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Special Edition
Small Voices

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Editorial Comment

Small Voices: Hidden diversity in prisons past and present

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At a time when public and political discourse seems to be dominated by inexorable simplification and the imposition of compassionless homogeneity, small voices are needed. Small voices can provide a check on unreflective generalisations — about individuals, groups or behaviours — that seldom seek causes, justifications or deeper understanding. Small voices highlight diversity of circumstances and experience, impact and consequences. They are complex and difficult, but raise the bar on what might be required to address social problems and injustices. The adjective of small reflects not only the difficulties of these voices emerging, getting out beyond their own immediate space or confinement, but the multiple obstacles which prevent them being listened to and acted upon. Historically, individuals or groups who had such small voices may not have been able to leave records or their records were not considered significant enough to be preserved. For those historians committed to social history, revealing a history from below, the recurrent problem is the dearth of materials produced and preserved by those most marginalised and, thus, the perennial reliance upon sources which may relate to those with small voices but which actually derive from, and are shaped by, those with greater influence and volume. This problem may take a different shape in the early twenty-first century but has a similar outcome. Even though new technologies and forums make it possible for small voices to be more easily relayed, they often remain mediated, overwhelmed or silenced by noisier, dominant speech. In such circumstances, small voices require others with influence, networks and volume to enable them to emerge, be heard and listened to. With this in mind, the contributors to this edition endeavour to capture and reveal small, often unheard, voices within the prison system, past and present. Their aim is to utilise these voices to highlight broader struggles and injustices that can all too easily go unnoticed and, in doing so, emphasise the extent to which structural factors determine that some groups will differentially experience the criminal justice system and incarceration.

Starting in the present, Barton and Hobson focus on the experiences of prisoners with special educational needs, in terms of both their trajectories to custody and their experiences within prison. Challenging approaches to prison education that mirror neoliberal schooling methods — with their focus on measurable outputs and prioritisation of conformity over personal and political enlightenment — they reflect on how, if structural inequalities are not recognised, education can become a route to social exclusion rather than liberation.

Similarly, a lack of recognition of structural issues is evident in the historical response to prisoners who entered prison with a disability, or indeed acquired a disability while in prison. Johnston and Turner suggest that such prisoners may have experienced a less physically arduous experience at a particularly deterrent period in prison history, but they were unlikely to receive remission in terms of sentence length. Using case studies from Woking prison, they shed light on the experiences of disabled prisoners in Victorian England, noting that, unless it could be deemed ‘absolutely necessary’, special provision was not made.

Nevertheless, the margins given by that ‘absolute necessity’ may have been sufficient to encourage individual prisoners to feign insanity, although historically it is extremely difficult to draw the line between feigned and real illness. Sheppard examines the divide in her analysis of discourses around, and responses to, those prisoners who were conceptualised as ‘feigning’ insanity in the late-Victorian period. Narratives around those feigning mental illness, she argues, fed into broader concerns about the recidivist and the perceived necessity to maintain deterrent penal regimes.

The enduring complexity of the prison population which has often been hidden in public debate is also clear in the article by Davies who suggests that the prison is a key determinant in the level of fluidity in social labelling. Veterans of military service, even active service, can quickly experience a shift from being considered ‘heroes’ to being condemned as ‘villains’ following their incarceration. Davies asserts that the state has played a role in this shift by failing to provide sufficient support for veterans, post military service, leaving them exposed to a potential ‘military to prison pipeline’ and to social condemnation when things go wrong.

Both in the early twenty-first century and historically a high proportion of those who experience judicial confinement are less educated, less skilled and more vulnerable due to a variety of reasons including problems with alcohol and/or drugs. As Brown observes in her article on serial offenders during the first third of the twentieth century, state intervention was often experienced by such groups in terms of legislation which targeted their offending and not the structures which exacerbated their disadvantage and framed their criminal behaviour. Sometimes those structures were not an immediately visible aspect of the ways in which the criminal justice system operated. As Green notes in his discussion on black prisoners in Victorian Britain, the Victorian criminal justice system seldom recorded the race or ethnicity of people accused or convicted of crimes. Nonetheless, Green presents evidence which makes it clear that there was significant ethnic diversity in prisons at this time. The problematic nature of the historical evidence means that it is difficult to determine issues such as the fairness and equality of the trial process for the men and women concerned, but attention to the small traces they left can tell us much about the broader social concerns of the time

In contrast to the majority of poor prisoners, some middle class offenders received considerable public and political attention. Furthermore, they were more likely to leave records behind and thus have their voices heard. However, as Bethell points out, the experiences of many 'white-collar' prisoners have been eclipsed by attention given to other prisoners of their class, for example those who broke the law for political reasons (like suffragettes, Fenians and conscientious objectors) or well-known public figures, such as Oscar Wilde. Prisoners such as these could, over time, become more

easily perceived as tragic and wronged characters in the public consciousness. By contrast, despite the majority of 'white-collar' prisoners being relatively low level clerks or shop workers, history has judged them less sympathetically, as individuals who committed crime not from want or political conviction but, for perhaps the worst of all motivations, greed. The final article in this edition examines the experience and *self-* (rather than public-) perception of one white-collar prisoner. By drawing on an extensive personal record left by Edward Bannister, Cox highlights how, despite being a serial offender, Bannister saw himself as different from regular prisoners (or 'roughs') and argues that his story can be used to explore the significance of both personal and public perceptions of Victorian respectability.

Taken together, the articles in this edition combine to raise some important considerations that we must acknowledge if we are to really 'know' the prison. First, they highlight that because prisoners, historically and contemporarily, have tended to share very similar social demographics, it is easy to overlook the diversity within the prison population. Further, it is easy to ignore the questions and complexities posed by this diverse population because prisoner voices are 'small' by comparison to the volume of official and political rhetoric. An examination of small voices (whether that be directly via the excavation of personal testimonies from specific individuals or indirectly via a broader reflection on issues that affect particular populations) can help provide a better understanding of the powerful yet nuanced politics of prison punishment and the structural contexts that shape trajectories towards, experiences of and responses to imprisonment, past and present.

Learning to Fail?

Prisoners with special educational needs

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Introduction

Young people and adults with special educational needs (SEN) constitute a significant group in the prison estate, in terms of their numbers and the various challenges they face. In recent years a body of academic literature and official reports has emerged which has drawn some attention to this vulnerable group. The academic material has been written predominantly from medical, psychological or psychiatric perspectives and, similar to official reports, is concerned largely with strategies that might help prisoners with SEN manage their sentences and/or assist prisons in dealing with such prisoners.¹

Given this recent attention, one might not consider SEN prisoners to be an *invisible* group in the prison estate. However, from a critical perspective, apart from a small number of notable exceptions, what is absent is a sociological examination which not only addresses the serious challenges that people with special educational needs encounter *in* prison, but which considers these in the light of structural and individual trajectories to prison.² One crucial area where the problems of prisoners with SENs may be exacerbated, and which can bring into sharp relief wider inequalities, is prison education. Recent official policy places education at the heart of prisoner rehabilitation but current practice in prison education is notoriously poor, for young people in particular, and largely mirrors the narrow, traditional approaches found in state schooling. Such approaches to prison education are fundamentally reactive and endorse a pragmatic logic of a 'technical fix' to problems which are rooted at a deep level of structural inequality. Further, they are premised on an unproblematised conceptualisation (perhaps even

fetishization) of 'education' as a curative strategy for those whose previous experiences of education have been unhappy, inhibiting and disrupted, as is often the case for those with special educational needs.

This article represents a thought piece reflecting on the interplay between schooling, social exclusion and prison for those with special educational needs and its aims are two-fold. First, to outline some of the concerns around incarcerated young people and adults who fall into this category. We will provide some definitional parameters and, whilst acknowledging the often obfuscatory effects of official classifications, draw on these to outline the proportion of the prison population who are affected by these challenges. Second, we will examine the role of education (or perhaps 'schooling' is a more apt term in some contexts) both within the prison *and* in schools, arguing that for young people with SENs the school can represent the start of a 'pipeline' to prison. 'Schooling', that is to say, is a part of the problem. Consequently, the presentation of current forms of prison education as a panacea to problems that, for many, *began with education* is, at best, unrealistic.

To be clear we do not intend to argue against the benefits of learning or education in prison *per se*. On the contrary, as educators ourselves we acknowledge the life-enhancing potential of learning, and this obviously includes that which takes place in secure environments. And there clearly exist some excellent projects in various prisons that provide pedagogically innovative, rewarding and life-enriching experiences for those who undertake them (and, indeed those who teach / facilitate them).³ However, these do not exist in every prison (or even in most) and, where they do exist, they are generally to be found in the adult estate. We will therefore argue, by focusing on young people with

1. See for example Young, S., Moss, D., Sedgwick, O., Fridman, M. and Hodgkins, P (2015) 'A meta-analysis of the prevalence of attention deficit hyperactivity disorder in incarcerated populations', *Psychological Medicine*, 45, pp. 247–258; Gudjonsson, G. H., Wells, J., & Young, S. (2011). Motivation for offending among prisoners and the relationship with Axis I and Axis II disorders and ADHD symptoms, *Personality and Individual Differences*, 50, pp. 64–68.
2. See for example Graham, K. (2014) 'Does school prepare men for prison?', *City*, 18 (6), pp. 824–836; Ellis, K. and France, A. (2012) 'Being Judged, Being Assessed: Young people's perspective of assessment in youth justice and education', *Children and Society*, 26, pp. 112–123.
3. For a discussion of such projects see the special edition of the *Prison Service Journal*, vol 225, May 2016, specifically the following articles: Armstrong, R. and Ludlow, A. 'Educational Partnerships Between Universities and Prisons: How Learning Together can be Individually, Socially and Institutionally Transformative'; Darke, S. and Aresti, A. 'Connecting Prisons and Universities through Higher Education'; Szifris, K. 'Philosophy in Prisons: Opening Minds and Broadening Perspectives through philosophical dialogue'.

SEN in particular, that the commonly found emphasis on traditional, formalised and depoliticised approaches to education in prison represents, what Welch termed, an 'irony' of imprisonment, whereby the 'solution' may actually be re-creating the 'problem'.⁴

Some definitional parameters

The term special educational needs covers a wide range of conditions, symptoms and requirements. It includes those with graduated 'learning difficulties' (specific, moderate, severe and profound, and multiple); Behaviour, Emotional and Social Difficulties (BESN); Speech, Language and Communication Needs (SLCN), including ADHD; autism spectrum disorder (ASD); physical disability and 'other' difficulties/disabilities.⁵ Diagnoses and behaviours associated with ADHD (attention deficit hyperactivity disorder) are particularly significant. Often demonstrating behaviours such as inattention, impulsivity and hyperactivity, this group are more likely to encounter cumulative problems in education. Concomitantly, those whose offending behaviours prevail into adulthood are more likely to have additional learning and language difficulties associated with ADHD, and are disproportionately represented in criminal justice settings.

Within the broad 'umbrella' classification outlined here there is limited definitional clarity. Terms such as 'learning difficulties', for example, can encompass a multiplicity of meanings. Further, the wide variety of measurement techniques used, which vary depending on their purpose, along with shifts in forms of classification, add further complications. However, the most (and consistently) common types of primary needs for pupils with SEN in state funded schools are those who fall within BESD, SLCN and moderate learning difficulty categories. These are also the groups who appear in prison statistics more frequently and hence, for the purposes of this article, when we refer to special educational needs, we are generally referring to these categories.

School to prison pipeline

'He who opens a school door closes a prison'
(Victor Hugo).

An important body of work has emerged from the USA which has highlighted that, in direct contrast to Hugo's famous statement, for particular groups of children and young people, the school door can act as a gateway, or 'pipeline' to custody.⁶ Whilst this phenomenon encompasses poorer children generally, it has been found that those from ethnic minorities and those with special educational needs and learning difficulties are disproportionately affected.

There has been far less discussion of this phenomenon from a UK perspective but the work that does exist confirms that for children with SEN, their schooling experiences can contribute directly to a similar trajectory.⁷ The negative impacts of mainstream schooling on children and adolescents with SEN are multi-faceted. Rather than education helping them to mature and develop, academic functioning within the classroom can become a site of contestation exacerbated through conflictual interactions with teachers and peer groups.⁸ Consequently, misunderstanding and increased frustrations prevail for those

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children and young people unable to access the curriculum due to SEN and associated difficulties.⁹ Graham argues that the advent of mass schooling has created cultural expectations that make the behaviours associated with SEN *unacceptable* in the 'disciplined' classroom, rather than them being *inherently* problematic. Traditional approaches to teaching — which require prolonged periods of attention and impulse control — naturally disadvantage students with some SEN who might otherwise be very capable of learning (ADHD being the obvious, but not the only, example). Neoliberal education policies, which have led to increased class sizes, heavily routinized structure, standardised curriculum and

4. Welch, M. (2005) *Ironies of Imprisonment*. Thousand Oaks: Sage.
5. Department for Education. (2014) *Statistical Release SFR 31/2014 Children with special educational needs: An Analysis*. London: DfE. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/350129/SFR31_2014.pdf
6. See for example Kim, C., Losen, D. and Hewitt, D. (2010) *The School-to-Prison Pipeline: Structuring Legal Reform* New York: New York University Press; Mallett, C. (2016) *The School-to-Prison Pipeline: A Comprehensive Assessment*, New York: Springer; Annamma, S., Morrison, D. and Jackson, D. (2014) 'Disproportionality fills in the gaps: Connections between achievement, discipline and education in the school to prison pipeline', *Berkeley Review of Education*, Vol 5, No 1, pp.53–87.
7. Graham, K. (2014) 'Does school prepare men for prison?' *City* 18 (6) pp. 824–836.
8. Barkley, R. (2006) *Attention Deficit Hyperactivity Disorder: A Handbook for Diagnosis and Treatment*. 3rd Ed. New York: Guilford.
9. Redmond, S. and Rice, M. (2002) 'Stability of behavioural ratings of children with specific language impairment' *Journal of Speech, Language and Hearing Research*. 45, pp. 190–201.

constant assessment, driven by the introduction of performance league tables, can intensify a sense of frustration and despair for those who are struggling to cope in class. It has been well documented that children can quickly develop a sense of alienation in such settings, sometimes becoming defensive or oppositional.¹⁰ Constant testing and academic assessment 'incentivize and encourage 'low-performing' students to drop out'.¹¹ And in a neoliberal education system where 'failure' is blamed on personal shortcomings the 'unruly', 'disordered', non-conforming child — whose behaviour is the converse of that which is required for an 'orderly' school — is singled out as the problem.¹²

In an environment where behaviour is heavily monitored, infractions in mainstream schools increasingly lead to suspensions or exclusions. Two thirds of children permanently excluded from school have SEN whilst pupils with BESD were significantly more likely to receive a fixed period of exclusion.¹³ School exclusion reduces job and other post-school opportunities and in an era of welfare 'roll back', such deprivations can increase the likelihood of engagement in the illicit economy or other criminal activity.¹⁴

For 'disorderly' young people recognised as delinquent (or who have offended), an external alternative to mainstream schooling is provided in pupil referral units (PRU) however this can be counterproductive given the 'abnormal environment' of segregated learning and low rates of academic attainment, training and employment.¹⁵ Moreover, being consigned to external units, labelled as underachieving and disruptive, amplifies social exclusion and increases offending risks.¹⁶ Thus, as

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Graham has argued, just as early educational experience can 'mould aspirations and inculcate the personal, cultural and social dispositions' that are necessary for *successful* transition into adulthood, so too can it create the conditions that may lead to, and the characters and attitudes required for, incarceration. Or, to put it another way, those who end up in prison are 'prepared for their adult role by the years of experiencing school on the margins'.¹⁷ It is not our intention to pathologise this group or imply causation of criminogenic risk. Rather, we simply wish to identify the complex interrelationships between interrupted education, school exclusion and conflict with the law.

Recent data highlights the disproportionate numbers of young people in YOIs with fractured education experiences noting that around 40 per cent have not attended school since the age of 14 years and just under nine out of ten have been excluded at some point in their schooling.¹⁸ Moreover, previous studies demonstrate a corollary of ADHD characteristics and an increased risk of 'anti-social' behaviours intersecting with adverse school and social settings.¹⁹

The following example highlights the key challenges we describe.²⁰ 'Joe' exhibited many of the behaviours associated with ADHD, and was eventually diagnosed and prescribed Ritalin for his symptoms. He was referred to the children's mental health service CAMHS but had continued difficulties in formal education, which culminated in him being permanently excluded (for 'hurling abuse') and sent to special education provision. Joe said that he tended to 'act first and think about the consequences afterwards'. By the age of 16, despite no

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10. Redmond and Rice (2002); Barkley (2006).
 11. Ossei-Owusu, S. (2012: 301) 'Decoding youth and neoliberalism: pupils, precarity, and punishment', *Journal of Poverty* 16 pp. 296–307.
 12. Stephenson, M., Giller, H. & Brown, S. (2011) *Effective Practice in Youth Justice*. 2nd edn. London: Routledge.
 13. Cole (2015:7) *Mental Health Difficulties and Children at Risk of Exclusion from Schools in England*. Oxford: University of Oxford; DfE (2014: 22).
 14. Graham, 2014.
 15. Stephenson, M. *et al* (2011) .
 16. *Ibid*.
 17. Graham, K. (2014: 825). NB. Graham's research focused on adult male prisoners.
 18. MoJ (2016) 'Review of the Youth Justice System. An interim report of emerging findings'. London: Ministry of Justice. <https://www.gov.uk/government/publications/review-of-the-youth-justice-system>
 19. Hughes, N. (2015a) Neurodisability in the youth justice system: recognising and responding to the criminalisation of neurodevelopmental impairment. *Howard League What is Justice? Working papers 17/25*. London: The Howard League for Penal Reform; Gordon, J., Diehl, R. and Anderson, L. (2012) 'Does ADHD matter? Examining attention deficit and hyperactivity disorder on the likelihood of recidivism among detained youth' *Journal of Offender Rehabilitations*. 51, pp. 497–518.
 20. This example is taken from Berelowitz, S. (2011) 'I think I must have been born bad': Emotional wellbeing and mental health of children and young people in the youth justice system'. *The Office of the Children's Commissioner*, (2011:33). www.childrenscommissioner.gov.uk

significant previous criminal record, he found himself in trouble with the law, having committed a 'serious offence' and received a custodial sentence.

Once in the criminal / youth justice system, progress may be accelerated for those who have difficulty understanding and responding to the process. Many of those who work with youth offenders for example, have indicated that children and young people with SEN have difficulties understanding what they need to do to successfully complete an intervention and the consequences of failing to comply with court orders. Accordingly, they are more likely than those without such impairments to receive a custodial sentence.²¹

Specific numbers of people in custody with SEN are difficult to determine and estimates vary. However, even if we cannot assume complete accuracy, the available data does provide us with an indication of the high proportion of people affected. For example, 20 per cent of the adult prison population are reported as needing help with reading and writing or numeracy whilst between 20–30 per cent have a learning difficulty which interferes with their ability to fully understand criminal justice processes.²² In terms of young people, the statistics paint a particularly stark picture. Bryan and Mackenzie (2008) indicate that 60 per cent of children who offend have difficulties with speech, language and communication needs (compared with 5–14 per cent in the general population), and half of this group have poor or very poor communication skills.²³ Moreover, Bromley Briefings (2015) report that 25 per cent of those in the youth justice system have identified special needs, with 46 per cent rated as having underachieved in school, and 29 per cent having difficulties with literacy and numeracy.²⁴ Another source reports that 18 per cent of incarcerated children and young people have a special needs statement whilst 21 per cent testified

Rates of ADHD are around five times higher (at 30 per cent) for young people under 18 in custody [...]

they had learning difficulties.²⁵ Rates of ADHD are around five times higher (at 30 per cent) for young people under 18 in custody than in the general population and dyslexia is also thought to be around five times higher.²⁶ Additionally, a recent review of the youth justice system reports that half of 15 to 17 year olds entering Youth Offending Institutions (YOI) have literacy or numeracy levels consistent with academic expectations of 7 to 11 year olds.²⁷

Although the above statistics cover a wide range of educational needs and learning difficulties, the issue here is clear. Those children and young people who have difficulty with education and, in particular, whose behaviours are not conducive to formal (neoliberal) schooling practices, find themselves embroiled in the criminal justice and custodial systems at an alarming rate. This trajectory, statistics clearly suggest, can continue into the adult prison population however, in the remainder of this article we focus on the experiences of young people with SEN in custody, specifically in relation to the role of education in the secure estate.

Special educational needs in the prison environment

There exist no formal procedures for identifying people with SEN on reception to prison or once they are admitted so, as noted above, it is difficult to know, with certainty, how many people this affects. What is clear, however, is that whilst prison can be immensely traumatic and bewildering for *any* person, youth or adult (and especially so for those who are there for the first time), for those with SEN, the ability to adjust to life inside can be particularly challenging.

Studies indicate that a high rate of prisoners with learning difficulties have problems reading and comprehending standard prison information (around 80 per cent according to the Bromley Briefings, 2016). As a result, many struggle to understand and follow prison

21. Jones, G. and Talbot, J. (2010) 'No One Knows: The bewildering passage of offenders with learning disability and learning difficulty through the criminal justice system', *Criminal Behaviour and Mental Health*, 20, pp.1–7.
22. Bromley Briefings (2015: 3) Bromley Briefings Prison Factfile Autumn 2015. London: Prison Reform Trust. <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Bromley%20Briefings/Factfile%20Autumn%202015.pdf>
23. Bryan, K. and Mackenzie, J. (2008) *Meeting the speech, language and communication needs of vulnerable young children*, London: Royal College of Speech and Language Therapists.
24. Bromley Briefings (2015:48).
25. Bromley Briefings (2013:6) *Prison: the facts Bromley Briefings Summer 2013*, London: Prison Reform Trust.
26. Taylor C (2016) *Great Expectations: Towards better learning outcomes for young people and adults in custody*. London: Prisoners' Education Trust.
27. Eme, R. (2008) 'Attention-Deficit /Hyperactivity Disorder and the Juvenile Justice System', *Journal of Forensic Psychology Practice*, 8:2, pp. 174–185.

rules and regimes. Difficulties in being able to adapt to regimes and routines can lead to frustration and to some prisoners 'lashing out'.²⁸ Perhaps not surprisingly then, those with learning difficulties are found to be significantly more likely to have broken prison rules, five times as likely to have been subject to control and restraint techniques and three times as likely to have spent time in segregation.²⁹ Difficulties in reading, writing and general communication abilities can have adverse effects on relationships with staff and fellow prisoners. Indeed, as Jones and Talbot (2010) explain, if those with conditions which affect communication skills (ADHD for example) are not identified and responded to appropriately 'there are fertile grounds for misunderstanding and confrontation'.³⁰ This could go some way towards explaining why prisoners with learning difficulties report having experienced victimisation from other prisoners.³¹ The impact of literacy problems is also felt in terms of communicating and maintaining relationships with family, friends and advocates outside of the prison and, as Loucks (2007) found, can mean some prisoners become withdrawn and isolated. For example, Joe (whose case is outlined above) described feeling isolated in custody and manipulated by other prisoners. His distress eventually led him to self-harm which, in turn saw him removed to the health care unit and, in his words, 'drugged'.

Perhaps one of the most obvious and detrimental outcomes for those managing a prison sentence with a special educational need is the decreased likelihood of successful engagement in various educational, training and other 'rehabilitative' programmes. Although generally considered progressive, from a critical perspective the concept (and practice) of 'rehabilitation' in prison is not unproblematic. As Warr (2016) articulates, the discourse that underpins many rehabilitative

In May this year, in her review of adult education in prison, Dame Sally Coates stated that prison education should be the 'engine of prisoner rehabilitation'.

(particularly 'offender behaviour') programmes is rooted in positivistic conceptualisations of 'deviancy'.³² Further, rehabilitative philosophies 'are more often designed...to reformulate the prisoner's identity into a more compliant institutional one' thus conflating the notion of rehabilitation with the priorities of institutional security and penal control.³³ That said, there are still obvious advantages to engaging with such programmes — participation can be a criterion for a successful parole application for example — hence why many prisoners are keen to take part. Prisoners with learning difficulties, who often feel unable or reluctant to participate can become 'simply [...] labelled difficult or unwilling to engage'.³⁴ And for those who do attempt to engage, as Loucks (2007) notes; conditions which are symptomized by poor concentration or attention (such as ADHD) can lead to insufficient or inappropriate participation and, sometimes, suspension from the programmes. The consequences of this can be an increase in lock-up time and exacerbated feelings of boredom. Perhaps not surprisingly then, depression and anxiety, which are commonly experienced by all groups in prison, are found at a higher rate amongst those with learning difficulties.³⁵ Prisoners with learning difficulties are more than three times as likely as prisoners without impairments to have clinically significant depression or anxiety.³⁶

Official rhetoric has claimed to place education at the core of custodial regimes. In May this year, in her review of adult education in prison, Dame Sally Coates stated that prison education should be the 'engine of prisoner rehabilitation'. The then Prime Minister David Cameron agreed, remarking that education was of central importance for prison rehabilitation.³⁷ He stated that he was depending on education to reduce reoffending rates. This goal has been the particular

28. Loucks, N. (2007) 'No-one Knows: The prevalence and associated needs of offenders with learning difficulties and learning disabilities', *Prison Reform Trust*, London.

29. Bromley Briefings (2013:6).

30. Jones, G. and Talbot, J. (2010) 'No One Knows: The bewildering passage of offenders with learning disability and learning difficulty through the criminal justice system', *Criminal Behaviour and Mental Health*, 20, p5.

31. Talbot, J. (2007) 'No one knows. Identifying and supporting prisoners with learning difficulties and learning disabilities: the views of prison staff. *Prison Reform Trust*, London.

32. Warr, J. (2016) 'Transformative Dialogues: (Re)privileging the informal in prison education', *Prison Service Journal*, May, Vol 225.

33. Warr (2016) p20.

34. Ministry of Justice (2011:23) *Ensuring Equality* PSI 32/2011. London: NOMS.

35. Jones and Talbot (2010).

36. Talbot, J. (2007).

37. Cameron, D. (2016) 'Prison Reform: Prime Minister's Speech' - <https://www.gov.uk/government/speeches/prison-reform-prime-ministers-speech>. In the same speech he also focused on the use of technology (specifically a GPS tracking systems which will enable prisoners to work outside the prison) as a means of reducing crime.

focus of regimes for young people in custody and since 2010 there have been various policy proposals implemented that aim to achieve it. For example, in 2014, the coalition government proposed the opening of 'secure colleges' as a response to existing poor levels of education for young offenders. These plans were eventually abandoned (after being condemned as offering nothing more than 'modern day borstals')³⁸ but the idea of doubling the number of hours per week that young people would spend in education (from 15 to 30) was introduced in 2015. Last year, Charlie Taylor reiterated that education should be at the heart of the rehabilitation of young offenders and advocated the creation of 'secure schools' as the best way to ensure young people engage with and benefit from their time in custody.³⁹

Taylor's proposals have been met with broad approval and, on one level, emphasising education as a key aspect of incarceration is clearly not a bad thing, representing as it does a departure from the customary regulative and punitive discourse of penal responses. However, the success (and by this we refer to the benefits for the student, not the interests of the institution) of such schemes depends, of course, on the substantive pedagogy implemented. Current educational arrangements for young people in custody leave much to be desired in terms of access, curriculum and pedagogy. In terms of access, the habitual rhythms of youth justice and custodial practices — for example, the imposition of short sentences, staff shortages, the exposure to violence within institutions and the number of young people in segregation — all have a seriously detrimental impact on the education offered to young people.⁴⁰

Further, educational needs and plans are assessed as part of a range of 'risks', including re-offending and

access to some courses in young offender institutions is contingent on 'behavioural assessment risk'.⁴¹ In such circumstances, where education is inherently subsumed within a discourse of risk and regulation, there is limited chance of developing an institutional 'culture of learning and aspiration' (as advocated by Taylor) for already marginalised young people. As one young person in Ross Little's (2015) study noted: 'I have a high risk assessment, so there's not much I can do. I can do different stuff but it's all based around education (not practical activities). I don't wanna do education. I kick off a lot and just walk out'.⁴²

Conclusion

In terms of curriculum and pedagogy, education for those in youth custody has (at best) mirrored the most conservative approaches in mainstream schooling. As noted, recent developments have mandated that young people undertake 30 hours of education per week in order that the YOI regime be 'transformed to better reflect a typical school day'.⁴³ This approach has been criticised for its inflexibility, focusing on output measures rather than the needs of young people, and for limiting choice.⁴⁴ Even more worrying, perhaps, is the potential that the goal of achieving the mandatory number of hours in class becomes an end in itself.

Such traditional approaches to education in prison are premised on a false conviction: that the difficulties and problems which steer young people to prison — problems that are inherently engendered by serious structural inequality — can be redressed by a pedagogical approach that demands conformity and alienates those who don't adapt. Whilst for some people in prison, education might indeed be a positive and 'transformative' experience, according to Little

In terms of curriculum and pedagogy, education for those in youth custody has (at best) mirrored the most conservative approaches in mainstream schooling.

38. Mason R (2015) 'Michael Gove scraps £100m 'secure college' plan in U-turn', *The Guardian*, 10 July. <https://www.theguardian.com/society/2015/jul/10/michael-gove-scraps-100m-secure-college-plan-uturn>
39. Taylor C (2016) *Great Expectations: Towards better learning outcomes for young people and young adults in custody*, Prisoners' Education Trust.
40. See Taylor (2016) and The Parliamentary Office of Science and Technology (2016) *Education in Youth Custody*, Postnote, No 524, May. <http://researchbriefings.files.parliament.uk/documents/POST-PN-0524/POST-PN-0524.pdf>
41. The Parliamentary Office of Science and Technology (2016) *The Parliamentary Office of Science and Technology (2016) Education in Youth Custody*, Postnote, No 524, May. <http://researchbriefings.files.parliament.uk/documents/POST-PN-0524/POST-PN-0524.pdf>
42. Little, R. (2015:36) Putting Education at the heart of custody? The views of children on education in a young offender institution. *British Journal of Community Justice* 13 (2) pp. 27–46.
43. Gov.uk (2014) '30 hours education a week for young offenders', 15 December.
44. See Little (2015) for the views of young offenders regarding limited choice in prison education.

(2015), perceptions of the usefulness of prison education amongst young people in custody are low, especially for those whose previous experiences of schooling has been unhappy and inhibiting, bearing, as they do, 'too much resemblance to the very thing they had responded so badly to before'.⁴⁵ Thus, for young people in custody with SEN who, statistics indicate, generally *have* responded badly to schooling, education might come to represent an 'irony' of imprisonment whereby they are faced with the same disenchantments and exclusions that contributed towards their trajectory to prison in the first instance.

Over the last three decades, neoliberal policies in education, in line with wider social policies, have been reconfigured in order to produce responsabilised and individualised actors. For children and young people who present with non-conformist behaviours, education can become perceived as a 'threat' in that it frequently results in punishment. As McGregor (2009) notes 'behaviour management policies in

schools still tend to focus on individual deficit, casting 'rebellious' students as 'the problem'.⁴⁶ Thus education and punishment can become synonymous, and punishment is generally enforced through exclusion.

In order for education to work — and by this we mean in the best interests of the prisoner as well as the interests of the prison and the public — it has to 'move away from the current disciplinary practices and ideologies that exist within both school and prison education and instead re-privilege those skills that arise when learning occurs for learning's sake'.⁴⁷ However, the prison environment poses specific challenges. As Little (2016) notes, it is unrealistic to expect significant 'success' and rehabilitation in an environment where basic needs (stability, safety, rest, good nutrition) are often not adequately met. Indeed, as he notes, 'if we take a view of education as a form of liberation...then a prison fundamentally fails the basic test of a learning environment'.⁴⁸

45. Little (2015: 40); Statistics indicate that 90% of children in custody had been excluded from school at some point prior to incarceration, whilst 63% boys and 74% girls had been *permanently* excluded prior to imprisonment. See also The Parliamentary Office of Science and Technology (2016).

46. McGregor, G. (2009:355) 'Educating for (whose) success? Schooling in an age of neo-liberalism' *British Journal of Sociology of Education*. 30 (2) pp. 345–358.

47. Warr (2016) p18.

48. Little (2016), p41.

Disability and the Victorian Prison: Experiencing Penal Servitude

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Introduction

This article uncovers the hidden experience of prisoners with physical disabilities in the Victorian prison system. This is a largely under-researched area, hampered by both the limitations of historical records of prisoners and the lack of interest in social histories of disability.¹ Borsay suggests that this lack of interest is due partly to the relatively recent development of social history, but also that social history has tended to focus upon the social experiences of everyday life directed towards the socio-political inequalities of poverty, class, gender and race.² Histories of disability have thus continued to be marginalised and that 'social exclusion has been matched by intellectual exclusion'.³

Prior to the nineteenth century, and the industrial revolution, people with disabilities were readily accommodated within feudal society.⁴ Finkelstein argues that it was the 'creation of new productive technology — large scale industry with production lines geared to able bodied norms'⁵ that led to the exclusion of people with disabilities from the work force which then led to an exclusion of people with disabilities in everyday life. A disability history which focuses on economics has been furthered by a small body of research which primarily focuses on labour,⁶ and in relation to this issue we will observe, hard labour in the prison context, and a prisoners ability to undertake it, was one of the most important elements in the classification of prisoners.

A fundamental nineteenth century response to people with either physical or cognitive impairments was either to ignore them or to incarcerate them in asylums or workhouses. The Victorian period was one during which those with disabilities were often seen as a burden to their families, due to their perceived inability to contribute labour. The lack of support from

government or means to supplement their living meant they were frequently the focus of sympathetic attention for literary scholars like Charles Dickens. Ideas about the 'deserving' and 'undeserving' abound in Victorian society and Dickens' characters aimed to tell a story about those whose lives were otherwise hidden from the majority of the 'reading' public (the middle and upper classes). Some of these literary figures are now deeply embedded into popular culture and Tiny Tim Cratchett, the 'crippled' youngest child of Mr Scrooge's clerk, Bob from *A Christmas Carol* remains a potent symbol of charity during the Christmas period.

Social policies aimed specifically towards people with disabilities were virtually nonexistent during the nineteenth century. Drake argues that 'the first chink in the wall came through the medium of education'.⁷ Initially section 42 of the 1868 Poor Law (Amendment) Act allowed the guardians of any union or parish, with the approval of the Poor Law Board, to send any 'deaf or dumb' child to any school able to accommodate them. However, the Royal Commission on the Blind, Deaf and Dumb, set up in 1885, reported in 1889 that many children with such impairments had not been educated due to a lack of requirement in the system — education of such children had been seen as a 'charitable concession rather than a duty'. Following the report, Parliament for England and Wales passed the 1893 Elementary Education (Blind and Deaf Children) Act which enforced school boards to accommodate such children. The 1899 Elementary Education (defective and Epileptic Children) Act further empowered — but did not require — school boards to provide for the education of 'mentally and physically defective and epileptic children'. Thus philanthropy and inclusion was the chief motive, rather than containment. However, legislation concerning disabled adults provided little more than regulation — itinerant disabled people continued to navigate the Poor Laws and admission to the workhouse.

1. Notable exceptions are Borsay, A. (2002) 'History, power and identity' in C. Barnes, M. Oliver, and L. Barton (eds.) *Disability Studies Today*. Cambridge: Polity Press, pp. 98–119; Borsay, A. (2005) *Disability and Social Policy in Britain since 1750: A History of Exclusion*. Basingstoke: Palgrave Macmillan.
2. Borsay, 2002.
3. Borsay, 2002, p. 101.
4. Finkelstein, V. (1980) *Attitudes and Disabled People: Issues for Discussion*. New York: World Rehabilitation Studies.
5. Finkelstein, 1980, p. 7.
6. Oliver, M. (1990) *The Politics of Disablement*. Basingstoke: Macmillan; Gleeson, B. (1999) *Geographies of Disability*. London: Routledge; Borsay, 2005.
7. Drake, R. F. (1999) *Understanding Disability Studies*. Basingstoke: Macmillan, p. 46.

Convict Prison System

So how did those with physical disabilities fair within the prison system? And how did the authorities responded to such groups? This article will use case studies of the lives of convict prisoners to provide a glimpse into the experiences of those with physical disabilities during their incarceration. Some of these people were physically disabled from birth, others developed a disability during their lives or during their incarceration. All of these examples are taken from the convict prison system, this was the long term prison system that developed in England after the end of the transportation of convicts to Australia. From 1853 onwards, the majority of serious offenders would serve sentences called 'penal servitude' inside the convict prison system and these prisons were all located in London or the South of England.

Penal servitude was made up of three parts; separate confinement, usually at Millbank or Pentonville, then the longest stage where convicts were put to work on the 'public works' and finally release on license subject to various conditions (early form of parole).

In all prisons across the country, both convict prisons and local prisons, there was an infirmary or hospital, however, for those with more serious health conditions or disabilities (either mental or physical) there was the potential to remove these prisoners to other institutions. For those in local prisons, they might be removed to the county lunatic asylum, workhouse infirmary or local hospital (usually on release from what were quite short prison sentences) or on compassionate grounds. In the convict system, it was also recognised that there were some prisoners to whom, due to health or disability, the full force of penal policy could not be applied. Those convicts sentenced to transportation who were identified as 'invalids' through poor health, infirmity or perhaps age, were often pardoned early or were held on 'invalid' hulks such as the *Defence* (moored at Woolwich and destroyed in a fire in 1857).⁸

In general, prisoners' complaints about their physical health or the deterioration of it received a great deal of suspicion in the prison system and many

prisoners were labelled as 'malingerers'.⁹ The administrators were at pains to prevent any prisoner 'getting out' of the full daily routine through feigned illness. As McConville notes convicts went to great lengths to avoid labour and this was met by 'medical authorities who responded to this with a profound scepticism and a certain callousness in respect of any claims to sickness'.¹⁰ However, for those with physical disabilities, the authorities had to adjust and adapt their strict rules and regulations.

Woking Invalid Prison

As the convict prison system developed in the mid to late nineteenth century this system was modified to hold the overwhelming majority of long term prisoners in England. All convict prisons in the estate were built

with hospitals and these were used largely for shorter term illness. It was recognised that some convicts were unable, for various reasons, to endure the full rigours of penal servitude, particularly hard labour on the public works which was the longest stage of penal servitude sentence. As with wider social policy the ability to work or labour was a central concern for the prison authorities. As the system developed an entire prison was allocated to take

those unsuitable for hard labour, for the bulk of the second half of the nineteenth century, this was Woking Invalid Convict Prison. After the closure of all of the hulks in 1857, invalids were held at Lewes prison for about two years whilst Woking was being constructed.

In 1859 Woking convict prison in Surrey was built and began to receive invalid convicts during 1859 to 1860 from the population held at Lewes. This continued until the whole invalid population had been transferred and staff also moved from Lewes and elsewhere to Woking.¹¹ Woking held those convicts with mental and physical disabilities (though in 1863 Broadmoor also opened to hold those with mental illnesses), as well as those who were being held due to more temporary afflictions, diseases and illnesses. Whilst these convicts were deemed unable to undertake the usual hard labour of the public works system they were still required to undertake various

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illness.

8. McConville, S. (1981) *A History of English Prison Administration, Vol 1, 1750–1877*, London: Routledge and Kegan Paul.

9. Priestley, P. (1999) *Victorian Prison Lives*, Pimlico: London; Sim, J. (1990) *Medical Power in Prisons: The Prison Medical Service in England, 1774–1989*. Buckingham: Open University Press.

10. McConville, 1981, p. 415.

11. *Report of the Directors of Convict Prisons, for the year ending 1859; Report of the Directors of Convict Prisons, for the year ending 1860.*

forms of light labour either at Woking or Dartmoor. When Woking was nearly completed in 1861 it was described as being in 'every respect eminently suitable for the confinement and treatment of invalid convicts ... cells, rooms and corridors are large and lofty; the lighting, ventilation and heating are admirable in every way; and the exercise grounds ... are all that could be desired and will doubtless contribute, as they were intended, to the more speedy convalescence and ultimate recovery of the patients'.¹² The prison had been designed by Joshua Jebb and Arthur Blomfield and was built by convict labour. The overall goal of the invalid prison was the treatment of the prisoners under their care and to restore their health and return to them to other prisons in the system. However, there was an acknowledgment that there was a group of prisoners through age, disability or chronic disease that would be permanent inmates of the prison.

The prison population at Woking in 1865 was just under 500. In 1869 a new wing was built and opened for female convicts so that by the late 1870s, the population had expanded to around 1400.¹³ However, in 1886 it was decided that the invalid prisons should be closed and across the following years the male and then the female prison was closed and the whole estate was then transferred to the War Department, who subsequently developed the site as Inkermann Barracks. Surprisingly there is little written about Woking prison, but the prison experiences documented here give us some insights into the operation of this institution and the treatment of those under its care.

Case study: Jane Field

Jane Field was born in 1828 in Barnet (now a London district but in the early nineteenth century was in Herefordshire). Already familiar with courtrooms and local prisons, aged thirty-two years in 1860, a married but childless woman, Jane was first sentenced to three years penal servitude for 'stealing from the person' (colloquially known as 'pick pocketing'). Jane was 'an impudent prostitute' who was convicted for 'robbing a man of his watch'.¹⁴ She

served the whole of this sentence in prison but was, just five months after release in November 1863, re-convicted and sentenced to six years penal servitude. Jane again served the whole of this sentence and was released in February 1870. Normally convicts serving sentences of penal servitude were being released early on licence, usually with between one-third and two-fifths of their sentence remaining. Jane was released a year early but her licence was revoked within five months and, although the cause of the revocation has not been recorded, it *is* recorded that she was sent back to prison to serve the remainder of her sentence.

Finally being released from that second sentence of penal servitude in February 1870, by 1871 Jane was forty-three years old and sentenced for the third time to seven years penal servitude again for 'larceny from the person'. In the prison records and licence documents of the two previous penal servitude sentences, Jane was not recorded as having been admitted to the prison infirmary nor was it documented that she suffered from epilepsy. However, Jane during this third sentence, was committed to Woking prison and was admitted to the infirmary there thirteen times between December 1872 and September 1876. It is likely that rather than Jane developing epilepsy at this time, she was already a sufferer but such details

were not being recorded in the earlier documents. If Jane was already known to be epileptic, it would explain why for this third sentence she was almost instantly committed to the newly built female wing of Woking prison, rather than Millbank prison as she had previously been.

Seemingly not content with Woking prison, in September 1874, Jane applied to be transferred to Millbank prison as she says she is 'subject to fits'. It may be that Jane preferred Millbank to Woking as her previous sentences had been served there. The medical officer of Woking prison obviously saw no reason for such a transfer and Jane remained in Woking until her release in November 1876. It may have been that rather than her care in Woking not being good, it was the clashes between Jane and the medical officer, which occurred at least once when

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12. Report of the Directors of Convict Prisons, for the year ending 1861, p. 314.

13. McConville, 1981.

14. *The Standard*, Dec. 8, 1860, p. 4.

Jane was punished for being insolent to the medical officer. Jane was released from that sentence two years early in November 1876.

This freedom was not to last, less than one year later, in September 1877, aged 49 years, Jane was reconvicted for 'larceny from the person' and committed again to Woking prison after being sentenced to ten years penal servitude. Jane served all but one year and two months of this sentence, all in Woking prison, and again much of it in the infirmary. Whilst there, Jane had the only documented injury associated with her epilepsy, when in September 1882 she fell and cut her head during a seizure, although the medical officer deemed the injury 'trifling'. Jane petitioned the Secretary of State for her release on the grounds of 'bad health and fits' six times during this sentence something she had not done during the previous sentences, but all to no avail. These were not supported by the medical officer as he judged that 'she is subject to epileptic fits of a mild form. Her general health is good and it is uninjured by her imprisonment'. This was Jane's last spell in prison. She died shortly after release in early 1897 aged 69 years.

Until the nineteenth century, in the Christian world at least, epilepsy was regarded as a the work of devils or demons, and later considered to be a 'falling sickness'. Accordingly, treatment for the condition was delivered through fasting, prayer, pilgrimages and so forth. Towards the second half of the nineteenth century, in line with the growing understanding of physiological causes of such conditions, a medical cause and treatment began to be sought. The first drug to be proven to have an anti-epileptic effect was bromine, first used in 1857, and later phenobarbitone, but that was not used until 1912, too late for Jane Field.¹⁵ It is not recorded in the licence document whether Jane was being treated with bromine and it is not recorded what her treatment was during these frequent and regular stays in the infirmary. It is probably that her treatment was little more than observation and light work, and being 'kept in association' rather than isolation as a safety measure. Given that epilepsy can be life threatening, and certainly would have been then without the medication

used today, Jane did reach a reasonable age and was not prevented from offending, sometimes violently, both inside and outside the prison. It is likely that she received the care in Woking prison that she would not have had outside prison.

Jane Field had a chronic disability which does not seem to have been related to her offending or prison stays. It is likely that without the care of the infirmary in Woking prison she might not have fared as well as she did, the same cannot be said for John Proudfoot.

Case study: John Proudfoot

John Proudfoot was born 1858 in Burntshields, Dumfries. The eldest son of a 'head sheep farm manager', John was convicted of larceny (of letters) aged twenty-three years whilst employed in the Inverness post office as a 'telegraph-counter clerk, or money-order clerk' in 1881. Although this was his first (and only) offence, he was sentenced to seven years penal servitude. This first offence was by no means petty, hence the considerable sentence. In a position of trust, John had stolen a registered letter containing £900 which was being sent to the Commercial Bank of Scotland.¹⁶

Initially imprisoned in the local prison in Inverness, John was sent first to Pentonville in London, then transferred to Chatham prison in Kent in 1882. A young man in 'good' health on committal to Pentonville, and then Chatham, it was not long before he suffered an injury. During the nineteenth century all prisoners would have been put to work in some capacity - indeed it was considered fundamental to the deterrence of the sentence and this took priority over revenue or training of prisoners. Convicts serving sentences of penal servitude needed to work to earn their 'marks' and those in public works prisons such as Chatham, Portland, Portsmouth and Dartmoor were all put to work on various building and excavating projects similar to the work they were put to in Australia as transportees, all projects that involved hard, physical labour.¹⁷ Amongst other projects, convicts imprisoned at Chatham worked on the construction of the dockyard.

John was convicted of larceny (of letters) aged twenty-three years whilst employed in the Inverness post office as a 'telegraph-counter clerk, or money-order clerk' in 1881.

15. Magiorkinis, E., Diamantis, A., Sidiropoulou, K., and Panteliadis, C. (2014) 'Highlights in the History of Epilepsy: The Last 200 Years', *Epilepsy Research and Treatment*, vol. 2014.

16. *Aberdeen Weekly Journal*, April 1st, 1882.

17. Du Cane, E. F. (1882) *An account of the manner in which sentences of penal servitude are carried out in England*.

Brown argues that the years from the mid-1860s to the mid-1890s were the most severe in terms of deterrence in the history of the prison and is a period that saw much violence and self-injury by convict prisoners.¹⁸ Owing to the severe conditions in which convicts were held and treated, Brown further argues that some of the most extreme cases of self-injury occurred within Chatham with convicts placing their limbs between the wheels of moving trucks or engines and the tracks they ran along.¹⁹ In 1871 this had resulted in the medical officer performing thirty-three amputations. John was admitted to the infirmary in Chatham in April 1883 and stayed there until October that year. The injury, although not specified, had obviously been to his right arm and he was admitted to the infirmary with 'acute necrosis of the right radius' (the lower part of the arm) for which his arm was amputated — probably above the elbow. It is likely that in dirty working conditions the injury had become infected and without antibiotics, it had necrosed. Once necrosed, gangrene would have ensued, and the only option was to remove the arm. No details are given in the licence document about the accident so it is unclear how it occurred, whether it was accidental or self-inflicted, or where the blame for it lay. Even if it was due to a breach of what would now be considered health and safety rules, the protections afforded by the newly instituted Employers' Liability Act 1880 probably would not have extended to prisoners.

In May 1883, John's mother travelled the considerable distance from Dumfries to Kent to visit her son as he was 'dangerously ill'. Being a young man in otherwise good health meant that John was able to survive this dangerous phase but he was not automatically released from prison. He was, however, excused the heavy physical work of the 'public works' and spent the remainder of his time in Chatham working as a tailor, although he would have found such detailed work difficult with one arm. Even given this reduced work, John's disability may have been taking its toll — during his prison stay, he lost one and a half stone in weight. He was recorded as weighing 155 pounds (roughly eleven stone), which for a man of five feet eight inches was a respectable weight, on reception at Pentonville in 1882, and just 137 pounds

(roughly nine and a half stone) when he left Chatham five years later in 1887 (convicts' weight was recorded on the licence document at each reception and discharge, and when being transferred to other prisons).

Shortly after being injured, John also petitioned the Secretary of State for remission of his sentence. Unlike Jane's unacknowledged petitions, John's was (partially) successful. The Home Office allowed him 'six months remission of sentence in lieu of amputation of arm'. John petitioned the Secretary of State for release twice more but no further progress was made and he was released on licence in March 1887 with two years of his sentence still to run. During his sentence John had corresponded regularly with his mother (prisoners were allowed to write every six months) which obviously

contributed to his ability to return home. Indeed, aged twenty-nine years, given that under the Poor Law (Scotland) Act 1845 John would not have been eligible for any relief as he did have family to support him, he returned home to Dumfries to live with his parents and siblings. The 1891 census shows that he was still living at home with his family in 1891 but 'farmer's son' had been recorded as his 'employment' — it is unlikely that John was much help around the farm without his right arm. Following that record we lose track of John's

whereabouts although his family remain at the same address in Dumfries.

In May 1883, John's mother travelled the considerable distance from Dumfries to Kent to visit her son as he was 'dangerously ill'.

Conclusion

The stories of both Jane Field and John Proudfoot show that for neither those who entered prison with a disability nor those who acquired one whilst in prison was there much concession to the fact that they were not of good physical health. Both served their respective prison sentences. Jane was released no earlier than she would have been without her disability and John had only an additional six months remitted, on top of that usually given to prisoners, for the loss of his arm. Both had petitions for early release to the Secretary of State ignored. The only concession, which would have been a significant concession given the brutal conditions of convict prison life, was that they both did have a less physically arduous experience in a

18. Brown, A. (2003) *English Society and the Prison: Time, culture and politics in the development of the modern prison, 1850–1920*. Woodbridge: Boydell & Brewer.

19. Brown, 2003.

period characterised by a penal philosophy of 'hard board, hard fare and hard work'. In a period before photography was used on a regular basis, licence documents always held written descriptions of those committed to prison. These descriptions would always have detailed height and weight, deformities, condition of the teeth, complexion, tattoos, scars and so forth. It was in these descriptions that pre-existing disabilities were listed. Other than when listed in the description and when infirmary admissions began to be recorded, any disability and its effect or limitation was only recorded when necessary and not highlighted to indicate special treatment. People with disabilities, either pre-existing or acquired in the prison, did not receive special treatment unless absolutely necessary. Those with disabilities could not count on their limitations or difficulties to guarantee concessions. As with outside prison, Victorian life was hard for people with disabilities.

Very occasionally, prisoners seemed to have fared better in prison than out. For example, Elizabeth Harris, sentenced at the age of thirty-nine years in 1882 to five years penal servitude for 'larceny as a servant: stealing a bag, three aprons, a bottle, and a pint of wine, in Leeds by Borough of Leeds Session, Yorkshire West Riding'. Elizabeth spent much of her time in Millbank prison in the infirmary, and probably received medical care that she would not have otherwise received. On account of her asthma, she was excused work all work, given a daily dose of whisky, fed a 'milk' diet, given coffee instead of tea, and so forth. In 1883 Elizabeth petitioned the Secretary of State for early release on the grounds of ill-health. This time it is clear that the medical officer supported her petition, he wrote that Elizabeth was 'subject to severe attacks of asthma and they are so frequent during the colder months as to necessitate her detention in hospital. Her treatment can only be palliative and she is unfit for labour'. Again to no avail — the reply

was that there were 'no grounds' for early release. Elizabeth unsuccessfully petitioned again in 1884 and was finally released on licence in 1886 just one year and one month early. She died six months later. Elizabeth's case not only highlights the differential treatment prisoners received (Elizabeth seems to have fared better regarding treatment than appears the case for Jane or John) but also the influence a supportive medical officer could have. Medical officers in prison during the Victorian period were able to exert a tremendous power over the lives of prisoners.²⁰ Although it did not actually make any difference, at least the medical officer was supportive of Elizabeth's petition to the Secretary of State.

Out of the licence documents consulted, there were a few people who appeared to have medical problems other than a physical disability. Some had learning difficulties and were deemed 'weak minded' or 'imbeciles'; some people had mental health problems such as depression and were diagnosed as having 'debility'; many with conditions related to (untreated) syphilis; and others who were or became ill with conditions such as heart disease, cataracts, eye infections, and so forth. However out of the 226 licence documents consulted, there were just twenty-three people who appear to have been serving sentences of penal servitude with some form of physical disability. These disabilities ranged from 'defective' eyesight (blindness), hearing and speech problems ('deaf and dumb'), 'crippled' with deformities of legs, arms or hands, and several with epilepsy or asthma (both life threatening and very disabling conditions in their untreated and non-medicated form). In a period before a welfare state and with little medical treatment available to ordinary working people, many people with major disabilities and chronic or life threatening health conditions would not have lived long enough to find themselves in court or in prison.

20. Sim, 1990.

Feigning Insanity in Late-Victorian Britain

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Introduction

Feigned insanity has been ‘impressed upon the popular imagination from the earliest of times’, from the days of Ulysses and of King David.¹ William Shakespeare’s Hamlet and Edgar, the latter from King Lear, feigned insanity so perfectly we ‘forget they are feigned’.² Prior to the mid nineteenth century, discussions of feigned insanity tended to take place within broader discussions of malingering to avoid military service.³ As the nineteenth century progressed, alienists, or psychiatrists as they are now known, felt it increasingly necessary to study the features of feigned insanity, and particularly convicts who feigned madness, with the aim of gaining admission into an asylum, in order to escape punishment.⁴ Despite a wealth of scholarship on the history of psychiatry, prisons and criminals, historians have paid surprisingly little attention to how feigned insanity was understood and detected by British alienists, prison medical officers (PMOs) and asylum superintendents, or why convicts feigned insanity.⁵ Utilizing the published works of alienists, PMOs and asylum superintendents, alongside the case files of convicts transferred from prison to Broadmoor Criminal Lunatic Asylum in the late-Victorian period, this paper does two things. First, it examines how Victorian medical men conceptualised feigned insanity, and shows how discussions of feigned madness related to broader concerns regarding the recidivist (also known as the habitual criminal or repeat offender). Second, it examines why convicts feigned madness, and the extent to which this corresponded to broader medical understandings of malingering. It is

suggested that convicts feigned insanity to resist the prison system, and to obtain respite from the harsh prison environment by being transferred to an asylum. Their attempts to do this demonstrate one way by which convicts could exercise agency within the regulatory Victorian prison system.

Feigned Insanity: Why?

From the mid nineteenth century onwards, case studies concerning feigned insanity amongst Britain’s convict population appeared more frequently in medical journals. Alongside medical books, and the works of criminologists and PMOs, these studies show that medical understandings of feigned insanity were entwined with broader medical, cultural and social concerns regarding recidivism. An increasingly damning image of the male criminal emerged in scientific and legal discourse during the late 1860s and early 1870s, when representations of recidivists became couched in the language of science, sociology, and anthropology. With the rise of evolutionary theory, ideas regarding habitual criminality were supported by theories of mental and bodily degeneration. Recidivists were represented as being mentally weak, morally depraved and idle, and because their feelings were reportedly undeveloped they were driven by their unruly passions, and not by logic.⁶ They belonged to the so-called ‘underclass’: they were insubordinate, and unable to ‘apply themselves to steady and systematic work’.⁷ In 1875, Edmund Du Cane, chairman of the Prison Commission, described recidivists’ characteristics as being:

*entirely those of the inferior races of mankind
— wandering habits, utter laziness, absence
of forethought or provision, want of moral*

1. Norman, C. (1892) Feigned Insanity, in Hack Tuke, D. (ed) *A Dictionary of Psychological Medicine: Giving the Definition, Etymology and Synonyms of the Terms Used in Medical Psychology with the Symptoms, Treatment, and Pathology of Insanity and the Law of Lunacy in Great Britain and Ireland* London: J & A Churchill p. 502–505. 505.
2. Bucknill, J.C. (1858) *A Manual of Psychological Medicine: Containing the History, Nosology, Description, Statistics, Diagnosis, Pathology, and Treatment of Insanity, With an Appendix of Cases* London: Blanchard & Lea p. 330.
3. Chaney, S. (2016) Useful Members of Society or Motiveless Malingerers? Occupation and Malingering in British Psychiatry, 1870–194, in Ernst W. (ed) *Work Therapy, Psychiatry and Society, c. 1750–2010* Manchester: Manchester University Press p. 277–297. 286.
4. Robertson, A. (1872), Feigned Insanity, *Journal of Mental Science*, 18, p. 232–233.
5. For a brief consideration, see Brown, A. (2003) *English Society and the Prison: Time, Culture and Politics in the Development of the Modern Prison, 1850–1920* Woodbridge: The Boydell Press p. 96.
6. For example, Douglas, A. R. (1898) Penal Servitude and Insanity, *Journal of Mental Science*, 44, p. 271–277. 275; Nicolson, D. (1873) The Morbid Psychology of Criminals, *Journal of Mental Science*, 19, p. 222–232. 231.
7. Maudsley, H (1884) *Body and Will: Being an Essay Concerning Will in its Metaphysical, Physiological, and Pathological Aspects* New York: D. Appleton and Company p. 276. 277; Morrison, W. D. (1891) *Crime and its Causes* London: Swan Sonnenschein & Co. p. 225–6.

sense, cunning ... and instances may be found in which their physical characteristics approach those of the lower animals so that they seem to be going back to the type of what Professor Darwin calls 'our arboreal ancestors'.⁸

Ideas regarding recidivism fed directly into medical depictions of convicts who feigned insanity; feigners were 'brutes' and 'specimens' who were 'slaves of their passions'.⁹ They were shrewd, idle, impulsive and immoral,¹⁰ their desire to feign insanity presumed a symptom of their naturally 'low [mental] type':¹¹ the feigning criminal is 'not intellectual enough to see the folly of his act'.¹² Feigning criminals were described in the *Lancet* as: 'naturally passionate, selfish and cruel; and intellectually, they are defective in grasp, power of concentration, judgment, but endowed with quick perceptive faculties and considerable cunning.'¹³ Discussions of feigned madness belonged to wider efforts to medicalise moral behavior: to claim a recidivist had feigned insanity emphasized his inherent deviancy, which explained his efforts to resist authority. In his study of feigned insanity, assistant medical officer at Portland prison, David Nicolson, highlighted the case of one convict:

*We have a man under circumstances distasteful and irksome to him, to escape from which there is nothing that he would not try. One means of release from the hard work, precise regularity, limited diet, and restricted intercourse of ordinary prison life, is insanity, and hence the attempts made to simulate it.*¹⁴

Similarly, feigning insanity was a method by which convicts sought to confront and escape from their imprisonment.

Medical and prison officials assumed that with criminals, 'the temptation to escape punishment is, of course, very great; and there is no punishment regarded as equal to that of hard labour by a large class of men who have been engaged in a life-long struggle to escape steady work of all kinds.'¹⁵ There was a clear class element to such discussions; the detection of feigned madness was, as Simon Wessely observed in his examination of civilian malingering, 'a semi class war'.¹⁶ We see middle-class medical men discussing recidivists' desires to avoid work, and thus their social obligations, outside and inside prison. In addition, imposture was associated with recidivists' innate deviance and immorality, rather than the fierce prison environment within which they were confined.

The Victorian prison regime was notoriously tough; it was 'hard, uncompromising...and unpleasant.'¹⁷ There was little social interaction, a lack of individual control, diet was limited, cells were small, and hard labour was grueling. Based on an examination of prisoners' writings, historians have described the 'private hell' experienced by some convicts who found imprisonment mentally testing.¹⁸ In their respective works, Alyson Brown and Joe Sim described how the actions of some convicts — self-

injury and suicide, hunger strikes, shouting, violent and disruptive displays — suggested that they were unwilling or incapable of enduring their sentence.¹⁹ Similarly, feigning insanity was a method by which convicts sought to confront and escape from their imprisonment. When Oscar Wilde petitioned for his discharge from prison, he attempted to attribute his offence to 'sexual madness' and referred to the work of Italian criminologist Cesare Lombroso and Hungarian journalist Max Nordau to highlight 'a

8. Quoted in Wiener, M. J. (1990) *Reconstructing the Criminal: Culture, Law and Policy in England, 1830–1914* Cambridge: Cambridge University Press p. 300.
9. Nicolson, D. (1869-70) Feigned Insanity; With Cases, *Journal of Mental Science*, 15, p. 536–563. 540. 542. 551.
10. *Ibid* p. 551.
11. Feigned Insanity, *Chambers's Journal of Popular Literature, Science, and Art*, October 20 1883 p. 657–659. 657; Robertson, A. (1881), Case of Feigned Insanity, *Journal of Mental Science*, 27, p. 384–391. 390.
12. Nicolson, (Op. Cit.) p. 542.
13. Feigned Diseases, *Lancet*, 20 January 1872 p. 93.
14. Nicolson (Op. Cit) p. 542.
15. Feigned Diseases (Op. Cit.) p. 93.
16. Wessely, S. (2003) Malingering: Historical Perspectives, in Halligan, P. W. et al. (eds) *Malingering and Illness Deception* Oxford: Oxford University Press p. 31–41. 34.
17. Sim, J. (1990) *Medical Power in Prisons: The Prison Medical Service in England 1774–1989* Milton Keynes and Philadelphia: Open University Press p. 32.
18. Priestley, P. (1985) *Victorian Prison Lives: English Prison Biography, 1830–1914* Cambridge University Press p. 52.
19. Brown (Op. Cit.) p. 93; Sim (Op. Cit.).

connection between madness and the literary and artistic temperament.²⁰ He told the Home Secretary that 'during the entire time he was suffering from the most horrible form of erotomania, which made him forget his wife and children, his high social position... the honour of his name and family... and left him the helpless prey of the most revolting passions.'²¹ Wilde failed, but other convicts successfully claimed insanity.

In 1890, Barbadian Joseph Denny broke into Dartmoor prison, where he had served eight years penal servitude. When guards discovered him, Denny said he had 'come to murder' the chief warden. Following his arrest, Denny claimed his intentions were justified because the chief warden had placed him 'in irons only because he was a man of colour and a plain speaker', and flogged him without reason on numerous occasions.²² At Denny's trial, the chief warden contended Denny had been flogged for refusing to pick oakum, and recalled his disruptive and troubling behaviour. During the trial, a newspaper reported that Denny had spent most of his life in prison, where he always misbehaved. One of Denny's contemporaries at Dartmoor told the journalist Denny 'was always getting into trouble'; he refused to do anything that was asked of him, and prison staff and convicts feared his violent behaviour. This bad behaviour resulted in frequent floggings and solitary confinement. He concluded Denny's 'life in prison was certainly a hard one, but I think that he brought most of it on himself. Life at Dartmoor even for the best-behaved prisoners is dreary and terrible, and nobody who has ever been there wants to go back.'²³ Denny certainly did not, exclaiming 'if ever there was a hell Dartmoor was hell'.²⁴ When tried, despite his 'emotional manner' and pleas 'for mercy to allow him to live a better life', Denny was sentenced to 12 months hard labour, and was returned to Dartmoor. Immediately following his conviction, Denny made 'several false confessions of murder' and as a result was believed to have

In 1890, Barbadian Joseph Denny broke into Dartmoor prison, where he had served eight years penal servitude.

'developed into a raving maniac'.²⁵ He was transferred to Broadmoor Criminal Lunatic Asylum, where he confessed to feigning madness and was subsequently transferred back to prison. In Denny's case we see a prisoner whose earlier attempts to resist the prison regime through violence and disobedience were futile, and who, when once again faced with penal servitude at a prison he despised, attempted to avoid imprisonment by feigning madness. Indeed, feigning insanity was rarely convicts' first method of resisting the prison regime, and in some cases only occurred when all other efforts had failed, or had resulted in punishment. We see in Nicolson's case studies convicts who, prior to shamming insanity, had tried to exercise their will by refusing to work, going on hunger strike, and being disruptive and violent.²⁶

Concerns about malingering emerge at particular points in time, and they appear to be associated with changing social conditions. Prior to the 1870s, most discussions focused on the simulation of disease to escape military service, and historians have shown that heightened concerns about civilian malingering emerged alongside the rise of social welfare in the late nineteenth and early twentieth centuries.²⁷ It appears that concerns criminals might feign

insanity intensified as debates regarding recidivism hardened, and as the Victorian asylum gained attention for its apparent leniency. Convicts such as Denny may have feigned insanity knowingly, with the aim of avoiding punishment by gaining admission to the prison infirmary, or a transfer to an asylum. Echoing American alienists, British alienist George Fielding Blandford believed that feigning amongst criminals was probably a means of 'getting into comfortable asylum quarters',²⁸ and it was reported in the *Journal of Mental Science*: 'It might well be also that as the knowledge of the comforts of asylum life, with its general amenities, is now wide-spread through all ranks of the community ... [prisoners] ... being aware of it, might prefer that form of confinement, with all its drawbacks, to the more rigorous discipline of

20. Wilde's Petition to the Home Office (2000), in Holland, M. and Hart-Davies, R. (eds) *The Complete Letters of Oscar Wilde* London: Fourth Estate p. 656.

21. *Ibid* p. 657.

22. A Dartmoor Ex-Convict's Thirst for Revenge: Extraordinary Threats in Court, *Pall Mall Gazette*, 20 August 1890..

23. Breaking into a Prison: Revelations of Convict Life, *Lloyds Weekly Newspaper*, 24 August 1890.

24. 'A Dartmoor Ex-Convict's Thirst for Revenge' (Op. Cit.).

25. Berkshire Record Office (BRO), D/H14/D2/2/1/1517, Home Office Notes, 20 March 1891; D/H14/D2/2/1/1517, newspaper report.

26. Nicolson (Op. Cit.).

27. Wessely (Op. Cit.).

28. Geller, J. L. et al. (1991) Feigned Insanity in Nineteenth-Century America: Experts, Explanations, Evaluations and Exculpations, *Anglo-American Law Review*, 40:4, p. 443-481. 467; Fielding Blandford, G. (1892) *Insanity and its Treatment: Lectures on the Treatment, Medical and Legal, of Insane Patients* Simpkin, Marshall, Hamilton, Kent p. 443.

the prison.²⁹ One asylum was Broadmoor, which opened in 1863 just as discussions regarding criminality were changing. In contrast to penal servitude, some contemporaries deemed life at Broadmoor unnecessarily luxurious, particularly for convicts. It was reported in *Lloyds Weekly Newspaper*:

*the system is so mild that ... the inmates eat, drink, laugh and grow fat. There is no sign or trace of insanity about a number of them, and when spoken to on the subject the attendants seem highly amused at the tricks which must have been used to fool doctors ... so as to secure admission to this 'paradise'.*³⁰

Broadmoor's regime was similar to that at other Victorian asylums; its focus was on treatment, not punishment. Upon admission, convicts were free to communicate with the asylum's staff, patients, and their families. They could acquire a trade, practice their religion, learn to read and write, and access numerous forms of leisure activities and entertainments.³¹ Following a visit to the asylum in 1881, alienist Daniel Hack Tuke observed that convicts 'enjoy the ... comfort of the asylum' and 'are very likely to sham madness in order to stay there.'³² Experiencing brief respite in an asylum before they were transferred back to prison might also have inspired convicts to encourage others to sham illness. Thomas Kelly confessed why and how he feigned insanity before he was transferred to Broadmoor:

Sir, in the year 1860 I came to Millbank. After staying there for some 6 months I was removed to what was called association, and there I met with a convict ... and under his tuition I was persuaded to feign insanity. So one night shortly after locking up time I commenced to break the window. I was ... marched off to the dark cells and lodged

*there for the night. On the next day I was taken before the governor and interrogated ... and still maintaining my assumed state, he could not obtain any satisfactory answer.*³³

Asylums such as Broadmoor certainly appeared humane when compared to a prison system that some contemporaries claimed dehumanized convicts, stripping them of agency.³⁴ Even within such systems, though, as French philosopher Michel Foucault recognised, 'there always remain the possibilities of resistance, disobedience, and oppositional groupings.'³⁵ Feigning insanity was one of the ways — alongside the protests, violence, and riots that historians have examined — that prisoners sought to resist their imprisonment and exercise some measure of free will; it was a way to reclaim some of the power they had lost as a result of being imprisoned within a system designed to silence them, and regulate their behaviour. Of course, convicts were merely maneuvering a transfer from one institution of control to another, but regulation at Broadmoor was not as obvious.

Broadmoor's regime was similar to that at other Victorian asylums; its focus was on treatment, not punishment.

Punishing and Detecting Feigned Insanity

Feigning insanity — and resisting the prison regime more broadly — gave convicts a brief semblance of power and control, but ultimately the medical system within which they were operating could not be defeated. As Brown found, 'any activity by prisoners through which they attempted to assert their own will, or to determine the conditions of their imprisonment in opposition to the rules and regulations, was liable to be punished.'³⁶ When they were certain shamming was taking place, some PMOs resorted to punishment. Nicolson recorded flogging and secluding feigners, and recalled sentencing one patient to spend a night in a straitjacket to 'tame' his 'exaggerated emotions', and another to 'twenty days' confinement to his own cell, upon a diet of Indian meal — the special punishment'.³⁷ Nicolson, like some other PMOs and alienists, also used the galvanic battery; a device he claimed 'should not be

29. Robertson, A. (1883), Case of Feigned Insanity, *Journal of Mental Science*, 29, p. 81–90. 85.

30. Startling Scandals at the 'Murderers Paradise' (Broadmoor), *Lloyds Weekly Newspaper*, 7 August 1898. Also, Life in a Criminal Lunatic Asylum: Coddling our Murderers, *Dundee Courier and Argus*, 26 July 1898.

31. Shepherd, J. (2016) I am very glad and cheered when I hear the flute: The Treatment of Criminal Lunatics in Late Victorian Broadmoor, *Medical History*, 4, p. 473–491. 485–488.

32. Hack Tuke, D. (1882) *Chapters in the History of the Insane in the British Isles* London: Kegan Paul, Trench & Co. p. 274.

33. BRO, D/H14/D2/2/1/1058/20, letter from Kelly.

34. Brown (Op. Cit.) p. 24.

35. Foucault, M. (1991) in Rabinow, P. *The Foucault Reader: An introduction to Foucault's Thought* Harmondsworth: Penguin p. 245.

36. Brown (Op. Cit.) p. 2.

37. Nicolson (Op. Cit.).

used to detect, but to put a stop to pretended madness.³⁸ He recorded using the battery on a number of convicts he suspected of imposture, including M.D. Whilst in prison, M.D. began to display symptoms that might have suggested he was mentally ill but, knowing he disliked his prison work, Nicolson believed he was feigning insanity. Remembering a visit to the convict's cell, Nicolson recorded his frustration that he had not confessed his malingering, and the events that followed:

I fear I was uncharitable enough to jerk him out of his cell by the coat collar ... He was at once removed to the surgery and permitted to taste the battery. He took it quietly at first, but the current of galvanism came to prevail over his thoughts, and he cried, 'oh! oh!' I asked him if he would give up his nonsense. No answer. Out came the regulation button a little. 'Now will you give it up?' ... 'Oh! Yes, sir; stop! and I'll give it up.' He then stood up among the officers, looking rather ashamed ... I sent him off, telling him he was a disgrace not only to his mother, but to all his fellow prisoners.³⁹

Nicolson deemed these punishments successful; the feigning recidivist became rational and orderly. Nicolson also used the galvanic battery as a threat, his article littered with phrases such as, 'He was told that he would have a strong dose of it twice a day until he gave up his foolery'.⁴⁰ Punishments and threats functioned as ways to bring malingerers back into the regulatory fold. Of course, the fear of being subject to such practices might also have encouraged

those were really mentally ill to conform as best they could.

Medical men agreed that uncovering feigned madness was sometimes challenging, particularly 'when we have to examine men and women in whom madness and badness are so intermingled that observers cannot determine which it is that determines their conduct.'⁴¹ In their published works, alienists and some PMOs advised how feigned madness might be detected. They tended to agree that imposture was difficult, and that successful deception required detailed understanding of the different types of insanity.⁴² Owing to their 'mediocre intellect' and innate ignorance, convicts allegedly lacked the knowledge required to mislead for long; they were not Shakespeare's 'educated gentlemen',

Mania was the most frequently feigned mental disease; its raving, violence and incoherence fitted perfectly with popular notions of insanity.

and their performances represented nothing more than popular understandings of madness.⁴³ Mania was the most frequently feigned mental disease; its raving, violence and incoherence fitted perfectly with popular notions of insanity.⁴⁴ This was convicts' undoing, for 'no sane person can maintain the incessant action, singing, and shouting of a genuine maniac for any but the shortest time' without becoming exhausted.⁴⁵ Some alienists thus advised that careful and persistent watching was

sufficient action to uncover feigned insanity; incapable of prolonged feigning, the sane man soon 'throws off the mask'.⁴⁶ Others recommend giving convicts a dose of opium or an injection of 'morphia', because it was assumed they would not affect 'the real maniac', but would send feigners to sleep.⁴⁷ Other suspect characteristics and actions included declarations of insanity (genuine lunatics did not

38. Ibid; Pitt-Lewis, G et al. (1895) *The Insane and the Law: a Plain Guide for Medical Men, Solicitors and Others* London: J & A Churchill p. 48; Blandford (Op. Cit.) p. 447-448.
 39. Nicolson (Op. Cit.) p. 547-548.
 40. Ibid.
 41. Blandford (Op. Cit.) p. 446.
 42. Bucknill, J. C. and Hack Tuke, D (1879) *A Manual of Psychological Medicine: Containing the Lunacy Laws, the Nosology, Aetiology, Statistics, Description, Diagnosis, Pathology, and Treatment of Insanity: with an appendix of cases* London: J & A Churchill p. 476.
 43. Feigned Insanity (Op. Cit) p. 657; Wentworth Acland, H. (1844) *Feigned Insanity, How Most Usually Simulated, and How Best Detected: An Essay to Which Was Awarded the Gold Medal in the Class of Medical Jurisprudence in the University of Edinburgh, July, 1844* R. Clay, Printer p. 9.
 44. Winslow, L. F. (1898) *Mad Humanity: Its Forms Apparent and Obscure* London: C. A. Pearson, Ltd. p. 81; Maudsley, H. (1867) *The Physiology and Pathology of Mind* London: Macmillan & Co. p. 411-412.
 45. Blandford, (Op. Cit.) p. 445. Also, Winslow (Op. Cit.) p. 81.
 46. Norman (Op. Cit.).
 47. Guy, W. A. and Ferrier, D. (1888) *Principles of Forensic Medicine* H. Renshaw, p. 203; Shaw, J. (1892) *Epitome of Mental Diseases: with the Recent Methods of Certification of the Insane, and the Existing Regulations as to 'Single Patients', for Practitioners and Students* Simpkin, Marshall, Hamilton, Kent, p. 147.

claim to be mad), and a lack of bodily illness.⁴⁸ Feigners were deemed incapable of reproducing the physical ailments that accompanied insanity, including a high temperature, perspiration, furred tongue, and dry skin.⁴⁹ Such understandings of how to detect mental illness expose the limited nature of medical knowledge at the time, and attempts to control the behavior of sane but rebellious convicts.

Despite a rapidly expanding body of literature advising how to detect feigned insanity, some PMOs struggled to recognise imposture. In 1896, one PMO swiftly declared a convict was insane and had him transferred to Broadmoor, only to change his mind a few days later.⁵⁰ Other PMOs seemingly had a basic understanding of insanity, one that echoed popular notions of the disease: violence, disruption and rowdiness. It is not surprising that hasty decisions were sometimes made to transfer a convict to an asylum given the pressures PMOs faced. Following the 1865 Prisons Act, they were required to regularly inspect all prisoners alongside their regular duties of visiting the infirmary and looking out for malingerers; they were thus regularly seeing upwards of one hundred patients a day, with many different ailments.⁵¹ This highlights two problems: PMOs did not have the time to undertake prolonged examinations of all criminals suspected of imposture, as some alienists' advised, and thus some feigning was inevitably undetected;⁵² and they were not experts on insanity. Perhaps in an effort to overcome these issues, some PMOs invited alienists into prison to examine suspected malingerers. When writing about feigned diseases, some British alienists explicitly stated the need for 'skilled alienists' to diagnose convicts' mental states.⁵³ Lacking expert knowledge, all PMOs had to go on was 'the sincerity of their patients.'⁵⁴

Under the Broadmoor Act (1860), on the advice of the PMO, and the instruction of the Home Office, allegedly insane convicts could be transferred to Broadmoor.

Whilst we do not see the outright derision American PMOs faced from alienists when it came to detecting feigned insanity, the battle for authority over mental illness bubbled under the surface of discussions on imposture in Britain.⁵⁵

Under the Broadmoor Act (1860), on the advice of the PMO, and the instruction of the Home Office, allegedly insane convicts could be transferred to Broadmoor.⁵⁶ Under the Insane Prisoners Act amendment (1864) if any prisoner was suspected to be mad then he was to be examined by two physicians or surgeons (or one physician and one surgeon).⁵⁷ If the prisoner was found insane then the Home Secretary authorised their transfer to an asylum. Once at Broadmoor, the asylum's medical officers and superintendents observed convicts, as they did any patient. The records suggest that observation was the only means of detecting feigned insanity at the asylum, and there is no suggestion that Nicolson, who began working as deputy superintendent of Broadmoor in 1876 (he became superintendent in 1886), used the galvanic battery, straitjacket, flogging or seclusion to detect or punish feigned madness; the only punishment was a transfer back to prison. Broadmoor's medical officers and superintendents seemingly had a stricter standard of insanity than PMOs, and they were not convinced that the violent and disruptive behavior that had caused some convicts to be transferred to the asylum was the result of insanity.⁵⁸ Following Frederick Martin's transfer to Broadmoor it was recorded: 'this man has not displayed any symptoms such as would lead to the opinion that he is really insane, and it is probable that the mental derangement from which he was reported to have suffered in ... prison was simulated.'⁵⁹ He was

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48. Pitt-Lewis et al. (Op. Cit.) p. 45; Smith, R. P. and Hawke, J. A. (1895) *The Insane and the Law: a Plain Guide for Medical Men, Solicitors and Others* London: J & A Churchill p. 45; Blandford (Op. Cit.) p. 444.
49. Bucknill and Hack Tuke, (Op. Cit.) p. 469; Blandford (Op. Cit.) p. 445.
50. BRO, D/H14/D2/2/1/1720, letter to the Home Office; D/H14/D2/2/1/1720, certificates of sanity and transfer.
51. The Medical Department of the Convict Service, *British Medical Journal*, March 31 1877 p. 401.
52. Bucknill and Hack Tuke (Op. Cit.) p. 469.
53. Norman (Op. Cit.); Winslow (Op. Cit.) p. 80.
54. Feigned Diseases (Op. Cit.) p. 92.
55. Geller et al. (Op. Cit.) p. 475.
56. Criminal Lunatic Asylum. A Bill to Make Better Provision for the Custody and Care of Criminal Lunatics, 1860 (175) 11.811.
57. Insane Prisoners Act amendment. A bill to amend the act third and fourth Victoria, chapter fifty-four, for making further provision for the confinement and maintenance of insane prisoners, 1864 (4) II.347.
58. Nicolson, D. (1875) The Morbid Psychology of Criminals, *Journal of Mental Science*, 21, p. 225–253. 231.
59. D/H14/D2/2/1/1720 (Op. Cit.). For a similar case, D/H14/D2/2/1016, Thomas Smith's case file.

returned to prison. Some patients made it easy for the asylum's medical staff by confessing their imposture. Following Joseph Denny's arrival at Broadmoor, Nicolson recorded:

*[he] [h]as been well conducted and has worked quietly in the ward since admission. He states that his great hatred of the chief warden at Dartmoor still exists but that his apparent delusions of his food being poisoned, his having committed murder, and of his attempted suicide, were all put on.*⁶⁰

Denny was transferred back to prison one month after his arrival. It might be that some recidivists who successfully feigned insanity to escape the prison environment found Broadmoor did not offer the freedom and kindness they had expected. Hardening attitudes towards criminals were reflected inside Broadmoor's walls, and can be seen in the reports and publications of its superintendents. Some convicts complained they were not as welcome, nor afforded the same luxuries, as Broadmoor's Queen's pleasure patients (individuals who had been found insane when tried).⁶¹ Genuinely insane convicts found they were not always welcome at the asylum, and thus it is not surprising that sane convicts were swiftly returned to prison once their deception had been uncovered.

Of course, some convicts could have feigned insanity for years without detection, their imposture unrecorded. Convicts could also feign too successfully. If convinced of their insanity, Broadmoor's staff could keep convicts at the asylum long after their prison sentences had expired, much to the annoyance of some

convicts who believed they would be discharged as soon as they had served their time.⁶² In an apparent attempt to obtain release, one convict tried to convince Broadmoor's medical officers he was only there because he had previously feigned insanity; he failed to persuade them, and died at the asylum.⁶³

Conclusion

Medical ideas regarding feigned insanity were clearly connected to hardening attitudes towards the criminal; imposture was seemingly viewed as a symptom of recidivism, tied to the innate mental weakness of the offender. It is clear that convicts who feigned insanity (successfully or not) did so to escape the harsh prison environment, and in doing so managed to exercise a fraction of the agency they had lost. Hardening attitudes towards recidivism, the emergence of Broadmoor, and the subsequent publicity surrounding its leniency towards criminals, certainly appear to have encouraged discussion of convicts who feigned insanity within medical and prison circles, and to have influenced some convicts to sham in an effort to be transferred to an asylum. Alongside historians' work on late nineteenth and early twentieth century civilian malingering, we can see that evolving social conditions affected perceptions and occurrences of feigned insanity. From the late nineteenth century, Broadmoor became increasingly prison-like, and the Prison Act (1898) called for more humane living conditions and the abolition of hard labour; how — or if — these changes affected instances and discussions of feigned insanity remains to be explored.

60. BRO, D/H14/D2/2/1/1517, Home Office Notes, 20 March 1891.

61. Shepherd (Op. Cit.) p. 485–488.

62. This also happened at other asylums. Saunders, J. (1981) Magistrates and Madmen: Segregating the Criminally Insane in Late-Nineteenth Century Warwickshire, in Bailey, V. (ed) *Policing and Punishment in Nineteenth Century Britain* London: Croom Helm p. 217–241. 229.

63. BRO, D/H14/D2/2/1/1058, Thomas Kelly's case file.

Yesterday's Heroes, Today's Villains?

Former military personnel in prison

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Introduction

We would not be wrong in claiming that the prison population of England and Wales consists of a complex range of individuals; predominantly male and over-represented by those belonging to the working class, including those who have latterly become known as the precariat.¹ Within contemporary debates, we have seen concern raised regarding women in prison, the over-representation of prisoners from ethnic minority groups and the over, and inappropriate, use of the prison as a response to children and young people 'in trouble'.² But one demographic generally missing from these debates has been former military personnel who, for a variety of reasons, find themselves as guests of Her Majesty. This is in part due to the fact that such records were not systematically kept, but since January 2015, following a government commissioned review, the Ministry of Justice, using a Basic Custody Screening Tool, require that all those entering custody should now be asked whether they have been a member of HM Forces.³ Statistics indicate that former military personnel currently constitute the largest occupational category in the prison population. As Murray's research identifies, incarcerated former military personnel are 'a population with an idiosyncratic set of experiences and circumstances that places them at risk of offending and reoffending'⁴ (although, conversely, research undertaken by Kelly⁵ for the MOD has indicated that there is actually a reduced likelihood of recidivism), yet they are little discussed and thus remain relatively invisible. This article will examine some important factors

regarding this 'overlooked' group. It will reflect on why so many ex-service personnel (overwhelmingly men) end up in custody, particularly in later life and particularly for violent offences. Further, in relation to the ideological construction of the soldier as 'hero' it will reflect on why, and how, former military personnel can become forgotten or even shunned by society once they shift from 'hero' to 'villain'.

Soldiers: Images and Ideologies

When undertaking any form of research, in order to enlighten or indeed enhance the sociological imagination, Mills suggests that we need to ask a series of questions that assess 'the structure of ...[a] particular society...', how 'it differ[s] from other varieties of social order', and 'what kinds of 'human nature' ... are we examining?'.⁶ To that end, it could be argued that military personnel form a unique and distinct culture, or as purported by Holmes, a 'unique tribe' and as such, their own society and nature.⁷ This is a culture steeped in hyper-masculinity and notions of valour, where individuals are taught 'to solve conflict aggressively'.⁸

Fundamentally military life, and the British Army in particular, is built on tribalism, where reputation, both of the self and the regiment, is paramount. As stated by Keegan, 'warrior values' have ancient histories thus creating cultures and traditions that set men and women apart from the rest of society; this creates a 'distance [that] can never be closed, for the culture of the warrior can never be that of civilisation itself'.⁹ A sense of being is created that is at one with images and ideologies of a strong and powerful nation state; an hegemony of power that in itself evokes a sense of pride, safety and security amongst its citizens, an image

1. Standing, G. (2011) *The Precariat: The New Dangerous Class*. London: Bloomsbury.
2. <http://howardleague.org/publications/the-carlile-inquiry-10-years-on/> (Accessed: 20 June 2016).
3. Phillips, S. (2014) *Former Members of the Armed Forces and the Criminal Justice System: A Review on behalf of the Secretary of State for Justice*.
4. Murray, E. (2013) Post-army trouble: veterans in the criminal justice system. *Criminal Justice Matters*, No. 94 pp. 20–21 p. 20
5. Kelly, J. (2014) *The needs of ex-service personnel in the criminal justice system: Evidence from two surveys: Analytical Summary*, Ministry of Justice.
6. Mills, C. W. (1959, 2000) *The Sociological Imagination*. Oxford: Oxford University Press. p. 6–7.
7. Holmes, R. (2011) *Soldier: Army Lives and Loyalties from Redcoats to Dusty Warriors*. London: Harper Press.
8. Bouffard, L. A. (2005) The Military as a Bridging Environment in Criminal Careers: Differential Outcomes of the Military Experience. *Armed Forces & Society*, 31 (2) pp. 273–295. p. 275.
9. Keegan, J. (1993) *A History of Warfare*. London: Random House. p. xvi.

further perpetuated when states and societies are perceived as being in a constant state of fear and threat from a range of enemies.

Pitman outlines the complex development of cultural groupings that are borne out of the 'evolution of human warfare'.¹⁰ Such groupings or cultures are bonded by/from the need to survive and group identities, based on factors such as 'homeland, language, religion, culture ...', all of which can breed mistrust or hostility of/towards 'others', are thus formed.¹¹ Within the military, one identity is supplanted by another, one that is imbued with a very different set of roles, 'responsibilities and norms ... [that are] consciously perceived and questioned only in exceptional circumstances'.¹² The loss of the original 'civilian' identity is further heightened by the donning of a uniform and related insignia and the 'soldier' identity is enhanced with 'a basic training ... [that instils] ... the virtues of... nation, religion or political ideology ...'.¹³ This training, coupled with the horrors of frontline experience, instils and justifies the mandate to kill 'the enemy'.

Images and ideologies of the 'hero' are not new, they have been in existence at various points throughout history from 'ancient Paleolithic myths' to figures celebrated throughout modernity.¹⁴ Etymologically, the term is taken from the 'Latin *servare*: to save, deliver, preserve, protect'.¹⁵ Each society and culture has its own ideologies and images of what constitutes a hero and, in the popular imagination, this often depends upon a variety of schema and criteria from which evolve 'stereotypic expectations'.¹⁶ Allison and Goethals discuss various schema that relate to 'image[s] or ... mental model[s]' that represent particular 'categories of people...'¹⁷ and a set of core values.¹⁸ These values, overwhelmingly, are masculine (in a recent book

listing 101 World Heroes, only 12 are women)¹⁹ and revolve around characteristics such as bravery, valour, moral fortitude, courage in the face of danger or risky situations, strength, resilience and self-sacrifice. It is easy to see how such values become associated with the soldier, who represents resilience and self-sacrifice on 'our' behalf, and thus offers a sense of safety and security. Such ideologies become further embedded within the popular imagination on an almost ritual basis when, for example, US soldiers are paraded across sporting venues to the extent that 'they feed the fantasy that military service turns one into a better, more selfless, human being'.²⁰ In the UK, we have witnessed how the notion of 'hero' has

formed part of the politics of respect, with regard to the repatriation ceremonies at Royal Wootton Bassett.²¹ This mass out-pouring of mourning has as much to do with patriotism and 'mark[ing] the sacrifice of war' as it does grief, given that those engaging in what could be referred to as 'dark tourism' far outnumber the family and friends of the deceased.

It is perhaps important to acknowledge that not all recipients of soldier-hero status accept this label willingly.

During the course of prior research,²² one former member of the military stated his discomfort with the title. He acknowledged that some soldiers had deserved their Victoria Crosses but:

there's a border line between those ... who are nut cases (sic) and heroes. What they do sometimes is absolutely daft. No you should not run 100 meters across open ground under enemy fire to grab your mate and bring him back ... it's dangerous.... But ... they're not born any different, or heroes, they just make that instantaneous decision.

Pitman outlines the complex development of cultural groupings that are borne out of the 'evolution of human warfare'.

10. Pitman, G, R. (2011) The Evolution of Human Warfare. *Philosophy of the Social Sciences*, 41 (3) pp. 352–379. p. 352
11. Ibid p. 365
12. Neitzel, S. & Welzer, H. (2013) *Soldaten on Fighting, Killing and Dying: The Secret Second World War Tapes of German POWs*. London: Simon & Schuster. p. 15.
13. Pitman, G, R. (2011) The Evolution of Human Warfare. *Philosophy of the Social Sciences*, 41 (3) pp. 352–379. p. 357
14. Synnott, A. (2009) *Re-Thinking Men: Heroes, Villains and Victims*. Surrey: Ashgate.
15. Ibid. p. 100
16. Allison, S. T. & Goethals, G. R. (2014) *Heroes*. New York: Oxford University Press. p. 59
17. Ibid. p. 59
18. Synnott, A. (2009) *Re-Thinking Men: Heroes, Villains and Victims*. Surrey: Ashgate
19. Montefiore, S. S. (2007) *101 World Heroes: Great Men and Women for an Unheroic Age*. London: Quercus Publishing
20. Kinzer, S. (2014) *Joining the military doesn't make you a hero*. www.bostonglobe.com/opinion/2014/12/07. Accessed: 20 June 2016
21. Walklate, S., Mythen, G., & McGarry, R. (2015) "When you see the lipstick kisses ..." — military repatriation, public mourning and the politics of respect. *Palgrave Communications*. Vol 1. pp. 2–9. p. 2
22. See Davies, J. T. (2016) A New Paradigm: Therapeutic Coaching for PTSD. *Coaching Today*. No. 16. pp. 11–14

Like many others, as far as this soldier was concerned, he was 'just doing his job'. And therein lies the dichotomous construction of the soldier identity.²³ Whilst they are constructed as valiant and self-sacrificing on the one hand, from an interpretivist paradigm, they occupy a day-to-day reality where violence is normalised and the dehumanisation and killing of others, including civilians, can be seen as regular work.²⁴ In this respect, as noted by Hughes-Hallett, '[h]ero-worship ... [is] dangerous to society (as well as to the individual)' as 'heroes' can very soon become 'villains'.²⁵

Former Military in Prison

Research has indicated that, for some former military personnel, the transition from military to civilian life can be difficult and can, in some circumstances, lead individuals into trouble with the law. In 2008 NAPO estimated that around 20,000 former military personnel were caught up in the criminal justice system in England and Wales.²⁶ There is contestation regarding the figure of former military personnel within the prison estate. The Ministry of Defence has the figure at around 3000 prisoners, or 3.5 per cent²⁷ of the prison population, although this is regarded as 'an underestimation'.²⁸ In a paper produced by HMIP in 2014 it was highlighted that '7 per cent of those in custody identified themselves as having served in the Armed Forces' although, as noted by HMIP and Phillips, 'the survey data was self-reported and service histories were not verified'.²⁹ Whatever the true figure, Prison Watch (2016) states that former military personnel

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constitute the largest occupational group within the prison estate.³⁰ Most are ex-army (77 per cent) with RAF and Navy making up smaller proportions (8 per cent and 15 per cent respectively). The vast majority are male (99.6 per cent), 'predominantly drawn from the infantry' and are considered to be particularly vulnerable.³¹ Most of these men are drawn from disadvantaged socio-economic backgrounds and share many of the characteristics found in the general prison population, for example experiences of homelessness, drug and alcohol use and poor health.³² The incidence of physical ill-health has been found to be considerably higher amongst ex-services personnel than in the general prison population (24 per cent compared with 13 per cent).³³

There are three issues that are particularly important in terms of highlighting significant factors in, what may be termed, the 'military-prison pipeline': age; offence type; and responses to custody. In terms of age, former military personnel tend to be older when they enter prison which is broadly out of synch with the regular prison population. 46 per cent of ex-service personnel in prison are aged over 50 compared with only 14 per cent of the general prison population whilst 29 per cent are aged over 55, compared with just 9 per cent of the general population. And they are more likely to be in prison for the first time (54 per cent compared with 34 per cent of the general population).³⁴

Former military personnel are most commonly found in high security and Category B prisons and are serving longer sentences with 39 per cent serving over 10 years compared with 26 per cent of the general prison population.³⁵ This is a likely reflection of the

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23. Holmes, R. (2011) *Soldier: Army Lives and Loyalties from Redcoats to Dusty Warriors*. London: Harper Press. p. xix
 24. Neitzel, S. & Welzer, H. (2013) *Soldaten on Fighting, Killing and Dying: The Secret Second World War Tapes of German POWs*. London: Simon & Schuster.
 25. Cited in Synnott, A. (2009) p. 104.
 26. Cited in Murray (2013).
 27. DASA (2010) *Estimating the proportion of prisoners in England and Wales who are ex-Armed Forces*, London: Ministry of Defence
 28. Wainwright, V., Shaw, J., McDonnell, S., Lennox, C., and Senior, J., (2016) Editorial, Ex-armed forces personnel in prison: Where do we stand? *Criminal Behaviour and Mental Health*, 26 pp. 1–5.
 29. HM Inspectorate of Prisons 'People in Prison: Ex-Service Personnel', March 2014; Phillips, S. (2014) *Former Members of the Armed Forces and the Criminal Justice System: A Review on behalf of the Secretary of State for Justice* pp.17.
 30. Prison Watch (2016) 'Ex-Servicemen are the largest occupational group in British Jails', April 12th.
 31. *Leaving Forces Life: The issue of transition (2011)*. The Howard League for Penal Reform. London www.howardleague.org. Accessed 9 June 2016.
 32. Her Majesty's Inspectorate of Prisons (2014) 'People in Prison: Ex-Service Personnel', March.
 33. HMIP (2014) .
 34. HMIP (2014); Prison Watch (2016)
 35. Ibid.

nature of offences committed. Whilst they constitute a smaller number of those incarcerated for acquisitive crimes, almost 33 per cent are in prison for offences of violence against the person, slightly higher than general prison population. Further, nearly 25 per cent are convicted of sexual offences, compared with just under 11 per cent of the general population.

Perhaps unsurprisingly, the level and growth of interpersonal violence amongst this group is high and, as previously mentioned, their prior training and roles within the military deem them, and more especially their crimes, to be of a higher risk. The National Association of Probation Officers reported that such violence is often the result of broader problems such as drug and/or alcohol abuse and a diagnosis of Post-Traumatic Stress Disorder (PTSD).³⁶ We should not be so surprised at these factors. Already stripped of their identity, soldiers are, to all intent and purpose, given a new identity that incorporates training in state sanctioned violence under the rules of engagement that, as previously stated, makes violence just 'part of the job'.³⁷

The Howard League offer a broader analysis, highlighting the somewhat ambivalent attitude of former service personnel towards other criminal behaviours. For example, one former soldier reported that:

*... the Army is different. They encourage small crimes like pilfering things and turn a blind eye in a way that doesn't happen on the outside. Sometimes to violence like, when you end up in fights and things you don't expect to be really pulled up for it in the Army.*³⁸

Interpersonal violence, tolerated (in certain circumstances) by the military, and the "... spirit of violence" learned in wartime³⁹ and legitimated through

the theatre of war, become problematic, and criminal, during periods of resettlement in civilian life. This can be further habituated in the prison, a 'setting[] where violence is especially commonplace'.⁴⁰ Thus both the military environment and prisons may become (to use the old adage) 'schools of crime'.⁴¹ It is worth noting that ex-soldiers do not necessarily 'blame' their offending behaviour on their military experience. As Phillips' research demonstrates, many stated that it was their own choice to engage in criminal behaviours. However, the idea of choice should be contextualised within the cultures and pressures of hyper-masculinity and, as Phillips contends, poor mental health and high levels of drug and alcohol abuse.⁴²

Just as military experience may not provide good preparation for the transition to civilian life, it may, perversely, be good preparation for prison.

Just as military experience may not provide good preparation for the transition to civilian life, it may, perversely, be good preparation for prison. Ex-soldier Robert, who had served numerous prison sentences, described feeling better when in prison, thinking 'I'm in the institution again...Most of the people weren't scary [to me]...it's full of a bunch of mugs'. He added that this was similar for many of the ex-soldiers he met in prison who were 'crying out for direction, and glad to be back in an institution'.⁴³ But not all ex-military cope well with institutionalisation. Research by Prison Watch (2016) reported that there was a greater likelihood of depression and suicidal ideation amongst this group on reception to prison.

It is clear from Murray's research that the ex-military personnel she interviewed fundamentally see themselves as unlike the rest of the prison population and she uses the term 'veteranality' to describe how the criminality of former military is perceived as being different to the criminality of others. One participant stated 'I'm not like other criminals, like the scumbags you see in the waiting room...'; whilst another

36. 'Ex-Armed Forces Personnel and the Criminal Justice System: A briefing from Napo the Trade Union and Professional Association for Family Court and Probation Staff'. www.napo.org.uk. Accessed 9 June 2016.

37. Mestrovic, S. G. (2009) *Good Soldier on Trial: A Sociological Study of Misconduct by the US Military Pertaining to Operation Iron Triangle, Iraq*. New York: Algora Publishing.

38. 'Report of the Inquiry into Former Armed Service Personnel in Prison.' (2011) The Howard League for Penal Reform. www.howardleague.org. Accessed 9 June 2016 p. 33.

39. Bonger, W. cited in Jamieson, R. (2002) Towards a Criminology of War in Europe in: Ruggiero, V., South, N., and Taylor, I. (eds) *The New European Criminology: Crime and Social Order in Europe* (1) London: Routledge. p. 485.

40. Porporino, F. J. cited in Welch, M. (2005) *Ironies of Imprisonment*. London: Sage. p. 78.

41. Jamieson, R. (2002) Towards a Criminology of War in Europe in: Ruggiero, V., South, N., and Taylor, I. (eds) *The New European Criminology: Crime and Social Order in Europe* (1) London: Routledge. p. 484.

42. Phillips, S. (2014) *Former Members of the Armed Forces and the Criminal Justice System: A Review on behalf of the Secretary of State for Justice*.

43. White A (2012) 'Why do so many ex-soldiers end up in prison?', *New Statesman*, 15 July.

commented 'I shouldn't even be in here with these low lives, even the screws tell me that I am a hero and shouldn't be here ...'.⁴⁴ Indeed, in relation to the last point, ex-military personnel commonly report they feel respected by, and thus have better relations with, prison staff.⁴⁵

Heroes or villains?

Whilst space prevents a full critical analysis of media and public interest in, and discourse around, both serving and former military personnel, what can be discerned from the available research is that once incarcerated many become 'the forgotten'. As noted above, this could be due to the difficulties in ascertaining the actual number of, and therefore identifying, former-military prisoners. Alternatively, it could be that committing a crime, irrespective of the circumstances, so negates those factors popularly associated with the military (such as bravery, valour, duty and that ultimate status of hero), and raises uncomfortable questions about the consequences of military training and culture, that former military personnel become a conveniently ignored group. Despite the extent of public and political support for military personnel in service, levels of interest and compassion appear considerably reduced when they struggle to adapt to civilian life and, moreover, when they become incarcerated. It is interesting to note the response 'when those who have been the security provider on the outside become a threat to security on the inside ... [becoming] ... a group to be managed because of the risk they pose to domestic security as a result of their crimes?'⁴⁶

Of course, in some instances, popular support is maintained, even for those who have committed the most serious of offences. In December 2013 Sergeant Alexander Wayne Blackman (more commonly referred to as 'Marine A') was found guilty of the murder of an injured and unarmed Afghan insurgent (in, what the prosecution described as 'an execution'). After the consideration of mitigating factors, he was sentenced

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to life imprisonment, with a minimum period of 10 years to be served before consideration for eligibility for parole. He was also 'dismissed with disgrace from Her Majesty's Service'.⁴⁷ Full details of this case can be found elsewhere but suffice to say, Blackman's case has received a great deal of public and media interest, raising a whole host of issues and questions. There are campaign groups, websites and social media sites dedicated to fighting for Blackman's release and for the case to be seen as a miscarriage of justice.⁴⁸ Those who had served alongside Blackman, MPs and even, reportedly, Prince Harry have contributed to public support, condemning what they perceive as a great injustice. The high level of public support led to a government e-petition demanding the release of Blackman. The petition, set up in order that the case be discussed in the House of Commons, achieved over 107,000 signatures and the case was indeed debated in September 2015.

Questions should be asked as to why this particular case has received so much interest and Blackman gained so much support, compared with the thousands of former soldiers who are in prison for other similarly serious or, more commonly lesser, offences. Blackman's offence was committed whilst he was still a serving soldier and, clearly, it has been easier to construct the

killing of 'an enemy' as justified. Within the popular imagination, it would appear, violence (up to and including murder), undertaken within the theatre of war is morally acceptable, no matter how inhumane and unnecessary it may be.⁴⁹ In the eyes of the public, Blackman's 'hero' status could remain intact: he had served on numerous tours, witnessed the horrors of conflict and was, after all, doing his job. Further, the suggestions that Blackman was suffering from PTSD constituted an important part of official and public arguments for mitigation.

Many of the former military personnel in prison, and the criminal justice system more generally, will have experienced the same number of exacting tours of duty, witnessed the same levels of violence and death and hence may have suffered similar levels of depression,

44. Murray (2013) p. 21.

45. Prison Watch (2016); HMIP (2014).

46. Murray, E. (2015) *Criminology and War: Can violent veterans see blurred lines clearly?* in: Walklate, S., and McGarry, R. (Eds) *Criminology and War: Transgressing the Borders*. London: Routledge. p. 62 (emphasis added).

47. Sentencing Remarks by HHJ Jeff Blackett, Judge Advocate General, <https://www.judiciary.gov.uk>. Accessed 9 June 2016.

48. See <http://www.justiceformarinea.com>

49. See Guardian, 25th October 2013 (<https://www.theguardian.com/uk-news/2013/oct/25/royal-marines-court-martial-video-transcript>) for transcript of killing by Alexander Blackman.

anxiety and stress associated with PTSD. But acts of violence outside of the 'theatre of war' are, it seems, more difficult to rationalise.

Conclusion

The state, in its duty to protect its citizens, produces a military system where its agents are, through training, systematically normalised and desensitised to the use of violence to solve conflict. This, in turn, can create a de-facto invocation of 'hero' status. It could be argued that this, deliberate or otherwise, is a means by which the state legitimates the violence of war. Yet at the same time there is systematic failure to support those whose lives are uncontroversially affected by its horrors. The military make great effort to prepare their soldiers for war but little by way of transition back into civilian life.

With regard to those ex-military personnel who end up embroiled in the criminal justice system, there have been few ethnographic studies seeking to highlight their specific needs and subsequent support required before, during and after prison. Official research has acknowledged a broad array of factors that might exacerbate entry into the criminal justice system, including poor mental health and substance misuse (especially alcohol), yet appears to 'downplay' the impact and prevalence of PTSD, despite evidence to suggest that such factors can represent aspects of comorbidity with PTSD.⁵⁰

It is apparent then that there is still a lack of empathic understanding within sections of the state, criminal justice system, media and public of the impact of military training and culture on the soldier. The fact that Post Traumatic Stress Disorder and concomitant levels of comorbidity may only surface sometime after a soldier has left active service — a factor that may go some way to explaining the number and characteristics of former military personnel who end up in prison — is seemingly ignored. It is clear that much work is to be undertaken with respect to levels of professional support available for former military, both inside and outside of the prison estate. It will be interesting to see if the 2014 proposals to support ex-military personnel in (via *Transforming Rehabilitation* programmes) and after prison are acted upon⁵¹ although recent events suggest a continued lack of acknowledgement that military training can be anything other than a positive experience. In October 2016 Justice Secretary Liz Truss announced a new Government initiative to recruit former military personnel to work as prison officers, arguing that they would be best placed to instil discipline and tackle violence in prisons, and act as exemplars to prisoners of what can be achieved through 'courage and integrity'. Given the data presented above regarding the numbers and characteristics of former military personnel who enter prison as *prisoners*, the contradiction (or perhaps *denial*) could hardly be overstated.

50. See Phillips (2014); Kelly (2014); Murphy, D., Hunt, E., Luzon, O., & Greenberg, N. (2014) Exploring positive pathways to care for members of the UK Armed Forces receiving treatment for PTSD: a qualitative study. *European Journal of Psychotraumatology*, 5: 21759, 1–8.

51. Phillips, S. (2014) *Former Members of the Armed Forces and the Criminal Justice System: A Review on Behalf of the Secretary of State for Justice*, London: Ministry of Justice

Hidden diversity in interwar convict incarceration

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A Pathe newsreel reporting on the Dartmoor Prison Riot of January 1932 referred dramatically to the prison as the 'toughest' in the country and as the 'home of many desperate criminals and men who are serving life sentences'.¹ While the Pathe newsreel on the riot asserted that there were many inmates serving life sentences held in Dartmoor, in fact there was only one. This was the popularly held view of Dartmoor which was one of two prisons, the other being Parkhurst Prison, incarcerating convicts (a classification abolished in 1948) serving penal servitude sentences of a minimum of two years. Convicts were then designated by the courts as those who should be incarcerated for extended periods as a consequence of their criminal depredations. Were these men guilty of serious, violent offences and therefore worthy of being represented in such sensationalist terms? Actually, their criminal histories varied considerably and although many were convicted of serious violent offences, minor and property related offences appeared much more often on their records. Nevertheless, confinement in Dartmoor Prison operated to associate inmates with bleak and punitive surroundings and offences for which forgiveness was difficult to obtain.

Dartmoor Convict Prison was one of the oldest in operation originally built between 1805 and 1809 to house prisoners from the Napoleonic Wars. Since the 1880s, it had been classified for male serial offenders and criminals convicted of offences seen by the courts as more serious. As has been observed elsewhere, and as reflected in the Pathe newsreel about the riot, Dartmoor prison was already a well-known and even infamous prison, the riot in 1932 cemented 'its image as brutal, sinister and unforgiving; a place where desperate and dangerous criminals were incarcerated.'²

In some respects the riot hindered historical research on Dartmoor's inmates because, as tends to happen in such riots, the convicts targeted prisoner records and destroyed them, in the process setting fire to, and destroying, one of the main buildings. However, the public and political attention given to the riot produced a wealth of other kinds of records, and in particular extensive evidence brought together for the criminal prosecution of 31 convicts in its aftermath. Consequently, the Dartmoor Prison riot archive held at the National Archives includes the criminal records of 427 of the 442 inmates incarcerated there on the day of the riot (24 January 1932). Although giving only the basic facts about their crimes and convictions (sentence, court at which convicted, offence, name under which convicted) these records provide a glimpse, a snapshot, of those who inhabited what was considered to be the most serious end of the criminal spectrum. The criminal records of these 427 inmates constitutes between 25 per cent and 30 per cent of the male convict population as a whole at this time or about 40 per cent of the 'ordinary' serious and serial offenders, who were held in either Dartmoor or Parkhurst.³

As Godfrey, Cox and Farrall have observed, historically the level of persistence in crime has been low and hardened, persistent offenders have been a small proportion of those committing crime.⁴ Certainly, the population of convict prisons had been dropping since the late nineteenth century, and various diversionary and sentencing policies were an important element in bringing this about. In part, the decline was a function of shortening sentence lengths in the convict system which, according to Edwin Sutherland, were reduced from an average of 6.5 years in 1880, to 5.3 years in 1893 and 3.8 years in 1930.⁵ In 1931 only fifteen percent of receptions into prisons in England and Wales were for periods exceeding three months. In that year those sentenced to penal servitude

1. www.Britishpathe.com.

2. A.Brown (2011), 'Crime, Criminal Mobility and Serial Offenders in Early Twentieth-Century Britain', *Contemporary British History* 24 (4), p.552.

3. *Ibid.*

4. B.S.Godfrey, D.J.Cox and S.D.Farrall, *Criminal Lives, Family Life, Employment, and Offending*. Oxford: Oxford University Press, 2007, p.165.

5. E.H.Sutherland, 'The Decreasing Prison population of England', *Journal of Law and Criminology* 24 (1934), p.882.

constituted only about one percent or 511 of 53,043 receptions of convicted male offenders.⁶ According to the Prison Commissioners' Report for 1931, in that calendar year there was a daily average of 1363 men (48 women) in convict prisons. The daily average male inmate population for Dartmoor for 1931 was 487.⁷ This makes the 427 convicts in Dartmoor on 24 January 1932, whose criminal records are considered here, significant in numerical terms.⁸ The public were interested in those who were imprisoned in Dartmoor as is evidenced by the coverage of the riot which was one of the biggest press stories of the year. However, those who entered Dartmoor immediately became associated with blanket judgements and condemnations about the nature and extent of their crimes. They were serious offenders in response to which there had been considerable targeted legislation during the previous decades in order to identify, classify and control them.⁹

One problem faced by historians is that the weight and formulaic character of official records on the prison continues to restrict the questions which can be asked, or indeed answered. Increasingly, historians have sought other forms of evidence in order to extend and open out what can be achieved. The digital revolution has enabled greater use of newspaper coverage. Although press coverage of crime was often sporadic, erratic and limited, especially with regard to low level, and what could be seen as more run-of-the-mill, forms of crime, when this evidence is brought together it can offer additional insights. It highlights the attention given to more sensational forms of crime which served to distort the reality of offending overall and, as Gatrell has asserted, often 'ignored the triviality and banality of most crime'¹⁰ Some recent historical work is beginning to address this disparity which has also been reflected in

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published work.¹¹ This paper aims to contribute to that ongoing research and, in this case, highlight the ordinariness and low-level of the bulk of criminality. This extends to those who have been seen as the most threatening of offenders sentenced to relatively long terms of incarceration in perhaps the most notorious prison in England.

The key sources used in this article are newspaper reports in combination with a collection of official criminal records located in the National Archives in Kew. The glimpse these sources offer is frustratingly fragmentary and focused on criminal convictions. Of course, the men considered here were not only criminals; they had lives and histories outside of that experience. But the endeavour here is to assess what can be established about the kinds of men often perceived to be the worst of offenders and waging war with law-abiding society. In order to undertake such an examination, this article will analyse a subset of the 427 convicts for whom criminal records have survived in the archive. That subset comprises those inmates who had accrued the highest number of previous convictions. These men each had over 20 previous convictions to their name (or names as many used aliases), not including summary convictions for very minor offences. There were 24 such individuals in Dartmoor prison on the day of the riot, 24 January 1932.

The small number of men under scrutiny here limits what can be achieved through statistical analysis so such evidence is used to reconstruct a general profile rather than offer precision. Also, it has to be born in mind that the criminal records of these men detail convictions and not offences, historically as now, the dark figure of crime can only be surmised. However, in general terms we can observe that these 24 men were less likely than average (the 'average'

6. BPP 1932–33 [Cmd.4295] *Report of the Commissioners of Prisons and Directors of Convict Prisons for 1931 (Annual Report)*, pp.418–425.

7. Within this the greatest number of inmates in Dartmoor during that year was 516 and the least 457. *Ibid.*

8. It should be noted that because these criminal records were accumulated as part of the prosecution of the Dartmoor rioters, they end with the last conviction which placed the offenders in Dartmoor at the time of the outbreak so that for many of these offenders it is not a complete record of their offending.

9. See B.S. Godfrey, D.J. Cox and S.D Farrell, *Serious Offenders: A Historical Study of Habitual Criminals* (Oxford: Oxford University Press, 2010), ch. 3.

10. V.A.C.Gatrell, 'Crime, authority and the policeman-state'. In *The Cambridge Social History of Britain 1750–1950, Vol.3 Social Agencies and Institutions* edited by F.M.L.Thompson. Cambridge University Press, 1990, pp.294–5 and pp.306–10.

11. For example, Godfrey, Cox and Farrell, *Criminal Lives: H.Johnston, Crime in England: Experiencing the criminal justice system* (Abingdon: Routledge, 2015).

being the records of all 427 offenders for whom records have survived in the archive) to have been convicted at the Old Bailey (Central Criminal Court), London, and therefore more likely to have not been London-based. They were significantly more likely than average to have multiple, over five, convictions for theft and similarly more likely than average to have over five convictions for breaking and entering. They were less likely than average to have multiple convictions for a crime connected to motor vehicles but more likely to have been mobile, to have travelled, in their offending. Predictably these men also tend to be older. Of the 18 for whom we have their age, 14 were in their 40s or 50s in 1932. The youngest, John Kirkham,¹² was 29 years old in 1932. By April 1931 he had 24 convictions, generally for theft and 'false pretences'. In many respects he conformed to the profile of the other serial offenders under scrutiny here, but he appears to have attracted greater condemnation by the courts because he was perceived to be both young and irredeemable. On one occasion the prosecuting lawyer asserted, 'he had a deplorable record, having been unsatisfactory from the start. His parents had declined to have anything further to do with him.'¹³ He received his first conviction at the age of 16 or 17. One judge had stated that his record was 'as deplorable as any I have ever seen in the case of a man so young as you are.'¹⁴ Another offender, Henry Darlington, was particularly mobile in his offending. He also had the highest number of convictions (34). His conviction record prior to the Dartmoor riot began in Bolton Petty Sessions in 1904, when he was 26 years old, with a two month sentence of imprisonment for stealing a 'watch, clothing etc' and ended with his 34th conviction at Worcester Assizes in 1931 for storebreaking for which he received three years penal servitude and five years preventive detention as an habitual criminal.

The two factors of sentence length and seriousness of offence were not necessarily related since serial offending, the committing of fairly low level offences but on a frequent basis, also resulted in lengthy sentences in the courts during the inter-war period.

Darlington was very well travelled in his offending, with convictions in Bolton, Rochdale, Lichfield, Stafford, Salford, Lancaster, Saddleworth, Manchester, Blackpool, Liverpool, Preston, Haslingdon, Macclesfield, Kirkham, Fleetwood, Derby, Market Harboro, North London, Wednesbury, Newport Pagnall, Great Yarmouth, Spalding, Todmorden and Worcester. His criminal behaviour was unusually eclectic and included theft, loitering, arson and malicious damage, wounding, housebreaking, false pretences, office and storebreaking. Darlington certainly had an extensive criminal record, including serious offences. However, most of his depredations consisted of repeated minor thefts and loitering for which he received numerous but relatively short prison sentences. Indeed, 23 of Darlington's total of 34 offences received sentences of three months or less. In that respect he did not conform to the public image of Dartmoor convicts as desperate, violent and ruthless criminals who would stop at nothing. In Darlington's case, to be categorised as an habitual criminal in May 1931 and therefore subject to a sentence of preventive detention in addition to that of penal servitude, the jury had to decide on the following;

That since attaining the age of sixteen years he has at least three times previously to the conviction of the crime charged in the indictment been convicted of a crime, and that he is leading

*persistently a dishonest or criminal life.*¹⁵

This did not necessarily require offences to be of the most serious kind, except in the respect that they had to be indictable rather than summary. The two factors of sentence length and seriousness of offence were not necessarily related since serial offending, the committing of fairly low level offences but on a frequent basis, also resulted in lengthy sentences in the courts during the inter-war period. Unsurprisingly, the four men in this sample who were designated as habitual criminals also

12. Names used are the ones under which they received their last conviction before 1932.

13. *Western Daily Press* 7 June 1927.

14. *Exeter and Plymouth Gazette* 5 February 1929.

15. S.F.Harris, *Principles and Practice of The Criminal Law* 16th ed. London: Sweet & Maxwell Limited, 1936, p.498. Also see C.C.H.Moriarty, *Police Law: An Arrangement of Law and Regulations for the Use of Police Officers*. London: Butterworth & Co, 1939, p.292.

had long criminal histories (beginning during the 1880s) and shared a similar profile to Henry Darlington. Their criminal histories were composed largely of more minor offences for which lesser penalties were repeatedly meted out. However, these often built up to one, or a small number of points, where deterrent sentences were given as a response as much to recidivism than the seriousness of the particular offence, or offences, for which they were appearing in court.

Although the evidence is fragmentary, there were similarities in the experiences of many of the subset of 24 recidivists examined here and press coverage has helped to reveal this. Reporting was, however, erratic and sometimes quirky. If something touched media interest multiple but repetitive small articles could appear like a virus across the provincial press. Such was the case when Henry Williams was identified by police due to a distinctive lion imprint the heel of his boots left in the snow at the scene of his crime (housebreaking).¹⁶ Only sixteen of these 24 men attracted press attention that can be located, although in many cases the coverage is not extensive: few of them committed offences sufficiently serious or exceptional to be deemed worthy of extensive coverage. Nevertheless, it does seem clear that economic and social contexts were important factors influencing their offending behaviour.

If we return to Henry Darlington who, as has already been noted, appeared in court at the end of May 1931 and was sentenced to three years penal servitude and five years preventative detention as an habitual criminal. He was convicted of breaking and entering the store of Pyx Granite Company in Malvern. Afterwards, Darlington handed himself into the police admitting his guilt, apparently stating that he 'was famished and wanted something to eat.' At an earlier point he had told the police, 'Hunger would drive you to do anything.'¹⁷ This was not the first time he had done this, in 1929 he had been charged with stealing after he had taken a tin box and cinematograph film

and then handed himself into the police because he was 'starving'. It was reported that he had said in court that he was 'down and out, and it was the only thing he could do. He did not want to do any damage.'¹⁸ Poverty was a factor in his offending. Looking through the newspaper reports, other individual circumstances regarding life chances are revealed, albeit all too briefly, which in many cases have a similar ring to them. The occupations recorded could be suggestive, 13 of the 24 men in our sample were described as labourers, painters or porters, in other words unskilled occupations, although the picture is not unremitting: there was also a shoemaker, a clerk and a ship's engineer (we have information about occupations in only 16 of the 24 cases). A further, general but related, characteristic evident is instability; no doubt ensured

or exacerbated by their frequent terms of incarceration. If life in prison was often perceived as being wasted¹⁹ then real life was that which was experienced outside of the prison and these men led short lives indeed. Henry Williams was stated to have spent 23 years in prison by April 1931, when he was aged 53 years old.²⁰ That instability was not infrequently reflected in their lack of stable accommodation. Seven of these 16 men for whom press coverage was located were described in various ways as having no fixed abode or as staying in a workhouse or

lodging house when they committed their crimes. Very occasionally, other indicators of instability or deprivation were revealed. Joseph Brannon's mother had died when he was nine years old and his father had deserted his children.²¹ Frank McCulloch had multiple convictions for begging and John Rush, had spent time tramping the countryside during the 1920s.²² Two others were said to have found life difficult or 'impossible', one of these was reportedly of 'poor intellect'.²³ Alcohol problems were referred to explicitly in three cases.

There are indications of the historically longstanding pattern of crime being a young man's

If life in prison was often perceived as being wasted¹⁹ then real life was that which was experienced outside of the prison and these men led short lives indeed.

16. For example, *Western Daily Press*, *The Scotsman*, and the *Sunderland Daily Echo and Shipping Gazette* 11 April 1931.

17. *Berrow's Worcester Journal* 6 June 1931.

18. *Northampton Mercury* 28 June 1929.

19. T.J.Flanaghan, 'The pains of long-term imprisonment: A comparison of British and American perspectives', *British Journal of Criminology* 1980 20 (2): 148–156.

20. *Sunderland Daily Echo and Shipping Gazette* 11 April 1931.

21. *Dundee Courier* 3 April 1913.

22. *Dover Express* 9 January 1931; *Derby Daily Telegraph* 18 April 1929.

23. National Archives, DPP2/72 *Beadles v Rex*.

pursuit, nevertheless many of the men for whom their age when they received their first conviction can be ascertained (17 of these 24 men) were very young suggesting greater vulnerability. Of these 17 men, 12 were convicted of their first offence by the time they were 18 years old, five were convicted of their first offence by the time they were 15. The earliest convicted offender was Cole, who was convicted twice at the age of eight for stealing (milk and on the second offence yarn) and received six and then twelve strokes of the birch for those crimes.

As might be expected at this historical period, many of these men had served in the military. At least eight of these 24 men had undergone military service, usually during the First World War. In most cases their behaviour had been poor and in four cases resulted in appearing before a Court Martial. However Mark Coleman was awarded the Military medal for Gallant conduct and Frank McCollock was recorded as having a 'very good' character in the Royal Field Artillery, and perhaps notably in court was recorded as stating 'For God's sake send me to a mental prison, for I am really bad.'²⁴ Another, Edward O'Donnell claimed to have been the first man in Strangeways Prison to volunteer for service during the war.²⁵

Despite the fact that evidence is often fragmentary and brief, historical sources about the lives of serial offenders during the interwar years can be pieced together to produce an outline not only of their criminal careers but also of factors which may have influenced their behaviour. The fact many of those considered to be the worst offenders had criminal records which included largely minor offences, suggests that some form of positive intervention could have headed off serious offending. This examination of a small cohort of serial offenders suggests such offenders often had little or no skills and experienced multiple deprivations, including repeated periods in prison, which may have served as punishment but also to exacerbate their instability and vulnerability and hence their likelihood of committing further offences. State intervention tended to be channelled through legislation which targeted serious and extensive serial offending. As Godfrey, Cox and Farrell have insightfully observed, the function of that legislation, as they put it, the 'modus operandi' was to 'wear down repeat offenders, to watch over them constantly, to incapacitate them with long periods of imprisonment, weakening them physically and mentally.'²⁶



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24. *Dover Express* 9 January 1931.

25. *Dundee Evening Telegraph* 11 March 1931.

26. Godfrey, Cox and Farrell, *Serious Offenders*, p.196.

The Criminal Justice System and Black People in Victorian Britain

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People of African or West Indian descent have been a small but continuing element in the population of the British Isles for centuries.¹ Black men, women and children who lived in Britain and who appeared in criminal courts have been studied in the early history of modern Australia for their identities were noted in the registers of transport ships and convict settlements.² Yet Victorian officialdom seldom noted the ethnicity of people convicted in Britain. Newspaper reports might mention colour whilst the trial records ignore it, so identifications have been made when appearances in court — as victim, witness or accused — led to such descriptions.³ Prison files are silent too. Caroline Bressey in her 'Victorian Photography and the Mapping of the Black Presence in Britain'⁴ reproduced photographs of black men in two albums of pictures taken at London's Pentonville Prison in March — April 1881. She observes written records ignore the appearance, colour and ethnicity of these men.

Newspaper reports, however, are not so mute on the subject and can provide a valuable source to highlight the types of crimes committed and sentences received by black people in Victorian Britain. Additionally, some may also go some way to revealing broader social concerns of the period.

William Henry Weaver was a sailor who had lived in America and had sailed into and out of Cardiff for fourteen years. Born in Edinburgh he was described as a 'man of colour' in the Cardiff *Western Mail* of 9 February 1875. This 'young man of respectable appearance' was reported to have stabbed his landlady in Cardiff, and she was expected to die. A later report

said he was 'not a negro, his complexion being that of a mulatto'. His victim's throat had been cut and he went to prison to await news of her fate. He was described as 'an American half-caste'. A cook and steward aged 39 he was sent for trial at the assizes whilst the woman recovered. In March he was found not guilty of attempted murder, and guilty of unlawful wounding with intent to do grievous bodily harm and was sent to prison for seven years.

In the case of sailor Joseph Denny, whose Pentonville prison photograph is dated 7 April 1881, we have more details.⁵ The census of 3 April 1881 listed him in Pentonville prison (where he was photographed), aged 30 and born in the West Indies (although some newspapers stated he was African). At the Old Bailey on 12 January 1881 he had pleaded guilty to stealing £25 and clothing from a house. The *Morning Post* reported in February that he had 'a very extraordinary career of crime' with a file of 27 sheets.⁶ *The Times* also noted the 'black man' was sentenced to eight years. He had been imprisoned for seven years, when his conduct 'was so bad that he was required to serve the whole sentence. He was to have been flogged, but on account of the state of his health this was not carried out'. He had been on a bread-and-water diet for 720 days, which if reported correctly would have been illegal. Denny asked 'Why don't you send me to the gallows right away? I shall be sure to do something. I shall commit murder before I am done!'⁷

A rope found inside Dartmoor prison in August 1890 led to a search when the warders found Denny who, having been released a year before, had gone to sea and brooded on the treatment he had received from Chief Warder Hardy. He broke in with the aim of

1. Chater, K. (2009) *Untold Histories. Black People in England and Wales during the period of the British slave trade, c. 1660–1807*, Manchester University Press; Fryer, P. (1984) *Staying Power: the History of Black People in Britain*, London: Pluto; Green, J. (1998) *Black Edwardians: Black People in Britain 1901–1914*, London: Frank Cass.
2. Pybus, C. (2006) *Black Founders. The unknown story of Australia's first black settlers*, Sydney: University of New South Wales Press.
3. Registrations of birth, marriage, death, and the census are silent. Later when street directories and voting lists came into use, the same absence continued.
4. Marsh, J. (ed, 2005), *Black People in British Art 1800–1900* (Aldershot: Lund Humphries, 76.
5. Marsh, *Black People in British Art* 76.
6. oldbaileyonline.org ref t18810110-78 10 January 1881 [the original is dated 12 January]; *Morning Post* (London), 5 February 1881, 7; *Standard* (London), 5 February 1881, 2.
7. *The Times* (London), 5 February 1881, 11.

murdering Hardy and rescuing two prisoners.⁸ Reporting on the subsequent trial *The Times* described him as 'a coloured man' of Barbados and stated he had served eight years for felony in London and seven years for manslaughter in Liverpool.⁹ Denny said he had been put in irons because he was a man of colour and spoke his mind. The magistrate warned him several times to be careful of what he said in the court.¹⁰ Denny was sent back to prison for a year.¹¹ The limited evidence regarding his dietary punishment and the use of irons suggest he may have been subject to extraordinary punishment due to his colour, although the limited evidence available means this cannot be confirmed.

The census on 5 April 1891 finds him a married cook and baker born in 'Barbadoes', aged 45 now classified as a criminal lunatic in Broadmoor. It is tempting to leave him there — but the world of Joseph Denny was more complex. In December 1891 the *Hampshire Advertiser* reported 'an old friend' for Denny had appeared in court charged with stealing a coat from the Southampton Sailors' Home. Denny was sent back to prison for nine months, followed by five years' supervision, obliged to report his whereabouts to the police.¹² In October 1895 he appeared again, this time as Robert Hedley in an *Uncle Tom's Cabin* show in Bishop Auckland.¹³

Denny may have been an unusual prisoner. His hatred towards Warder Hardy led him to make threats in court and the magistrate warning him to be quiet, an action which perhaps prevented charges of threatening behaviour and contempt of court.¹⁴ As a career criminal Denny was a failure, with lengthy periods in prison. A full listing of his trials and a comparison between his punishments and those of white offenders would be interesting but as Bressey noted (and this paper confirms) the evidence in official records is usually without mention of colour or ethnicity.

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One black sailor who went to the gallows was the South African Thomas Allen who murdered a Swansea publican in February 1889. The mayor of Swansea was one of five thousand who signed a petition requesting clemency. Allen confessed in writing to stabbing Frederick Kent¹⁵ and was hanged on 10 April 1889. Oddly, perhaps — and certainly to those who believe the Victorian civil service was an all-powerful and knowledgeable force — a government file from 1905 entitled 'Executions: Coloured Men Sentenced to Death' summarised five murders between 1899 and 1905 but ignored Allen, yet included a pencilled comment about a sailor named Charles Arthur in 1888.¹⁶ Unable to determine why this slim file was initiated, the absence of Allen and the note about Arthur suggest the Home Office relied on departmental memory and did not keep a filing system based on ethnicity.

News reports also provide some information about black people imprisoned in institutions for the criminally insane. William Brown was born in British Guiana (Guyana) around 1832. He was a long-serving petty officer in the Royal Navy but two years after retiring was charged in January 1883 with the murder of his wife Elizabeth. He and his wife, a stepson and their three children lived in Munster on the Isle of

Sheppey in the Thames estuary. Brown suffered from epileptic fits. He killed his wife and stabbed his stepson Alfred Rump: the press called this the Sheerness Murder. Brown had cut his own throat and was unable to talk. Found not guilty of murder through insanity, he was sent to Broadmoor for the rest of his life.¹⁷

Failure to conform to social expectations often brought petty criminals into mental hospitals or similar institutions. Take for example the case of John Cole, a black sailor whose behaviour was odd and aggressive. In December 1884 he was sent to the workhouse 'as an

8. *Birmingham Daily Post*, 18 August 1890; *Western Times*, 19 August 1890, 3; *Daily News* (London), 20 August 1890, 3; *Bath Chronicle*, 21 August 1890, 3; *Lancashire Evening Post*, 2 December 1890, 3.

9. *The Times* (London), 18 August 1890, 8.

10. *Pall Mall Gazette* (London), 20 August 1890.

11. *Daily News* (London), 3 December 1890.

12. *Hampshire Advertiser* (Southampton), 12 December 1891, 4.

13. *Northern Echo* (Darlington), 11 October 1895.

14. Denny is absent from Priestley, P. (1999), *Victorian Prison Lives. English Prison Biography 1830–1914*, London, Pimlico.

15. *Aberdeen Weekly Journal*, 11 February 1889; *Western Mail* (Cardiff), 13 February 1889; *Illustrated Police News* (London), 2 March 1889; *Western Mail* (Cardiff), 19 March 1889; *Standard* (London), 19 March 1889; jeffreygreen.co.uk/088 'Thomas Allen, hanged in Swansea, April 1889'.

16. The National Archives (Kew), HO144/803/134036. William Lacey was hanged for cutting his wife's throat, in South Wales, in 1900. One of the five was Chinese and another from North Africa.

17. *The Times* (London), 23 February 1883, 8; *The Times* (London), 26 February 1883, 7; *Wrexham Advertiser*, 20 January 1883, 7; *Preston Guardian*, 20 January 1883; *Morning Post* (London), 18 January 1883, 5.

insane person' by the magistrate at the Thames police court.¹⁸ And 'Prince Alesam', who seemed to be a law student and tricked several London hotel keepers with promises to pay. He was remanded in April 1895 and on 9 May 1895 was described by *The Times* as a West African who 'lived in luxury, drove about in hansoms [cabs], and had run up a bill with one cab-man for £1 19s in fares, which he never paid'. He was sent to prison for nine months. Alesam served part of his sentence at Wormwood Scrubs where he created problems for the prison staff. He was scheduled to be removed from there when his sentence expired in February 1896, to be placed as a pauper lunatic in the asylum at Belmont near Banstead, Surrey which held hundreds of mentally ill people.¹⁹ Did these and other individuals suffer from their experiences of living in Britain as visible strangers?

A number of African Americans found all over the British Isles from the 1830s, told of their experiences of slavery and escape. They often sold booklets ('slave narratives', a genre with a sustained market in Britain), gave lectures, and received donations — sometimes enough to purchase family members still in bondage. Contacts with British men and women of high status were almost a rite of passage for refugee African Americans²⁰ and connections with former slaves were extremely useful for the British abolitionist movement. British abolitionists provided testimonials and accommodation for many such men and women, and arranged venues and publicity for lectures.²¹ An Antigua-born blacksmith remarked, in Chester in 1854 that, '[a]ll a coloured man needed to do to make a living in Britain was to attend religious meetings and speak out against slavery and the

United States'.²² However some people claiming to be escaped slaves were denounced as liars and faced criminal sanctions for their alleged frauds.²³ Despite the political concerns and the empathic perspectives of abolitionists towards black people who were enslaved, there appeared to be little sympathy for those who were believed to have lied about their former-slave status. Those who took a public stance against slavery were clearly keen to differentiate between authentic former slaves and impostors and to warn others by circulating details of their activities. Newspaper reports highlight the sense of moral outrage alleged imposters provoked and the 'risk' they were deemed to pose to an unsuspecting public. In some cases, reportage exposed the deep rooted, but unacknowledged, prejudices of even the most liberal commentators.

Newspaper reports highlight the sense of moral outrage alleged imposters provoked and the 'risk' they were deemed to pose to an unsuspecting public.

The *Anti-Slavery Advocate* of August 1853 warned of 'a coloured man named Charles Hill' who was collecting to redeem his wife from slavery. It recommended would-be donors to exercise great caution.²⁴ Hill was Reuben Nixon who also worked as Henry Smith, William Love, David Clarry, Andrew Baker and Hiram Swift. He was sent to prison on two occasions.²⁵ In 1854 the *Cambridge Independent* pleaded readers should 'place the public on their guard' against this 'incorrigible' impostor and the *Brighton Gazette* noted his lies.²⁶ The *Brighton*

Herald's long report of 23 March 1854 was reprinted in the *Anti-Slavery Advocate* on 1 May, noting 'it shows that a man, though black and no better than he should be, may still be a very clever fellow' (emphasis added). Hill was sentenced to three months with hard labour for obtaining money under false pretences.²⁷ The *British Friend* of 4 April 1854 noted he had been in Belfast and

18. *Morning Post* (London), 27 December 1884, 7; *Standard* (London), 27 December 1884, 6.

19. *Morning Post* London, 1 February 1896; jeffreygreen.co.uk/114 "'Outsiders" inside. Some 19th century prisoners with mental health problems'.

20. jeffreygreen.co.uk/152 ' Sarah Parker Remond (1824–1894), British citizen'.

21. jeffreygreen.co.uk/107 'John Anderson, "so famous a year or two ago" (1862)'; jeffreygreen.co.uk/059 'A black family in rural Surrey: the 1850s'; jeffreygreen.co.uk/134 'Ellen & William Craft. A fresh examination'.

22. Temperley, H. (1972) *British Antislavery 1833–1870*, London: Longman, 224. He uses George Borrow's *Wild Wales* where the incident starts chapter three.

23. Temperley, *British Antislavery*, 224 quotes from the *Anti-Slavery Advocate* May 1854 regarding a West Indian jailed for three months for being an impostor and that the *Advocate* warned of such tricks in August 1853.

24. Fisch, A. (2000) *American Slaves in Victorian England*, Cambridge University Press, 94.

25. Ripley, C. (1985) *The Black Abolitionist Papers, Vol 1: the British Isles, 1830–1865*, Chapel Hill, University of North Carolina Press, 13 quoting reports from 1853 to 1855; Fisch, *American Slaves*, 95 states he was sent to prison in 'Kewes' for three months, an error for Lewes prison in Sussex built in 1853. The *Brighton Gazette* and the *Sussex Advertiser* reported this 'pretended fugitive slave'.

26. *Brighton Gazette*, 16 March 1854; *Brighton Gazette*, 4 May 1854 published a letter to Chamerovzow of the *Anti-Slavery Advocate* from Nixon in Lewes prison dated 12 April; *Cambridge Independent Press*, 16 September 1854.

27. *Windsor and Eton Express*, 15 April 1854, 3 reported him as 'Robert Nixon'; *Anti-Slavery Advocate* (London), 1 May 1854, 157–159.

recently convicted in Brighton.²⁸ On release from Lewes prison he returned to trickery.²⁹

As David Clarry he appeared in Portsmouth in 1856 with letters of introduction and a 'plausible tale from the man himself', which led to a successful public lecture. He said he wanted to open a hairdresser's shop, having been a valet in America and anxious to settle down with his white wife. He opened his shop in Southsea and put up the hairdresser's pole and also stocked toys. In mid-1856 he disappeared along with items loaned to him (books and clothing) and the shop goods. The *Portsmouth Times* lamented that '[t]he kind-hearted people who assisted him have now to regret their misplaced generosity, whilst their guest is doubtless carrying out the same system in another part of the country'. The report ended by describing Clarry as '[r]ather tall and thin, [he] has quite a gentlemanly appearance, and walks very erect'. The cape he usually wore in Portsmouth had been loaned to him, and he 'took it away on leaving the town'.³⁰

A description was published in the *Waterford Mail* of 2 September 1856 when a resident of Lismore warned the charitable against giving money to the 'man of colour' now travelling around Ireland. He said he was Reuben Nixon and sometimes David Clarry, and other names. He travelled with his wife and baby, the wife being from County Cavan but was said to have met her husband in America. In fact, the pair had married in Dublin where they were servants and took to begging as, it was asserted, a 'more pleasant and profitable than an honest way of living'.³¹

The *Perthshire Advertiser* was noted by the *Anti-Slavery Reporter* in March 1857 when it issued a 'warning: Reuben Nixon again'.³² He had been working as Smith in Dundee and Dunfermline in 1855, and in January 1857 as William Love in Darlington. The *Montrose, Arbroath and Brechin Review* of 6 February 1857 noted that he (as Love) had spoken at a crowded meeting for

two hours. One week later it noted he was an impostor who was solely a fugitive from 'those whom he had duped and fleeced. He has a new story for almost every place in which he appears' and a 'different name for each character he assumes'. The *Montrose Standard* of 13 February 1857 noted 'he had ample testimonials in his possession'.³³ At the northern end of Ireland far from Waterford, as William Love, Nixon toured and lectured, and pawned a watch he had borrowed. The Dublin marriage detail was repeated but it was now the suggestion he had been involved with the police in Sunderland.³⁴ He served another prison term in the winter of 1857.³⁵

Gustavus Adolphus Nero Rodman Fraser was another alleged fraudster noted in the British press in 1885–1886.³⁶ His claims were summarised by *The Times* towards the end of 1886.³⁷ He said he had been born in West Africa and sold with his mother to Spaniards, and spent ten years in slavery in Cuba. He escaped to South America (probably meaning the Southern U.S.A.) where he met an English missionary, worked his way to Canada, took over a school for black children in 1876 and was then a Baptist minister in Canada. In 1880 he joined the black-run African Methodist Church and 'went to his own country as a missionary'. It was suggested he

sought funding in England and so he had travelled to Britain. In early 1886 newspapers reported on his trial in Glasgow where he was charged with fraudulently obtaining money 'from prominent citizens, and from congregations to which he preached in Glasgow' receiving some £400.³⁸ Two charges made against him in Glasgow on 20 February 1886 were over £55 obtained through falsehood, fraud and wilful impositions, and a further £52 through a fabricated letter. He was sent to nearby Kilmarnock to hear a charge relating to £20. The bail-bond for the first two charges was £150.³⁹ The *Glasgow Herald* warned 'a mouth full of texts does not

The *Portsmouth Times* lamented that '[t]he kind-hearted people who assisted him have now to regret their misplaced generosity ...

28. Fisch, *American Slaves*, 125 n 5 uses *Brighton Examiner*, 14 February 1854 and *Windsor and Eton Express*, 15 July 1854. See also *Brighton Herald*, 18 March 1854.

29. *Brighton Gazette*, 20 July 1854, 3 has Chamerovzow's warning letter.

30. *Portsmouth Times*, 12 July 1856, 5.

31. *Waterford Mail*, 2 September 1856, 5.

32. *Anti-Slavery Reporter* (London), March 1857, 57 quoting *Perthshire Advertiser* 12 February 1857.

33. Fisch, *American Slaves*, 95–97.

34. *Londonderry Standard*, 3 September 1857, 2.

35. Quarles, B. (1969) *Black Abolitionists*, New York: Oxford University Press, 160.

36. McLaurin, M. 'Divine Convictions: The Tale of an African American Trickster in Victorian Britain', *Gateway Heritage*, Vol 15 n 3 (Winter 1994–1995) dismissed a British Guiana origin but was unable to explain Fraser's education.

37. *The Times* (London), 9 December 1886, 6.

38. *Dundee Courier*, 3 February 1886; *Huddersfield Daily Chronicle*, 3 February 1886, 3.

39. *Aberdeen Weekly Journal*, 22 February 1886; *Glasgow Herald*, 22 February 1886.

necessarily imply a heart full of grace' advising 'stricken doves' to find consolation with admirers of 'a paler hue'.⁴⁰ On 8 December 1886 he was sentenced at the Salford court to six months with hard labour.⁴¹

Another black Victorian who claimed to be a Christian minister collecting for their congregations was Alfred Wood. *The Liverpool Mercury* of 23 March 1852 warned this man had 'obtained certificates from several clergymen under false representations' as did the *Blackburn Standard* on 31 March. In Newcastle in September Wood gave a crowded lecture on American slavery and claimed to be a minister and doctor from Liberia.⁴² The downfall of 'Alfred Thomas Wood, alias Dr Wood' was reported in the *Newcastle Courant* eight days later. He was charged in Hull with obtaining money on false pretences — collecting for a chapel to be erected in Monrovia, Liberia. Two receipts signed by Wood were placed before the court. One for £12 10s deposited in Dublin on 26 September and the second for the same amount but with 'Malton' (a Yorkshire town) on the same day suggested fraud. *The Hull Packet* said Wood was aged thirty-five when reporting the charge of fraud in the court which dealt with complicated legal matters into the evening.⁴³ The acting British consul in Monrovia said he knew Wood whose congregation was two hundred. He was sentenced to eighteen months in Hull's prison, with solitary confinement for the first and last months.

The *Liverpool Standard's* report of the Hull trial also reminded its readers its warning about Wood back in March 1852 had led Wood to threaten libel. Summaries of the Hull trial appeared in several newspapers in January 1853.⁴⁴

Henry Johnson ('a man of colour') was a London thief — at his London trial in December 1838 a pawnbroker stated he had bought items from Johnson for over eighteen months. Johnson was also a male prostitute. He and butler John Aylett were charged with stealing items worth £20. They were pawned, and the money given to Johnson who, having shared Aylett's bed ('guilty of unnatural practices') had charged him £5 and threatened to reveal the matter. Johnson told the

police 'for some time past [he had] been in the habit of walking along Regent-street, where he was almost certain of being noticed, and picked up by gentlemen, by whom he was liberally paid for according to their wishes'. (*Dublin Monitor*, 15 December 1838). The Old Bailey trial was brief — the charge was theft (the homosexual activities were not detailed). *The Times* of 21 December 1838 noted Johnson was 'a man of colour' as did the *Morning Post* of that date. They were sentenced to be transported for ten years and so locked up in Newgate prison before, at the beginning of January 1839, being moved to a hulk moored near Woolwich. That both men received the same sentence is odd, in that Aylett was a butler and thus in a position of trust which he had abused.⁴⁵ (Sodomy — not the charge in this case — was a capital offence in England until 1861. The last man hanged for this was in London in 1835.)

The unreliability of the British census which has wildly different spellings, conflicting ages, and different places of birth is one danger for researchers. The haphazard use of descriptions and lack of clarity in the contemporary use of 'coloured' confuses matters further. We still have no idea of the number of black people who were in prison in Victorian Britain. This paper shows hearings had taken place in Tavistock, Exeter, Kilmarnock, Hull and Brighton revealing conventions on the historic locations of Britain's visible minorities are suspect. What we can be sure of is that there was a black presence in British courts and prisons in Victorian times but that the ethnicity of these individuals seems not to have been worthy of official record. However, ethnicity was clearly deemed worthy of recording by newspaper reporters and editors for a wider public readership suggesting colour was a significant social issue. The limitations of press coverage of criminal trials in which ethnicity was referred to can be frustrating and raise many questions, for example, regarding the ability and resources of defendants to prove their innocence and the fairness and equality of the trial process.

40. Glasgow Herald, 28 April 1886.

41. *Aberdeen Weekly Journal*, 9 December 1886; *Liverpool Mercury*, 9 December 1886; *Western Mail* (Cardiff), 9 December 1886; *Nottinghamshire Guardian* (Nottingham), 10 December 1886, 8; *Blackburn Standard*, 11 December 1886, 3.

42. *Newcastle Courant*, 17 September 1852.

43. *Morning Post* (London), 13 January 1853.

44. *Lancaster Gazette*, 15 January 1853, p 2, quoting the *Liverpool Standard*. *Huddersfield Chronicle*, 15 January 1853, p 3; *Leicester Chronicle*, 15 January 1853; *Era* (London), 16 January 1853; *Berrow's Worcester Journal*, 20 January 1853.

45. However, the official files note he was aged 24, and Johnson was 22. Almost one thousand convicts named Henry Johnson are listed in the files of Australia, but Aylett is a rarer name and we can see that he was shipped with 335 others (but not Johnson: unless he had an alias) on the *Barossa* from Sheerness to Sydney on 31 July 1839. The ship arrived on 8 December 1839. Aylett seems to have died near Sydney in early 1840. Johnson remains untraced. He may have died during the months waiting for the transport ship — hulks were full of diseases, and ill-treatment was common. jeffreygreen.co.uk/169 'A Black Gay Hustler, London 1838'. My thanks to Stephen Bourne for this information.

An exception too far: 'gentleman' convicts and the 1878–9 Penal Servitude Acts Commission

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In 1877, local and county prisons in England and Wales, hitherto run by local magistrates, were placed under direct central government authority. This gave effective control of these establishments to one man, Colonel Edmund Du Cane, chairman of the newly constituted Prison Commission. Since 1869, Du Cane had also been responsible for running England's convict prisons. Established in the 1840s and '50s, these held prisoners who would once have been transported to Australia (or else languished aboard prison hulks, which was as far as many serving shorter terms of transportation ever travelled) but who were now sentenced instead to penal servitude, introduced in 1853 to replace transportation. Thus by the end of the 1870s, all prisoners in England and Wales, whether in local, county or convict prisons, found themselves subject to a regime that embodied Du Cane's philosophy of harsh deterrent punishment applied with rigid uniformity.

The latter was a central tenet: writing in 1885, Du Cane asserted that penal servitude should be 'applied on exactly the same system to every person subjected to it. The previous career and character of the subject makes no difference in the punishment to which he is subjected'. To do otherwise, he explained, would not only undermine the authority of the courts, but leave prison authorities open 'to charges of shewing [sic] favour to or prejudice against certain particular prisoners'.¹ As Martin Weiner has argued, however, prison regimes under Du Cane, by their very uniformity, made visible categories of prisoner for whom treatment of this kind was increasingly felt inappropriate: juveniles; women; prisoners sentenced for offences arising from political activity, and those designated 'lunatic', 'imbecilic' or 'weak minded'. Another exceptional category, one to which Weiner alone

among historians has ascribed even marginal significance, were so-called 'gentleman' convicts. These Weiner describes as prisoners 'of a higher social class and generally more delicate constitution than a Fagin or a Sikes'.² Of course, the presence in English prisons of middle- or even upper middle-class prisoners was nothing new. But though they remained a tiny minority, there were by the 1870s many more 'gentlemen' in English prisons than early nineteenth-century penal administrators and reformers would ever have anticipated.

This increase was due principally to the rapid transformation of Britain's business and financial structures during the century's middle decades, affording new and tempting opportunities to the less-than-scrupulous. Though not all 'gentleman' convicts were embezzlers and fraudsters (prison memoirs for instance mention among their number doctors and surgeons sentenced for offences relating to the illegal termination of pregnancy³), the type of offence for which Chicago School sociologist Edwin Sutherland would, in 1939, coin the term 'white collar crime' was from the 1840s a staple of court reports in English newspapers.⁴ Writing in 1859, the financial journalist David Morier Evans, who labelled such offences 'high art crime', went so far as to describe the preceding two decades as 'one of the darkest pages in the commercial history of this country'.⁵ The realisation that criminal behaviour was not confined to the lower classes but could be found among the most 'respectable', and hence presumed the most honest, components of the Victorian social order was a disturbing one. In practice, the courts struggled to determine the line between entrepreneurial and criminal activity and the appropriate penalty for the latter, veering between the severity of the fourteen-year sentence for embezzlement handed down to disgraced banker John Dean Paul in 1855, and the

1. Edmund Du Cane, *The Punishment and Prevention of Crime* (New York; London: Garland, 1984 [1885]), p.155.
2. Martin J. Weiner, *Reconstructing the Criminal: Culture, Law and Policy in England, 1830–1914* (Cambridge: CUP, 1990), pp.308–10.
3. E.g. 'Our Convict System by an Ex-Prisoner', *The Weekly Times*, December 28, 1879, p.2.
4. See George Robb, *White-Collar Crime in Modern England: Financial Fraud and Business Morality, 1845–1929* (Cambridge: CUP, 1992), pp.11–30.
5. David Morier Evans, *Facts, Failures and Frauds: Financial Mercantile Criminal Revelations* (New York: Kelley, 1968 [1859]), p.1.

leniency of the relatively short (between eight and 18-month) sentences for fraud received in 1878 by the directors of the collapsed City of Glasgow Bank, the latter causing widespread public dissatisfaction.⁶

In addition to such high profile cases, the publication in the 1870s of numerous articles and memoirs by former prisoners sharpened still further the contours of the 'gentleman' convict as an exceptional category of prisoner. Never an unpopular genre, the period represents the prison memoir's golden era, a proliferation of titles testimony to Victorian readers' appetite for such fare. Often published anonymously, the majority of these volumes' authors were 'gentlemen', the memoir serving as both a ready source of income and a means of self-exculpation for disgraced ex-businessmen and professionals. Foremost among them was the author of *Five Years' Penal Servitude by One Who Has Endured It* (1877), identified posthumously as

Edward Callow, a railway company secretary sentenced in 1868 for his part in an attempt to defraud a City bank.⁷ Callow was among former prisoners called to give evidence before an 1878 royal commission on convict prisons and penal servitude, as was a witness identified only as 'G.H', the author of an article entitled 'Our Present Convict System', published in the *Westminster Review* in April that year. Another equally damning account of penal servitude by an anonymous former 'gentleman'

convict, *Convict Life; or, Revelations Concerning Convicts and Convict Prisons by a Ticket-of-Leave Man*, coincided with the publication a year later of the commission's report. That such books were widely read is suggested by a cartoon entitled "JUST OUT! – (AT ALL THE LIBRARIES)" that appeared in *Punch* magazine in July 1880, in which an elderly lady is alarmed by the conversation of the two well-dressed young women with whom she shares a railway carriage: 'How did you like *Convict Life*, dear?' asks the first young woman, to which her companion replies, 'Pretty well. We've just begun *Ten Years' Penal Servitude*...'⁸

Rather than identify themselves as belonging to a narrow elite, however, these authors sought common cause with others they described variously as 'novice' criminals, 'criminals by accident' or 'casual' criminals (the latter, of course, today carries a different meaning). Callow, for instance, insisted that:

... these authors
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by accident' or
'casual' criminals ...

*criminals may be divided into two classes. The one consisting of those who have deliberately and in cool blood ... set to work to rob or defraud, and those who have been led astray by others, or who have given way to a strong temptation in a moment of difficulty. ... I cannot but consider that there is a great difference between the two men, and they should be treated differently.*⁹

Within the second category, he included men such as himself, 'driven for the moment into a tight corner ... convicted and punished for crimes that may be termed 'commercial lapses' — say, embezzlement, forgery, and breach of trust'. Conceived, then, as wholly distinct from the reviled 'criminal class', this broad 'accidental' category, according to these authors, included junior clerks

sentenced for stealing from their employers, Post Office employees who had been sentenced (subsequent to an Act of 1767 that classed any postal theft as a felony) to penal servitude for the embezzlement of trifling sums, and representatives of the impoverished rural poor (though seldom their urban counterparts), driven to steal in order to feed hungry families. In removing these prisoners from the 'criminal class', 'gentleman' memoirists attempted to distance themselves from the latter, which perhaps accounts for

a near universal reticence on the exact nature of their own offences. This is understandable: men sentenced for large-scale acts of premeditated fraud enjoyed little public favour and, it could be argued, had far more in common with professional thieves than with temptation-prone office boys and light-fingered postmen.

In asserting that fundamental distinctions could and should be made between different types of offender, these authors challenged the principle of uniformly applied punishment; recognition of variation within prison populations led logically to the idea that punishment should instead be varied to suit these different types. 'G.H', for instance, condemned a system that 'subjects all to a Procrustean process, treating men of the most opposite characters and antecedents alike'. 'In determining the amount and kind of punishment inflicted,' he argued, 'the case of each criminal must be carefully investigated and considered'. To accommodate

6. On Paul, who in the event served only five years, most of it at Woking convict hospital, see Robb, *White-Collar*, pp.61–2; Evans, *Facts*, pp.123–4; on the City of Glasgow Bank trial, see Robb, pp.73–4.

7. David Cox discusses Callow at length in this issue.

8. *Punch*, July 24, 1880, p.27.

9. Anon. (Edward Callow), *Five Years' Penal Servitude by One Who Has Endured It* (New York; London: Garland, 1984 [1877]), pp.373–4.

different kinds of criminal, 'G.H.' envisaged separate prisons — indeed, entirely distinct types of establishment. Those judged capable of reform would be 'sent to a special prison where the general rule should be solitude', while 'incurables' would be banished permanently to an overseas penal colony.¹⁰ Similarly, 'a Ticket-of-Leave Man' prescribed three or four years separate confinement for all prisoners serving a first sentence of penal servitude, 'accompanied by good educational, moral, and religious training'. 'Incorrigibles', on the other hand, would be put to work 'in a coal-mine, with an occasional taste of the 'cat' as an incentive to industry', followed by permanent exile to a penal colony under military law.¹¹ Some penal administrators echoed these proposals: for instance, Arthur Griffiths, Millbank convict prison's deputy governor and Du Cane's trusted subordinate, favoured separate prisons for 'persons who had committed their crime through a lapse, of superior intelligence and better disposed than the others.'¹²

Behind such proposed reforms lay concern that penal servitude bore more heavily on some prisoners than others. In a letter to the commission, Richard Harington, a Worcestershire magistrate, argued that:

*When a director of a joint stock company commits a fraud, or a banker's clerk embezzles or forges, he commits, no doubt a grave and most serious crime deserving of condign punishment. But ... although his crime may be equal to, it is not worse than, the act of brutal violence or wanton mischief committed by the vagabond. Why then should he be tortured while the other is merely punished?*¹³

This 'torture' was understood to be spiritual as well as physical; indeed, for Callow, the former far outweighed the latter. Penal servitude, he wrote,

falls very unequally upon different classes. To a large number of criminals it is merely so many years being shut up in prison, restricted from

*doing their own will, and being compelled to labour, to a certain extent, whether they like it or not. To the man of good position, it is moral death accompanied with ruin and disgrace to his family and relatives.*¹⁴

Far worse, then, than a convict prison's material conditions was the disgrace of conviction itself. As 'G.H.' observed, for men such as himself, 'the physical privations entailed by their sentence are trifling in comparison with the fact of having received a sentence at all'. By contrast, a prisoner who 'belongs to the habitual class ... has no feeling of disgrace; he has lost no caste for he has none to lose'.¹⁵

'Moral death' aside, when it came to performing heavy manual labour 'gentleman' convicts were again at a distinct disadvantage. 'A Ticket-of-Leave Man' had been passed fit for 'ordinary hard labour' by a doctor at Portland convict prison, where what is still today Europe's largest man-made harbour was built using convict labour. He recalled that:

*All the previous exercise of which I had partaken had been for amusement. I once won the silver sculls in a sculling match at Henley; I had taken some tolerably rough horse exercise in my time in different parts of the world; and I could handle a rifle as well as most civilians; but up to now I had been a total stranger to the pick and shovel.*¹⁶

He 'resolved to make the best of it and try to do my duty', but lasted only four months before reassignment to lighter work. 'A.B.', another of the ex-convicts who gave evidence to the commission, had received eight years' penal servitude for forgery. He spent just three months at Portsmouth convict prison, where prisoners worked extending the port's Royal Navy dockyard, before being transferred permanently to an invalid prison. 'A.B.' was asked whether he would 'propose that a different and lighter class of work should be given to men like clerks

'To the man of
good position,
[penal servitude] is
moral death
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ruin and disgrace to
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relatives.'

10. Anon., 'Our Present Convict System', *Westminster Review*, 109 (1878), p.419; pp.421–2; pp.427–8.
 11. Anon., *Convict Life; or, Revelations Concerning Convicts and Convict Prisons by a Ticket-of-Leave Man* (London: Wyman & Sons, 1879) p.2; p.242; pp.244–5.
 12. *Penal Servitude Acts Commission. Report of the commissioners appointed to inquire into the working of the penal servitude acts...* (1878–9) PP [C.2368] [C.2368-I] [C.2368-II] XXXVII.1, 67, XXXVIII.1, p.273 at p.342, qq.3216–20.
 13. *Ibid.*, p.931 at p.1004, q.11707.
 14. Anon. (Callow), *Five Years*, p.365.
 15. Anon., 'Our Present', p.413; p.418.
 16. Anon., *Convict Life*, pp.79–80.

and men who have not been accustomed to hard work?' 'Yes,' he replied, 'because the work kills those men. ... You will find that a great number of those men are soon in hospital.'¹⁷

This dramatic assertion was borne out by convict prison medical officers. The M.O. at Portland, for instance, had 'found by careful investigation, that educated men of sedentary habits suffer far more in health from imprisonment than do the uneducated of the labouring class ... The number of deaths are greater in this class than in the other.'¹⁸ Giving evidence to the commission, George Clifton, Portland's governor, claimed that:

*In the case of educated men, by sending them on to the public works to dress stone and so on, you render them unfit for the position which they have held in life; when they return to free life their hands are injured and their minds lessened in power for intellectual employment.'*¹⁹

This disparity in the effect of penal servitude was of evident concern to the commission's chairman, the Liberal politician John Wodehouse, 1st Earl of Kimberley. Griffiths, having confirmed that the punishment was indeed 'very much lighter' for an agricultural labourer than for a 'clerk or a shopman', was asked by Kimberley, whether it 'might ... not be proper to alter it by not sending every man to work on the clay?' When Griffiths pointed out the administrative difficulties this would present, Kimberley reminded him: 'Our object ... is that punishment should be equal. If, as you have stated, it is unequal, is it not possible to devise some system by which it can be made less so?' The problem, Griffiths explained, was that all convicts would then claim to have been clerks or shopkeepers.²⁰

Conversely, just as heavy manual labour bore more heavily on 'educated' convicts than others, these same prisoners were thought better suited than their fellows to the rigours of so-called 'separate confinement'. This was

the system that operated in local and county gaols, where prisoners were confined to individual cells (for up to two years, though frequently only a week or two) in which they slept, worked and ate; prisoners serving penal servitude in convict prisons endured the same conditions for the first nine months of their sentence. Given a choice between this and work in a gang, one former convict administrator felt there was 'no doubt the better educated man would prefer the separate confinement.'²¹ 'G.H.', who advocated three years' separate confinement for first offenders in lieu of five years' penal servitude, believed that 'persons belonging to the educated classes will stand it better than the lower classes, because they have mental resources and they have not the same

gregarious instinct...as ordinary thieves and habitual criminals'.²²

However, in applying the alternative sentence not to those guilty of particular crimes such as embezzlement and fraud but instead to first offenders per se, the principle of equal punishment would again have been compromised, though now in relation to the unequal, and it was feared potentially damaging, effect that lengthy separate confinement might have on, say, an agricultural worker.

In his *Westminster Review* article, 'G.H.' had stressed that his proposed reform would entail 'no suspicion of class legislation'.²³ In his evidence to the commission, however, having acknowledged Kimberley's point that 'an

uneducated man [would] be enfeebled and less able to earn a living after 3 years close confinement than if employed on public works', he had had to explain:

*I do not think that the majority or anything like the majority of what I have described as the casual class do belong to that class of society; the majority of them are either persons belonging to what may be called the educated classes, or mercantile clerks and the like, who are certainly not accustomed to much open air exercise.'*²⁴

Portland, [...] 'found by careful investigation, that educated men of sedentary habits suffer far more in health from imprisonment than do the uneducated of the labouring class [...]'

17. *Penal Servitude Acts*, p.407 at p.476, q.5032.

18. *Report of the directors of convict prisons ... for the year 1870 (1871) PP [C.449] XXXI.1*, p.184 at p.215.

19. *Penal Servitude Acts*, p.167 at p.236, q.2229.

20. *Ibid.*, p.288 at p.357, qq. 3424-8.

21. *Ibid.*, p.984 at p.1057, q.12286.

22. *Ibid.*, p.897 at p.970, qq.11370.

23. Anon., 'Our Present', p.424.

24. *Penal Servitude Acts*, p.898 at p.971, qq.11375-6.

As 'G.H.' was now forced to concede, his proposal therefore amounted to different punishment for the 'educated' and the 'uneducated', the former repenting in austere seclusion while the latter toiled in work gangs 'on the clay'. Such a recommendation plainly wouldn't wash with the public. As put by one commissioner, the brewing magnate and Liberal MP Samuel Whitbread, to 'G.H':

*If a labourer and a clerk were both at the same assizes tried for the same description of offence, and the judge passed sentence thus; here is an educated gentleman, three years' imprisonment under the new law is the right sentence for him, five years' penal servitude is the right sentence for the labourer, do you think in such a case that the friends of the labourer or the outside public would think he had been justly treated?*²⁵

It was left to the commission's next witness, the eminent judge Sir Robert Lush, to bury the proposal, and with it the prospect of punishment varied to suit different types of criminal or, indeed, different social classes. When it was explained to him that the purpose of varying punishment would not be to imprison, merely for the sake of it, the 'uneducated man' for longer than his 'educated' counterpart, but rather to ensure that the latter was 'punished in a way which he would feel in a manner corresponding to the way in which the uneducated man feels his punishment', Lush responded unequivocally:

*I think that is wrong in itself, and I think it would be wrong in its bearing upon the public. The public would not understand that distinction; they would think that the rich man was treated in a very different way from the poor man.*²⁶

Having squandered the blessings of privilege, the 'gentleman' convict, rather than inhabiting a higher moral plane, was in moral terms *beneath* the 'habitual criminal' and therefore deserved the harsher punishment.

Lush explained that for a 'person of education', 'whatever increased severity there is in the punishment applicable to him is a just retribution, because his position and education make it more criminal in him to do the act; therefore he justly suffers the increased severity.'²⁷ This straightforward equation resolved the problem of penal servitude's disproportionate effect. Having squandered the blessings of privilege, the 'gentleman' convict, rather than inhabiting a higher moral plane, was in moral terms *beneath* the 'habitual criminal' and therefore deserved the harsher punishment. Kimberley agreed with Lush that 'the exact proportion in which [the educated man] suffers

the more is the measure of the greater crime he has committed against society'.²⁸ Articulated in this way, the formula affirmed that, far from being loaded, the scales of justice were calibrated with mathematical precision.

'Gentleman' convicts can, then, be seen to have influenced the royal commission's eventual recommendations, albeit in a somewhat unexpected fashion. Due to the commission's sensitivity to charges of class prejudice, the presence of 'gentlemen' within the convict population in the event inhibited the adoption of radical proposals to vary the punishment of different types of criminal. The commission explicitly rejected proposals both for an alternative sentence of imprisonment under separate confinement for first offenders and for the classification of prisoners according to the offence for which they had been

sentenced. Instead it recommended a blunter, yet more egalitarian, policy: the separation from other prisoners of all first offenders in convict prisons, coupled with a guarantee that all convicts would continue to be treated uniformly.²⁹ Thus the imprint of the 'gentleman' convict upon the commission's recommendations and upon subsequent penal practice, though wholly negative, is clear. At the moment the English penal system began to recognise and accommodate variation within prison populations, the 'gentleman' convict proved an exception

25. *Ibid.*, pp.901-2 at pp.974-5, q.11412.

26. *Ibid.*, p.931 at p.1004, q.11710.

27. *Ibid.*, p.930 at p.1003, qq.11704-5.

28. *Ibid.*, q.11706.

29. *Ibid.*, p. xviii at p.27, paras.75 & 76; p. xxix at p.28, para.78; pp. xxix-xxx at pp.28-29, paras.78 & 79; the commission specified that convicts 'guilty of unnatural crimes and indecency' would be excluded from the new division, see Ben Bethell, "'Unnatural crime" and the English convict system, 1850-1880', Sean Brady & Mark Seymour (eds.), *Same-Sex Relationships in History: International Perspectives* (London: Bloomsbury Academic, forthcoming).

too far. The majority of such prisoners would henceforth be subsumed within the broader category of first offender, whose membership, including as it did many prisoners sentenced for serious violent non-property offences, including rape and attempted murder, could hardly be described as select. From 1880, first offenders were held in separate sections of convict prisons, and eventually in separate establishments altogether, a practice extended to all English prisons in 1898, remaining official policy until 1967.

In terms of penal historiography, the 'gentleman' convict has been similarly (though not totally) erased. The reason for this is three-fold. First, in the narrative of late nineteenth- and early-twentieth century prison reform, 'gentlemen' have been eclipsed almost entirely by three categories of prisoner sentenced for offences committed in the pursuit of political goals: Irish nationalists; female suffragettes; and First World War conscientious objectors. Some (but by no means all) of the prisoners belonging to these categories were of a middle- or upper middle-class background and similar arguments were made regarding the disproportionate effect upon them of prison work and conditions. However, unlike men such as Callow, prisoners such as the Home Rule MP Michael Davitt or the suffragist Constance Lytton, both of whom authored prison memoirs, or the conscientious objectors Stephen Hobhouse and A. Fenner Brockway, who went on to co-author the Independent Labour Party's landmark 1922 report on English prisons, are not only understood to have sacrificed their liberty for noble causes but can be seen to have had demonstrable positive impact upon public opinion and the subsequent course of penal reform.³⁰

Secondly, in the popular imagination, the figure of the Victorian 'gentleman' prisoner has come to be associated with just one individual, Oscar Wilde, whose enduring fame and literary reputation is based partly on his 1897 poem *The Ballad of Reading Gaol*, published following his release from prison, and on the long letter written during his imprisonment published posthumously in 1905 as *De Profundis*. It is of little surprise that the infinitely lesser talents of prison memoirists such as Callow remain to this day in Wilde's shadow. Moreover, a focus on Wilde has served to blur the contours of the 'gentleman' convict as a distinct category: sentenced for

gross indecency under the 1885 Criminal Law Amendment Act, Wilde, unlike Callow, was not a 'white collar' offender but belonged instead to another exceptional category, one almost wholly overlooked by penal historians: men imprisoned for offences relating to consensual sex with men.³¹ As such, Wilde is seen today as Callow would have wished to be: not as a criminal, but as the tragic victim of a gross injustice.

Instead, however, and this is the third reason for penal history's neglect of the 'gentleman' convict, historians have tended to uphold the verdict of those of their contemporaries who dismissed 'gentleman' prison memoirists and correspondents merely as whiners. Leon Radzinowicz and Roger Hood, for instance, observing that the viciousness with which many of these authors caricatured their fellow prisoners does them little credit, suggest that they exaggerated the dangers posed by 'habitual' to 'accidental' criminals simply in order to obtain 'separate better treatment'.³² This view chimes with that of Richard Quinton, a former convict prison

medical officer who, writing in 1910, recalled 'Classify us' as the 'continual cry' of the 'gentleman lags' he encountered in the 1870s. For Quinton, however, this only begged the question of whether such prisoners should be classed 'as the greater or the lesser rogues of society'. In his view, it was the former; he echoed Kimberley in

arguing that it was 'natural that prison life should be more disagreeable to educated prisoners than it is to ordinary criminals. The punishment is of necessity much heavier for them, but surely their responsibility is also greater.'³³ Ultimately, history has judged nineteenth-century 'gentleman' convicts with similar dispassion. Unlike men and women imprisoned for offences committed in the course of political activity, and unlike men who fell afoul of sex laws now seen as unjust — and, indeed, unlike many of the illiterate and impoverished petty thieves and drunks who formed the bulk of Victorian prison populations — men like Callow and 'a Ticket-of-Leave Man' had committed offences which, far from 'accidental', involved peculations and breaches of trust that were significant and premeditated. Though as prisoners they were atypical (and atypically articulate), claims for their exceptional status were groundless and they are remembered today, if at all, as ordinary unsuccessful criminals.

Wilde is seen today [...] as the tragic victim of a gross injustice.

30. See Alyson Brown, *English Society and the Prison: time, culture and politics in the development of the modern prison, 1850–1920* (Woodbridge: Boydell, 2003), pp.137–173; Leon Radzinowicz & Roger Hood, *A History of English Criminal Law and its Administration from 1750: Volume 5: The Emergence of Penal Policy* (London: Stevens, 1986), pp.401–461.

31. See Bethell, "'Unnatural crime'": Wilde's experience of prison was hardly typical: once transferred to Reading he was given agreeable work and allowed books, newspapers and writing materials.

32. Radzinowicz & Hood, *A History*, pp.546–7.

33. R.F. Quinton, *Crime and Criminals 1876–1910* (New York; London: Garland, 1984 [1910]), p.72; pp.213–14.

Public and private perceptions of Victorian respectability — the life and times of a ‘Gentleman Lag’¹

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Introduction

In October 1877 the first edition of an anonymous book entitled *Five Years’ Penal Servitude by One Who Has Endured It* was published by Richard Bentley and Son of New Burlington Street, London.² The publishers took the unusual step of including a short ‘Prefatory Note’ which began:

The Publishers, before offering this work to the public, have satisfied themselves that the following narrative is what it purports to be — the genuine record of five years’ penal servitude by one who endured it. It is given to the public in the hope that its statements may secure the attention of the thoughtful, and bring about some of the changes suggested in its pages...

The book proved extremely popular, running to several editions. It was one of several ‘true-life’ exposés concerning life within the Victorian prison system published in the last decades of the nineteenth century. These studies have recently received a degree of scholarly literary attention from social and literary historians.³ In one such study, Frank Lauterbach states that with regard to such texts, ‘the perception of the prison as a boundary — and, more importantly, the ensuing textual subjection of the convicts to a specific group identity — emerges as a central leitmotif in writing from and about imprisonment in the Victorian period’, and that this ‘allows for textualising the differentiation between prisoners and any sort of outside authority as a means of social identification rather than personal subjection’.⁴ He further argues that in regard to the anonymous author of *Five Years’*

Penal Servitude his real name is largely irrelevant ‘not because we cannot be absolutely sure about his ‘real’ identity, or because it might have been a way to protect anonymity [...] or because the name does not mean much anyway, but because the narrative gesture behind the pseudonym is revealing: the idea that we are reading the account of someone who has actually gone through the prison system himself is, in many ways, the book’s main attraction for its potential readership’.⁵

Whilst applauding Lauterbach’s work on the social identity present in such narratives and agreeing with his point that convicted offenders were clearly and immediately socially identified by means of their time in prison, as a crime historian who has investigated the lives of several hundred individuals who passed through the Victorian convict prison system, I would however argue that the true identity of the author of *Five Years’ Penal Servitude* is important if we are to consider such narratives as both evidence of the conditions experienced by such offenders and of the social milieu within which they served their time. Hence this article, which examines the life of the author of the book in order to investigate both public and private perceptions of Victorian respectability.

The true identity of the author of *Five Years’ Penal Servitude*

Ever since the book was first published there has been a degree of uncertainty as to the name of its author. If one ‘Googles’ the book several men appear as possible authors. However, it is now possible to definitively attribute authorship to a particular individual.

In mid-2015 in a second-hand bookshop in Totnes, Devon, I came across a battered but unique 4th edition

1. The term ‘Gentleman Lag’ was Victorian prison slang for a well-educated prisoner.
2. Anon. (1877) *Five Years’ Penal Servitude By One Who Has Endured It* (4th edition). London: Richard Bentley & Son (hereafter *Five Years’ Penal Servitude*).
3. See for example, Frank Lauterbach (2005) ‘From the slums to the slums’: the Delimitation of Social Identity in Late Victorian Prison Narratives’, in Julia Wright and Jason Hadlam (eds.), *Captivating Subjects: Writing Confinement, Citizenship and Nationhood in the Nineteenth Century*. Toronto: University of Toronto Press, pp. 113–143; Philip Priestley (2012) *Victorian Prison Lives: English Prison Biography, 1830–1914*. London: Random House; and Ben Bethell (2017) ‘An exception too far: ‘gentleman’ convicts and the 1878–9 Penal Servitude Acts Commission’ in *Prison Service Journal*.
4. Lauterbach (2005), p. 112.
5. Lauterbach (2005), p. 112.

of the book (whose authorship had been mistakenly attributed by the bookseller to William Hamilton Thomson, a middle-class Victorian fraudster). The flyleaf contained a dedicatory inscription by Major Robert John Fayer Hickey, Governor of Dartmoor Convict Prison from 1870 to 1872 (i.e. contemporaneous with the author's incarceration there). This serendipitous event has resulted in a detailed investigation into the lives of the two individuals in order to demonstrate both how the convict system of mid-Victorian Britain operated in practice, and how it affected both those responsible for managing the system and those at the receiving end.⁶ As part of my investigations I consulted the Victorian convict licence-holders' folders held at The National Archives, and through this and other detailed biographical research have been able to prove conclusively that the author of the book was in fact a middle-class failed entrepreneur by the name of Edward Bannister Callow. The details of Edward's offence, time of incarceration and all the incidental details mentioned in his memoirs correlate exactly with the details contained within his licence folder.⁷ This validates previous speculation that Callow was the author. As Edward's recollections run to over 350 pages, this article concentrates on his implicit and explicit views on his own and others' respectability; these are an abiding theme throughout the book.

Respectability?

Edward was born 10 February 1825 and baptised a fortnight later at St James' Church, Piccadilly (Westminster), the son of James Callow and Elizabeth Callow (née Bannister). His father was at the time a fish mercer, and his solidly lower middle-class family could trace its origins back to the Isle of Man. In the mid-1840s Edward describes himself as being employed as 'a clerk in a leading stockbroker's office in Finch Lane, Cornhill'.⁸ Edward married Sarah Frances Smallbone in May 1846 at Dartford and their first child was christened on 2 April 1847. By this time Edward described himself as a stockbroker, living at Stockwell. However, this business venture (in which Edward was in

partnership with another stockbroker, Mark Teversham) does not appear to have been successful; the partners are listed as bankrupts by 15 December 1847. Edward received a Certificate of Bankruptcy on 5 May 1848 after having previously spent several months in Queen's Bench Debtors' Prison as an insolvent debtor.⁹ This business failure was to be the first of several in what proved to be an eventful and largely unsuccessful business life.

Despite his financial worries, in 1851 Edward was still residing at Stockwell and had become a patentee and manufacturer of a type of explosive compound at former farm buildings a mile from Dartford, Kent. The *London Evening Standard* of 3 December 1851 carried a detailed report of a huge explosion that had ripped through the main structure (a largely unaltered wooden barn), killing seven people and injured several more.

Victorian newspapers were undoubtedly less squeamish [...] when it came to describing [...] disasters ...

Victorian newspapers were undoubtedly less squeamish than their successors when it came to describing such disasters; the paper devotes considerable column inches to graphic descriptions of the horrific injuries sustained by those killed, with body parts being found at some distance from the site of the explosion, and one man's head being severed from his body by the blast. Edward was severely criticised during the ensuing coroner's inquest for failing to ensure adequate

protection for his workers — for example the floor of the manufactory was covered with wood and gravel which was a tremendous fire-risk when combined with workers' iron-nailed boots and shoes. However, in the days before the introduction of health and safety legislation, he managed to evade any more serious or criminal charges in relation to his undoubted lack in concern for the safety of his employees.

Edward and Sarah appear to have suffered a more personal tragedy in May 1853 with the death of their first child, Edward James, who was buried on 10 May in Norwood Cemetery, Lambeth. By this time Edward was living at Margaret Street, Cavendish Square, London. Almost two years later, a daughter, Frances Elizabeth was born, being baptised at St Alphege Church, Greenwich on 18 February 1855. Edward is recorded as a 'Gentleman', living at Queen Elizabeth Row,

6. See David. J. Cox, 'Parallel Experiences of the Victorian Penal System: The Governor and the Gentleman Lag', in *Law, Crime and History* (forthcoming 2018).

7. TNA PCOM3/321.

8. Edward Callow, letter to *Pall Mall Gazette*, 3 January 1894.

9. I am indebted to my colleague Professor Peter A. Walton of the Law Research Centre, University of Wolverhampton, for his help and expertise in unravelling the complex issues around Victorian insolvency and bankruptcy procedures.

Greenwich, on her baptismal record, but was actually enduring a second spell as an insolvent debtor inside Queen's Bench Debtors' Prison. He had been committed to the prison in July 1854 under his own petition as an insolvent debtor.¹⁰

Despite this second fall from financial grace, Edward once more self-recorded himself as a 'Gentleman' in the entry for his second daughter's baptism on 28 October 1857 at St John's Church, Deptford. Less than eighteen months after this event, Edward was yet again declared bankrupt, with his ship-brokering company amassing debts in excess of £20,000.¹¹

His financial woes continued into the 1860s; the *London Gazette* of 1 May 1861 records that he was back in Queen's Bench Prison, and on 31 July 1861 the *Morning Post* recorded that Edward had again appeared at the Insolvent Debtors Court. Three years later, Edward was once more declared bankrupt in July 1863.

Respectability lost?

Despite his catastrophic financial record, Edward was appointed Secretary of the Elham Valley Railway Company on 6 September 1866. This company was created in 1864 but quickly went bankrupt. Its financial position was not improved by Edward, who was found guilty of forging and uttering a fraudulent order in the name of Elham Valley Railway Company to the value of £175 on 6 July 1868 at the Central Criminal Court (Old Bailey).¹² He originally pleaded 'Not Guilty', but upon hearing the weight of the prosecution evidence, his defence lawyer persuaded him to change his plea to 'Guilty'. Interestingly, he was recommended to mercy by the prosecutors, suggesting that he had been held in high regard until his downfall. The judge sentenced him to five years' penal servitude.

Edward was sent to Millbank Prison from Newgate on 27 July 1868 and on 10 August 1869 was transferred to Dartmoor Convict Prison. He remained there until he was released on licence on 31 May 1872. The licence (or 'ticket-of-leave') system was introduced in 1853 by the Penal Servitude Act, and was the precursor of parole. Convicts could earn weekly remission marks that would

enable them to be let out of prison before the expiration of their sentence, providing that they abided by certain rules: for example they must not commit any offence whilst on licence, nor must they associate with notoriously bad characters, lead an idle or dissolute life, and they also had to possess visible means of financial support.

During his time in Newgate he began keeping a diary (which was forbidden — Edward originally got around the issue by saving up flimsy scraps of unused toilet paper and passing them illicitly to his solicitor's clerk); his subsequent book is too detailed to have been recalled purely from memory.

From the start of his narrative account, Edward is keen to stress the unique nature of his recollections:

Has anyone, having actually been tried, convicted and sentenced to penal servitude, after working out the long years of slavery and obtaining his freedom, sat down to give the world an account of his experiences in a plain unvarnished tale? I doubt it; and as some few years ago it was my fate to have to pass through the terrible ordeal of a sentence of five years' penal servitude, I propose to give to the world what I actually suffered, saw, and experienced in two of the convict establishments of this country.¹³

Convicts could earn weekly remission marks that would enable them to be let out of prison before the expiration of their sentence ...

Perhaps unsurprisingly he glosses over the 'plain unvarnished' facts of his offence, stating simply that:

After over twenty years of commercial life in more than one large English city, I found myself, in the year 186-, drawn into the meshes of a man who was too clever for me and for the law, and who, crossing the seas to a place of safety, left me to meet a charge to which in his absence I really had no defence.¹⁴

In surviving accounts of the trial there is no mention of the involvement of another individual in Edward's forgery; here he may have simply been trying to gain the sympathy of his readers by portraying himself as an (almost) innocent dupe.

10. *London Gazette*, 8 July 1854.

11. *Morning Chronicle*, 23 March 1859.

12. Old Bailey Proceedings Online t18680706-615.

13. *Five Years' Penal Servitude*, p. 2.

14. *Five Years' Penal Servitude*, p. 3.

From the start of his confinement, his erstwhile respectability as a member of the educated literate and numerate middle-class undoubtedly played a part in his receiving better treatment than many of his fellow inmates; the Chaplain of Newgate Prison (where he was held for a short while before being tried and convicted) informed him that 'if my friends knew any of the Visiting Justices [magistrates who periodically inspected the prison], my wife or relations could get an order for a private visit instead of coming to the public grating' [a system of 'two gratings, with a space of three or four feet between them, in which stands or sits a warder'].¹⁵

Edward was fearful of the end of his period of separation, stating that he 'dreaded very much the being herded and brought into daily, hourly contact with some of the ruffians and blackguards I had hitherto been able to keep at a distance'.¹⁶ Convicts served the first nine months of their sentence in what was known as separate confinement — they worked on their own in their cells and did not associate with other convicts (except during Church services and daily exercise, where a strict rule of silence was enforced). He was transferred from Millbank to Dartmoor on 10 August 1869 by means of a journey on the Great Western Railway and stated that 'to go through the public streets in daylight in such company and such guise was too horrible to think of'.¹⁷ Edward's physical appearance is given in his prison folder as '5 feet 8¾ inches, brown hair, grey eyes, fresh complexion, crippled hand, one testicle, peculiar enlargement of both [*illegible*]'. As a result of his disabilities he was sent to Dartmoor Prison which was a male invalid prison, where he was to carry out light labour (in his case tailoring) rather than the usual hard labour such as stonebreaking.

He spent the rest of his prison sentence at Dartmoor Invalid Prison and came across convicts from all ranks of society:

As a result of his disabilities he was sent to Dartmoor Prison which was a male invalid prison, where he was to carry out light labour [...] rather than the usual hard labour such as stonebreaking.

*The very worst of characters I have been brought into contact with have generally belonged to the class known as 'roughs' and the worst of all are London roughs. This class appears to me to be almost irreclaimable, and not at all amenable to any ordinary moral influence [...]. Brutes they are, and as brutes only can they be punished and coerced, and that is by the Lash.*¹⁸

Edward twice lost remission marks whilst at Dartmoor for trifling offences and as a consequence had to appear before the Governor, who on the first occasion stated 'It is men like you that should set a good example to the others in treating the officials with respect. I shall fine you 48 marks, and you had better be careful in future'.¹⁹ This was equivalent to the loss of a week's remission and it clearly embarrassed Edward, who also felt his loss of public respectability sharply on one further occasion when he was visited in prison by an erstwhile business partner and acquaintance. He stated that:

I was very grieved to have to meet a man I had known when occupying a respectable position in the outer world. To be seen in my degraded dress, cropped and shorn, by a man I had last met under different circumstances was a trial I did

*not care for, and would have avoided if I possibly could.*²⁰

In the event, the meeting turned out to be fortuitous for Edward, as he stated that he was supervised in the meeting by the Chief Warder, who 'for the first time [...] knew I was a different class of man from the usual run of those under his charge'.²¹ The Chief Warder then 'kindly offered to do anything in his power, compatible with his duty and the prison rules, to put me in a better position'. Edward stated that 'that visit was a most fortunate thing for me, as it made the most powerful man in the whole prison my

15. *Five Years' Penal Servitude*, p. 36.
 16. *Five Years' Penal Servitude*, p. 133.
 17. *Five Years' Penal Servitude*, p. 137.
 18. *Five Years' Penal Servitude*, pp. 208–9.
 19. *Five Years' Penal Servitude*, p. 229.
 20. *Five Years' Penal Servitude*, pp. 248–9.
 21. *Five Years' Penal Servitude*, p. 249.

firm friend'.²² It is interesting to note that neither the Deputy Governor nor the Governor were so regarded by the majority of convicts — although they ultimately had the higher position, neither were as familiar to the convicts as was the Chief Warder.

In the last year of his penal servitude, Edward was summoned to the Governor's office, where Major Hickey asked him 'you understand accounts, I believe, and book-keeping?' Edward replied (somewhat ironically given the circumstances of his offence) 'Yes, sir, thoroughly.'²³ He was subsequently appointed as an assistant to the Clerk of the Works, who was supervising the extension of the prison, thereby earning several privileges including the (unsanctioned) reading of a newspaper that the Clerk of the Works used to leave unguarded on his desk.

Edward was discharged on licence after serving 3 years and 11 months of his sentence. He was quite categorical about the discharge process with regard to the class and former occupation of the discharge; he stated that 'a classification should be made of prisoners as to their positions prior to conviction, and the means they are about to adopt to earn a living on emerging into the world again.'²⁴ He goes on to cite a 'hypothetical' situation:

Let us take the case of a man who as a clerk has been convicted of embezzlement. He leaves the prison and has to seek a similar employment to that he has been used to. [...] His once large circle of friends give him the cold shoulder, and he finds he has to struggle with a hostile world by himself. How is he fitted to attempt this without a fair start in the shape of decent clothes?²⁵

Upon discharge from convict prisons, released offenders were given a suit of cheap material (constructed by prison tailors such as Edward) that immediately marked them out as 'ex-cons', unless they were able to join a Discharged Prisoners' Aid Society, in which case a sum of money was allowed to the Society by the prison in order for the former offender to be bought a second-hand outfit of

reasonable quality. Discharged prisoners from Dartmoor were escorted (in handcuffs) by a prison guard by train to Paddington Station, from whence they were further taken to the Queen's Bench Prison, where they awaited their imminent release. Once released on licence, they had to report to their local police station on a monthly basis. This caused a great deal of resentment amongst released offenders as such a requirement meant that they ran the risk of being discovered by their employers as being 'ex-cons', due to the fact that they had to report regularly to the police station.

Edward (or his immediate family) must have been financially solvent on his release from prison as he states how he avoided this requirement:

In my case I obviated all difficulty about the matter. On obtaining my liberty I went as fast as a four-wheeler could carry me to where I had appointed decent clothes to be sent to me. These I put on, glad to get once more into the habits of civilisation. I then walked straight to the chief [police] office in Whitehall Place — not the Scotland Yard entrance — reported myself and stated my intention to leave England. In a few days the Channel was crossed, and when my twelvemonths ticket was expired I had the satisfaction of tearing it up and dropping it overboard as I returned again to England to endeavour to resume my place among friends and society. A monthly report to the police in my case meant absolute ruin, and I took good care to avoid it.²⁶

Upon discharge from convict prisons, released offenders were given a suit of cheap material [...] that immediately marked them out as 'ex-cons' ...

It has proved impossible to verify Edward's movements immediately post-release, but Edward's wife Sarah supported herself and her family during his enforced absence by running (with the help of her two daughters) an establishment for the education of 'the daughters of gentlemen' near Wisbech, Cambridgeshire between 1872 and 1876, placing advertisements in local newspapers in order to attract potential students.

22. *Five Years' Penal Servitude*, p. 249.

23. *Five Years' Penal Servitude*, p. 333.

24. *Five Years' Penal Servitude*, p. 354.

25. *Five Years' Penal Servitude*, pp. 354–5.

26. *Five Years' Penal Servitude*, p. 362.

Respectability regained?

In the concluding chapter of *Five Years' Penal Servitude* entitled 'Observations, Reflections and Suggestions', Edward reflects on his particular situation:

*To the man in a good position, it is moral death, accompanied with ruin and disgrace to his family and relatives. The actual punishment to men in my position is not the confinement [...] it is the terrible fall in social position, the stigma that clings to a man not only all his life, but, after his life is ended, to his children.*²⁷

He goes on somewhat bitterly to state (and it is pertinent at this point to remember that the book was published half-a-dozen years after his release, strongly suggesting that he had personal experience of such attitudes):

*So eminently charitable are Christians in this present age, that they can seldom or ever forgive detected crime even after it is expiated by long years of slavery and imprisonment. They delight in pointing the finger of scorn at the man, and the children of the man, not who has merely sinned, but who has been detected sinning, and has been legally punished for it.*²⁸

He also discusses his own past and present situation with considerable candour (though it has to be remembered that the contemporary reader would have been unlikely to know Edward's chequered business history):

One thing that is required is that a man's first offence and punishment should not be made to last through his whole life in its consequences. A man becomes a bankrupt, he undergoes all the punishment, I may almost call it, of that position. He receives a certificate and resumes his place in the world. The world welcomes him, and, provided he is successful and makes money, is actually kind enough, if not to entirely forget he was ever bankrupt, at least to become oblivious of the ugly fact so far as never to allude to it. Society will readily tolerate a man becoming bankrupt

*twice or even thrice, so long as he rises again after each successive fall. Why cannot society be equally as tolerant with the man who has made on false step or become entangled in matters that have brought him into a criminal court, and who has suffered his punishment — has got his certificate of discharge — equally with the bankrupt?*²⁹

Edward clearly differentiates (at least in his own mind), 'the one consisting of those who have deliberately and in cold blood [...] set to work to rob or defraud and those who have been led astray by others, or who have given way to a strong temptation in a moment of difficulty'.³⁰ He goes on to state that 'my impression is that men convicted and punished for crimes that may be termed 'commercial lapses' — say, embezzlement, forgery, and breach of trust — are seldom if ever, guilty a second time'.³¹ Perhaps significantly he doesn't mention any of the possible serious repercussions to the victims of such 'commercial lapses'.

Edward's post-release life supports his point in his particular case; he was never again to appear before a criminal court. It is obviously impossible to know how many of his former friends and business acquaintances continued to associate with him (and the majority must have known of his offence as it was widely reported at the time), but he was clearly able to function to a certain extent in 'respectable' society, albeit out of the metropolis; in *Kelly's Post Office Directory of Lincolnshire, 1876* he is listed as a metals broker and commissioning merchant operating as Callow and Co, but this company went into voluntary liquidation soon afterwards.³²

He originally published *Five Years' Penal Servitude* in 1877 and this appears to have been something of a turning point in his life. His anonymous 'plain unvarnished tale' was an instant hit with the literate public, and also caused a considerable stir within the penal system. In the book's conclusion he expressed a wish to see 'a Royal Commission appointed to thoroughly investigate the whole convict system with a view to its reformation'.³³ In the following year the Kimberley Committee was commissioned to do just that and its report, published in 1879 contains numerous references to *Five Years' Penal Servitude* by almost a dozen witnesses to the Committee, including Sir Edmund Du Cane, the Chairman of the Board of

27. *Five Years' Penal Servitude*, p. 363.

28. *Five Years' Penal Servitude*, p. 363.

29. *Five Years' Penal Servitude*, pp. 368–9.

30. *Five Years' Penal Servitude*, p. 373.

31. *Five Years' Penal Servitude*, p. 373.

32. *London Gazette*, 26 December 1876.

33. *Five Years' Penal Servitude*, p. 384.

Directors of Convict Prisons.³⁴ Edward was certainly not liberal in his suggestions for the punishment of recidivists, stating that the Government should consider reintroducing transportation to 'New Guinea, for instance'.³⁵ Whilst against hanging (though not through humanitarian views, rather that it served no useful deterrent purpose), Edward was also in favour of penal servitude for life meaning exactly that. His book was generally regarded by contemporaries as being serious and fair-minded with regard to its account of the convict system.

In 1881 he is listed in the census as a newspaper editor, living with his wife and family in Marylebone, and in 1882 he followed up his anonymous success as an author with the first of his books on the legends and mythology of the Isle of Man.³⁶ Despite these literary achievements he was declared an undischarged bankrupt in 1888.³⁷ In 1891 he is recorded in the census as a journalist and author, living at 11 Grove Park Terrace, Chiswick. Eight years later he published a second book on the history of the Isle of Man (by this time he was Vice President of the London branch of the Manx Society, founded in 1895), together with a book entitled *Old London Taverns*.³⁸ He died on 23 May 1900 at his family home, The Lawn, Hanwell, aged 75.

'No man's history can be written until he is dead'³⁹

From the available written record, Edward clearly considered himself to be respectable throughout his life, despite thrice being incarcerated as an insolvent debtor, his numerous bankruptcies (at least four) and

his serious criminal offence. To modern eyes however, his most shocking character lapse from public respectability is possibly the callous lack of concern shown for the health and safety of his employees in his poorly regulated explosives factory, and he appears to have been fortunate to escape more severe repercussions from his failure. His serial insolvency and bankruptcy would no doubt also cast serious doubts over his financial probity — witness the recent furore over the selling of British Home Stores to a thrice-bankrupted individual — but during his lifetime he appears to have had little difficulty in forming new business ventures despite his poor record.⁴⁰

In many ways Edward Bannister was an unremarkable man: a serially unsuccessful businessman, he was found guilty of a fraudulent act and served time in prison. He never offended again, and died in his own home at an advanced age, surrounded by his family; his wife stuck by him throughout his various travails.

However, in one particular aspect, he **was** remarkable. He is one of the handful of convicts to have left an autobiographical and largely accurate account of his time as an inmate of a Victorian convict prison. The majority of convicts left very little written evidence of their lives apart from the rare find of a self-penned letter either to or from them preserved in their prison folders.⁴¹ Therefore, the existence of *Five Years Penal Servitude* and the life of its author is worthy of comment, especially, as this article has argued, for what it tells us about private and public respectability during the Victorian Age.

34. *Kimberley Commission Report into the working of the Penal Servitudes Act (1879 [C.2368] [C.2368-I] [C.2368-II] Penal Servitude Acts Commission. Report of the commissioners appointed to inquire into the working of the penal servitude acts. Vol. I. — Commissions and report).*

35. *Five Years' Penal Servitude*, p. 379.

36. Edward Callow (1882) *The Phynodderree and other legends of the Isle of Man*. London: J. Dean & Son.

37. *London Gazette* 25 May 1888.

38. Edward Callow 1899 *From King Orry to Queen Victoria; a short and concise history of the Isle of Man*. London: Elliot Stock; and Edward Callow (1899) *Old London Taverns. Historical, Descriptive and Reminiscent, with Some Account of the Coffee Houses, Clubs Etc.* London: Downey.

39. *Five Years' Penal Servitude*, p. 358.

40. Imprisonment for debt was finally abolished by the 1869 Debtors Act.

41. For brief life stories of such convicts of the Victorian period, see Helen Johnston, David J. Cox and Barry Godfrey (2016) *Victorian Convicts — 100 Criminal Lives*. Barnsley: Pen and Sword.

PRISON SERVICE JOURNAL

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