, Oxford University Press, 2001.

98 See for example Innes, Styles (1986, pp. 434-435).

99 See the work cited by Devereaux (2009) and Innes (2009).

100 What Peter Linebaugh memorably, if rather uncharitably, described as the 'stones and bones' of crime history (1985, pp. 215-216).

101 See for example essays in B.S. Godfrey, Emsley, Dunstall (2003).

102 See especially Lawrence (2012).

Brewer, J., Styles, J., Introduction, *in* Brewer, J., Styles, J. (Eds), *An ungovernable people : the English and their law in the seventeenth and eighteenth centuries*, London, Hutchinson, 1980, pp. 11-20.

Christie, N., Conflicts as property, *The British journal of criminology*, 1977, 17, 1, pp. 1-15.

Churchill, D.C., *Police, press and public : directing civilian crime control in the Victorian city*, unpublished paper presented at the British crime historians symposium, 7 September 2012a.

Churchill, D.C., *Crime, policing and control in Leeds, c.1830-1890*, unpublished Ph.D. thesis, The Open University, 2012b.

Clapson, M., Emsley, C., Street, beat and respectability : the culture and self-image of the late Victorian and Edwardian urban policeman, *Criminal justice history*, 2002, 16, pp. 107-131.

Conley, C.A., *The unwritten law : criminal justice in Victorian Kent*, New York, Oxford University Press, 1991.

Crawford, A., The pattern of policing in the U.K. : policing beyond the police, *in* Newburn, T. (ed.), *Handbook of policing*, Cullompton, Willan Publishing, 2003, pp. 136-168.

Crowther, M.A., Family responsibility and state responsibility in Britain before the welfare state, *The historical journal*, 1982, 25, 1, pp. 131-145.

Davies, A., The police and the people : gambling in Salford, 1900-1939, *The historical journal*, 1991, 34, 1, pp. 87-115.

Davis, J.S., *Law breaking and law enforcement : the creation of a criminal class in mid-Victorian London*, unpublished Ph.D. thesis, Boston College, 1984a.

Davis, J.S., A poor man's system of justice : the London police courts in the second half of the nineteenth century, *The historical journal*, 1984b, 27, 2, pp. 309-335.

Davis, J.S., Prosecutions and their context : the use of the criminal law in later nineteenth-century London, *in* Hay, D., Snyder, F. (Eds), *Policing and prosecution in Britain 1750-1850*, Oxford, Clarendon Press, 1989a, pp. 397-426.

Davis, J.S., From '"rookeries" to "communities" : race, poverty and policing in London, 1850-1985', *History workshop*, 1989b, 27, pp. 66-85.

DeLacy, M.E., Grinding men good ? Lancashire's prisons at mid-century, *in* Bailey, V. (ed.), *Policing and punishment in nineteenth-century Britain*, London, Croom Helm, 1981, pp. 182-216.

Devereaux, S., The historiography of the English state during "the long eighteenth century" : part I – decentralised perspectives, *History compass*, 2009, 7, 3, pp. 742-764.

Emsley, C., *Policing and its context, 1780-1870*, London, Macmillan Press, 1983.

Emsley, C., *The English police : a political and social history*, second edition, Harlow, Addison Wesley Longman, 1996a.

Emsley, C., Albion's felonious attractions : reflections upon the history of crime in England, *in* Emsley, C., Knafla, L.A. (Eds), *Crime history and histories of crime : studies in the historiography of crime and criminal justice in modern history*, Westport, Greenwood Press, 1996b, pp. 67-85.

Emsley, C., Filling in, adding up, moving on : criminal justice history in contemporary Britain, *Crime, histoire et sociétés/Crime, History and Societies*, 2005, 9, 1, pp. 117-138.

Emsley, C., *Crime and society in England, 1750-1900*, fourth edition, Harlow, Pearson Education, 2010.

Emsley, C., Storch, R.D., Prosecution and the police in England since 1700, *Bulletin of the International Association for the History of Crime and Criminal Justice*, 1993, 18, pp. 45-57.

Field, J., Police, power and community in a provincial English town : Portsmouth, 1815-1875, *in* Bailey, V. (ed.), *Policing and punishment in nineteenth-century Britain*, London, Croom Helm, 1981, pp. 42-64.

Finlayson, G., A moving frontier : voluntarism and the state in British social welfare 1911-1949, *Twentieth-century British history*, 1990, 1, 2, pp. 183-206.

Garland, D., The limits of the sovereign state : strategies of crime control in contemporary society, *The British journal of criminology*, 1996, 36, 4, pp. 445-471.

Garland, D., *The culture of control : crime and social order in contemporary society*, Oxford, Oxford University Press, 2001.

Gatrell, V.A.C., The decline of theft and violence in Victorian and Edwardian England, *in* Gatrell, V.A.C., Lenman, B., Parker, G. (Eds), *Crime and the law : the social history of crime in western Europe since 1500*, London, Europa Publications, 1980, pp. 238-370.

Gatrell, V.A.C., Crime, authority and the policeman-state, *in* Thompson, F.M.L. (ed.), *The Cambridge social history of Britain*, volume 3, Cambridge, Cambridge University Press, 1990, pp. 243-310.

Gatrell, V.A.C., Hadden, T.B., Criminal statistics and their interpretation, *in* Wrigley, E.A. (ed.), *Nineteenth-century society : essays in the use of quantitative methods for the study of social data*, Cambridge, Cambridge University Press, 1972, pp. 336-396.

Godfrey, B., Changing prosecution practices and their impact on crime figures, 1857-1940, *The British journal of criminology*, 2008, 48, 2, pp. 171-189.

Godfrey, B.S., Emsley, C., Dunstall, G. (Eds), *Comparative histories of crime*, Cullompton, Willan Publishing, 2003.

Hammerton, A.J., *Cruelty and companionship : conflict in nineteenth-century married life*, London, Routledge, 1992.

Harris, A.T., *Policing the city : crime and legal authority in London, 1780-1840*, Columbus, Ohio State University Press, 2004.

Hay, D., Poaching and the game laws on Cannock Chase, *in* Hay, D., Linebaugh, P., Rule, J.G., Thompson, E.P., Winslow, C., *Albion's fatal tree : crime and society in eighteenth-century England*, London, Penguin, 1975a, pp. 189-253.

Hay, D., Property, authority and the criminal law, *in* Hay, D., Linebaugh, P., Rule, J.G., Thompson, E.P., Winslow, C., *Albion's fatal tree : crime and society in eighteenth-century England*, London, Penguin, 1975b, pp. 17-63.

Hay, D., War, dearth and theft in the eighteenth century : the record of the English courts, *Past and present*, 1982, 95, pp. 117-160.

Hay, D., The criminal prosecution in England and its historians, *The modern law review*, 1984, 47, 1, pp. 1-29.

Hay, D., Prosecution and power : malicious prosecution in the English courts, 1750-1850, *in* Hay, D., Snyder, F. (Eds), *Policing and prosecution in Britain 1750-1850*, Oxford, Clarendon Press, 1989, pp. 343-395.

Hay, D., & Snyder, F., Using the criminal law, 1750-1850 : policing, private prosecution and the state, *in* Hay, D., (Eds), *Policing and prosecution in Britain 1750-1850*, Oxford, Clarendon Press, 1989, pp. 3-52.

Ignatieff, M., Police and people : the birth of Mr Peel's "blue locusts", *New society*, 1979, 49, pp. 443-445.

Ignatieff, M., State, civil society and total institution : a critique of recent social histories of punishment, *in* Sugarman, D. (ed.), *Legality, ideology and the state*, London, Academic Press, 1983a, pp. 183-211.

Ignatieff, M., Total institutions and the working classes : a review essay, *History workshop*, 1983b, 15, pp. 167-173.

Innes, J., Introduction, *in* Innes, J., *Inferior politics : social problems and social policies in eighteenth-century Britain*, Oxford, Oxford University Press, 2009, pp. 1-18.

Innes, J., Styles, J., The crime wave : recent writing on crime and criminal justice in eighteenth-century England, *Journal of British studies*, 1986, 25, 4, pp. 380-435.

Inwood, S., Policing London's morals : the Metropolitan Police and popular culture, 1829-50, *The London journal*, 1990, 15, 2, pp. 129-146.

Jones, D.J.V., *Crime in nineteenth-century Wales*, Cardiff, University of Wales Press, 1992.

Jones, T., The governance of security : pluralisation, privatisation, and polarisation in crime control, *in* Maguire, M., Morgan, R., Reiner, R. (Eds), *The Oxford handbook of criminology*, fourth edition, Oxford, Oxford University Press, 2007, pp. 841-865.

Jones, T., Newburn, T., The transformation of policing ? Understanding current trends in policing systems, *The British journal of criminology*, 2002, 42, 1, pp. 129-146.

Kidd, A., *State, society and the poor in nineteenth-century England*, Basingstoke, Macmillan, 1999.

Kidd, A., Civil society or the state ? Recent approaches to the history of voluntary welfare, *Journal of historical sociology*, 2002, 15, 3, pp. 328-342.

King, P., Decision-makers and decision-making in the English criminal law, 1750-1800, *The historical journal*, 1984, 27, 1, pp. 25-58.

King, P., *Crime, justice, and discretion in England 1740-1820*, Oxford, Oxford University Press, 2000.

King, P., The summary courts and social relations in eighteenth-century England, *Past and present*, 2004, 183, pp. 125-172.

King, P., The rise of juvenile delinquency in England 1780-1840 : changing patterns of perception and prosecution, *in* King, P., *Crime and the law in England, 1750-1840 : remaking justice from the margins*, Cambridge, Cambridge University Press, 2006a, pp. 73-113.

King, P., Shaping and remaking justice from the margins. The courts, the law and patterns of law-breaking 1750-1840, *in* King, P., *Crime and the law in England, 1750-1840 : remaking justice from the margins*, Cambridge, Cambridge University Press, 2006b, pp. 1-69.

King, P., Noel, J., The origins of "the problem of juvenile delinquency" : the growth of juvenile prosecutions in London in the late eighteenth and early nineteenth centuries, *Criminal justice history*, 1993, 14, pp. 17-41.

Klein, J., *Invisible men : the secret lives of police constables in Liverpool, Manchester, and Birmingham, 1900-1939*, Liverpool, Liverpool University Press, 2010.

Knafla, L.A., Structure, conjecture, and event in the historiography of modern criminal justice history, *in* Emsley, C., Knafla, L.A. (Eds), *Crime history and histories of crime : studies in the historiography of crime and criminal justice in modern history*, Westport, Greenwood Press, 1996, pp. 33-44.

Koditschek, T., A tale of two Thompsons, *Radical history review*, 1993, 56, pp. 68-84.

Landau, N., Summary conviction and the development of the penal law, *Law and history review*, 2005, 23, 1, pp. 173-189.

Langbein, J.H., Albion's fatal flaws, *Past and present*, 1983, 98, pp. 96-120.

Lawrence, P., "Images of poverty and crime". Police memoirs in England and France at the end of the nineteenth century, *Crime, Histoire et Sociétés/Crime, History and Societies*, 2000, 4, 1, pp. 63-82.

Lawrence, P., "Scoundrels and scallywags, and some honest men…" Memoirs and the self-image of French and English policemen, c.1870-1939, *in* Godfrey, B.S., Emsley, C., Dunstall, G. (Eds), *Comparative histories of crime*, Cullompton, Willan Publishing, 2003, pp. 125-144.

Lawrence, P., History, criminology and the "use" of the past, *Theoretical criminology*, 2012, 16, 3, pp. 313-328.

Lemmings, D., *Law and government in England during the long eighteenth century : from consent to command*, Basingstoke, Palgrave Macmillan, 2011.

Lenman, B., Parker, G., 'The state, the community and the criminal law in early modern Europe', *in* Gatrell, V.A.C., Lenman, B., Parker, G. (Eds), *Crime and the law : the social history of crime in western Europe since 1500*, London, Europa Publications, 1980, pp. 11-48.

Linebaugh, P., The Tyburn riot against the surgeons, *in* Hay, D., Linebaugh, P., Rule, J.G., Thompson, E.P., Winslow, C., *Albion's fatal tree : crime and society in eighteenth-century England*, London, Penguin, 1975, pp. 65-117.

Linebaugh, P., (Marxist) social history and (conservative) legal history : a reply to Professor Langbein, *New York University law review*, 1985, 60, 2, pp. 212-243.

Locker, J.P., "Quiet thieves, quiet punishment" : private responses to the "respectable" offender, c.1850-1930, *Crime, Histoire et Sociétés/Crime, History and Societies*, 2005, 9, 1, pp. 9-31.

Maguire, M., Crime data and statistics, *in* Maguire, M., Morgan, R., Reiner, R. (Eds), *The Oxford handbook of criminology*, fourth edition, Oxford, Oxford University Press, 2007, pp. 241-301.

Mandler, P., Introduction : state and society in Victorian Britain, *in* Mandler, P. (ed.), *Liberty and authority in Victorian Britain*, Oxford, Oxford University Press, 2006, pp. 1-21.

Mellaerts, W., Criminal justice in provincial England, France and Netherlands, c.1880-1905 : some comparative perspectives, *Crime, Histoire et Sociétés/Crime, History and Societies*, 2000, 4, 2, pp. 19-52.

Morris, R.M., "Lies, damned lies and criminal statistics" : reinterpreting the criminal statistics in England and Wales, *Crime, Histoire et Sociétés/Crime, History and Societies*, 2001, 5, 1, pp. 111-127.

Moss, E., Burglary insurance and the culture of fear in Britain, c.1889-1939, *The historical journal*, 2011, 54, 4, pp. 1039-1064.

Paley, R., "An imperfect, inadequate and wretched system ?" Policing London before Peel, *Criminal justice history*, 1989, 10, pp. 95-130.

Petrow, S., *Policing morals : the Metropolitan Police and the Home Office 1870-1914*, Oxford, Clarendon Press, 1994.

Philips, D., *Crime and authority in Victorian England : the Black Country 1835-60*, London, Croom Helm, 1977.

Philips, D., Good men to associate and bad men to conspire : associations for the prosecution of felons in England, 1760-1860, *in* Hay, D., Snyder, F. (Eds), *Policing and prosecution in Britain 1750-1850*, Oxford, Clarendon Press, 1989, pp. 113-170.

Philips, D., Storch, R.D., *Policing provincial England, 1829-1856 : the politics of reform*, London, Leicester University Press, 1999.

Price, R., *British society, 1680-1880 : dynamism, containment and change*, Cambridge, Cambridge University Press, 1999.

Prochaska, F., Philanthropy, *in* Thompson, F.M.L. (ed.), *The Cambridge social history of Britain*, volume 3, Cambridge, Cambridge University Press, 1990, pp. 357-393.

Reiner, R., Policing a postmodern society, *The modern law review*, 1992, 55, 6, pp. 761-781.

Reynolds, E.A., *Before the Bobbies : the night watch and police reform in metropolitan London, 1720-1830*, Basingstoke, Macmillan, 1998.

Ross, E., Survival networks : women's neighbourhood sharing in London before World War I, *History workshop*, 1983, 15, pp. 4-28.

Rudé, G., *Criminal and victim : crime and society in early nineteenth-century England*, Oxford, Clarendon Press, 1985.

Sharpe, J.A., The history of crime in England, c.1300-1914 : an overview of recent publications, *The British journal of criminology*, 1988, 28, 2, pp. 124-137.

Shoemaker, R.B., *The London mob : violence and disorder in eighteenth-century England*, London, Hambledon Continuum, 2004.

Shpayer-Makov, H., *The making of a policeman : a social history of a labour force in metropolitan London, 1829-1914*, Aldershot, Ashgate, 2002.

Shpayer-Makov, H., *The ascent of the detective : police sleuths in Victorian and Edwardian England*, Oxford, Oxford University Press, 2011.

Silver, A., The demand for order in civil society : a review of some themes in the history of urban crime, police, and riot, *in* Bordua, D.J. (ed.), *The police : six sociological essays*, New York, John Wiley & Sons, 1967, pp. 1-24.

Smith, B.P., The emergence of public prosecution in London, 1790-1850, *Yale journal of law & the humanities*, 2006, 18, 1, pp. 29-62.

Smith, B.P., English criminal justice administration, 1650-1850 : a historiographic essay, *Law and history review*, 2007a, 25, 3, pp. 593-634.

Smith, B.P., The myth of private prosecution in England, 1750-1850, *in* Dubber, M.D., Farmer, L. (Eds), *Modern histories of crime and punishment*, Stanford, Stanford University Press, 2007b, pp. 151-174.

Spitzer, S., The rationalization of crime control in capitalist society, *Contemporary crises*, 1979, 3, 2, pp. 187-206.

Spitzer, S., Scull, A.T., Social control in historical perspective : from private to public responses to crime, *in* Greenberg, D.F. (ed.), *Corrections and punishment*, London, Sage Publications, 1977, pp. 265-286.

Steedman, C., *Policing the Victorian community : the formation of English provincial police forces, 1856-80*, London, Routledge and Kegan Paul, 1984.

Stevenson, K., Fulfilling their mission : the intervention of voluntary societies in cases of sexual assault in the Victorian criminal process, *Crime, Histoire et Sociétés/Crime, History and Societies*, 2004, 8, 1, pp. 93-110.

Storch, R.D., The plague of blue locusts : police reform and popular resistance in northern England, 1840-57, *International review of social history*, 1975, 20, 1, pp. 61-90.

Storch, R.D., The policeman as domestic missionary : urban discipline and popular culture in northern England, 1850-1880, *Journal of social history*, 1976, 9, 4, pp. 481-509.

Styles, J., Sir John Fielding and the problem of criminal investigation in eighteenth-century England, *Transactions of the Royal Historical Society*, 1983, fifth series, 33, pp. 127-149.

Styles, J., Print and policing : crime advertising in eighteenth-century provincial England, *in* Hay, D., Snyder, F. (Eds), *Policing and prosecution in Britain 1750-1850*, Oxford, Clarendon Press, 1989, pp. 55-111.

Sugarman, D., Law, economy and the state in England, 1750-1914 : some major issues, *in* Sugarman, D. (ed.), *Legality, ideology and the state*, London, Academic Press, 1983, pp. 213-266.

Taylor, D., *The new police in nineteenth-century England : crime, conflict and control*, Manchester, Manchester University Press, 1997.

Taylor, H., Rationing crime : the political economy of criminal statistics since the 1850s, *Economic history review*, 1998, 51, 3, pp. 569-590.

Taylor, M., The beginnings of modern British social history ?, *History workshop journal*, 1997, 43, pp. 155-176.

Thane, P., Government and society in England and Wales, 1750-1914, *in* Thompson, F.M.L. (ed.), *The Cambridge social history of Britain*, volume 3, Cambridge, Cambridge University Press, 1990, pp. 1-61.

Thompson, E.P., *Whigs and hunters : the origin of the Black Act*, paperback edition, Harmondsworth, Penguin, 1977.

Thompson, E.P., Rough music, *in* Thompson, E.P., *Customs in common*, paperback edition, London, Penguin, 1993, pp. 467-538.

Tobias, J.J., *Crime and industrial society in the nineteenth century*, new edition, Harmondsworth, Penguin, 1972.

Vincent, D., *Poor citizens : the state and the poor in twentieth-century Britain*, Harlow, Longman, 1991.

Wiener, M.J., The unloved state : twentieth-century politics in the writing of nineteenth-century history, *Journal of British studies*, 1994, 33, 3, pp. 283-308.

Williams, C.A., Counting crimes or counting people : some implications of mid-nineteenth century British police returns, *Crime, Histoire et Sociétés/Crime, History and Societies*, 2000, 4, 2, pp. 77-93.

Williams, C.A., Ideologies, structures, and contingencies : writing the history of British criminal justice since 1975, *Revue française de civilisation britannique*, 2008, 14, 4, pp. 59-84.

Wood, J.C., Self-policing and the policing of the self : violence, protection and the civilising bargain in Britain, *Crime, Histoire et Sociétés/Crime, History and Societies*, 2003, 7, 1, pp. 109-128.

Wood, J.C., *Violence and crime in nineteenth-century England : the shadow of our refinement*, London, Routledge, 2004.

Woods, D., Community violence, *in* Benson, J. (ed.), *The working class in England 1875-1914*, London, Croom Helm, 1985, pp. 165-205.

Zedner, L., Policing before and after the police : the historical antecedents of contemporary crime control, *The British journal of criminology*, 2006, 46, 1, pp. 78-96.