Recent Developments in Probation Practice: the impact of risk analysis

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Dedication(s)

This work is dedicated to the memory of Elizabeth Irene Fitzgibbon, Jack Fitzgibbon and Frances Harwood.

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Abstract

The aim of my research has been to explore, in the area of probation, the influence of the shift away from traditional social work values towards an emphasis on punishment, enforcement and the management of risk. In particular my focus has been on how this shift has influenced the methods by which practitioners undertake their role, with an increasing focus on risk assessment removing them from the principles engendered within their professional disciplines and further away from an empathetic and meaningful relationship with their clients. I examine the consequences of this shift through the ways in which criminal justice legislation, policy and practice have developed and impacted upon particular categories of offenders.

The theoretical orientation of my work involves a dual focus on the deconstruction of the client and the practitioner. The former is redefined from welfare citizen to carrier of risk and criminogenic needs, while the latter is fragmented and deskilled into an operator of routine risk assessment and prediction techniques. I argue that an important outcome of these procedures is the deployment of a concept of 'pre-emptive criminalisation'.

My research work, which is the basis of this submission, comprised three components: a comparative study of three mental health White Papers, a research study of the working of OASys (the Offender Assessment System) and a study of the effectiveness of risk assessment in the parole process. The research techniques involved mainly the reading of policy documents and the content analysis of OASys reports. My findings, detailed in my various publications, include an argument that the effectiveness of risk predictions involve precisely the type of high level practitioner skills now being undermined by deskilling and also illustrate the role of such risk predictors in the pre-emptive criminalisation of clients.

The thesis concludes with an acknowledgement of the limitations of the type of research I have conducted and suggestions for directions in which it might be further developed.

Contents

Chapter 1: Introduction

My first degree was in Applied Social Studies and Social Work. This degree equipped me with a foundation knowledge in social theory, sociology and social policy. It also qualified me as a generic social worker. Having completed my first degree in 1989, I worked for many years as a probation officer in a range of settings, including generic probation teams, a bail hostel and a prison.

During my time as a probation practitioner, I began to notice a gradual change both in the principles underpinning probation policies, which were laid down by local probation areas and then increasingly by centralised government departments, principally the Home Office. It became clear to me that the emphasis of the work with offenders, and therefore my own practice was beginning to shift away from the social work values, which had been instilled in me during my degree course, towards an emphasis on punishment and enforcement, a type of 'soft policing', as it were. This obviously influenced my work and the work of my colleagues, changing the emphasis both in resource allocation, time and tasks away from concerns with welfare and reintegration towards an emphasis on risk management and punishment. The welfare element of the work was shunted off to partnership agencies, who were deemed more qualified and skilled to work with people's problems, whilst the job of the probation officer became increasingly focused down on writing reports that convinced the court of the punitive nature of probation work and ensured accountability and enforcement were primary.

In order to have a voice, which challenged and tried to retain some of the values that I believed lead to real change in people's lives, and therefore real risk reduction and re-integration of offenders, I decided to specialise as a Practice Development Assessor, providing vocational training for Probation Officers and Probation Service Officers. It was during this post, that I undertook an MA in Criminology at Middlesex University and became increasingly involved with the theories underpinning the changes in practice I had observed in my probation career.

The first publication submitted **(Pre-emptive Criminalisation; Risk Control And Alternative Futures, Fitzgibbon 2004)** for this thesis has its origins in my

Criminology MA research project, which informed my MA thesis. However it is a much expanded, up dated and elaborated version of this dissertation.

During my Probation career it was evident from policy and practice changes, as illustrated above, that a radical shift in accountability has occurred in the English criminal justice system, away from the client or offender and towards the public. No longer is the offender someone with a set of problems who needs assistance in order for reintegration to take place. Now, the offender is viewed as a threat, a potential risk, who needs to be reprogrammed, via cognitive behavioural therapy, or if irredeemable, incapacitated and contained by staff. This changing ethos has had a profound effect not just on practitioners but on the way in which certain populations are viewed, assessed and treated.

My research not only examines these shifts in orientation in Probation practice but extrapolates them to examine the ways in which legislation, policies and practice within the criminal justice system have developed and emerged as a result of and a reaction to this new orientation (and further, how they impact upon particular categories of offenders). The context of these changes in the wider society and in particular, the Probation service have been discussed by many theorists (Garland 2001, Oldfield 2002, Robinson 2003, 2005, Kemshall 2003) and their work provides a backdrop for the orientation of this thesis.

My research analysing these issues introduces the concept of pre-emptive criminalisation, (see **Fitzgibbon 2004**) which refers to a process in which the activation of criminal justice responses, normally consequent upon the committing of criminal acts by individuals, increasingly takes an anticipatory form. In other words the policies and practices, of criminal justice and allied agencies, are increasingly based upon the expectation that individuals are likely to commit criminal acts in the future rather than having already done so. My research is concerned with the ways in which probation practitioners and other public sector staff are being de-professionalised, in that their practice is no longer orientated to professional judgments but dictated by the National Offender Management Service (NOMS) who stipulate centralised work targets and manuals laying down frameworks for tasks to be undertaken. Thus practitioners play a leading role in this pre-emptive criminalisation

process through this profound shift in their level of expertise and knowledge towards a deskilled 'automaton' (Braverman 1974). Practitioners are performing tasks but are unaware of the fuller picture and unable to critically analyse their practice or the effects such policies have on those subjected to them. (See Pitts 2001 for related discussion of de-professionalisation within Youth Justice)

This chapter has introduced the origins of this thesis, in the next I intend to explore the theoretical themes informing my research and developed within my publications.

Chapter 2. Theoretical themes informing my research and developed within my publications.

The main themes in my publications

In summary, the three main themes developed in my publications are as follows;

1. The rise of risk management in probation, and public protection, displacing the older social work approach.
2. The increasing role of 'pre-emptive criminalisation' as one of a number of strategies of risk management.
3. The deconstruction and 'Taylorisation' (to be defined presently) of the probation practitioner, mirroring the deconstruction and fragmentation of the client into a complex of criminogenic needs, in the context of the deployment of OASys.

In this chapter I will show how these themes reflect and respond to more general changes in criminal justice and society during the later part of the twentieth and beginning of the twenty-first century; in particular the decline of the welfare state and the rise of the 'risk society' (Beck 1992). The 'risk society' refers to Beck's analysis of modern society and the ways social transformation have had an impact on modes of social regulation, social bonds and modes of production. The key feature is the way society has produced risks, which although located globally, for example global warming or the nuclear threat, are experienced by individuals. Thus society is comprised of individuals living in fear and who wish to minimise threats by taking precautions to reduce their anxieties (Kemshall 2003).

It is not too difficult to see some immediate connections. Thus the rise of risk management in probation can be seen as an example of a more general tendency, theorised notably by Feeley and Simon (1992) for the rise of risk management as a major orientation of Western, or at least Anglo-Saxon, criminal justice systems over the last 40 years.

Pre-emptive criminalisation can be seen as exemplary of a shift from informal to formal controls and various forms of net-widening which have been theorised at least since the mid-1980s by authors such as Stan Cohen (1985) and John Pitts (2003).

The themes of deconstruction and Taylorisation relate closely to other work on the increasing role of technology in criminal justice (e.g. Franko Aas 2004, 2005) but also more generally to the thesis of rationalisation as a characteristic of modernity first discussed by Karl Marx (2002) and Max Weber (1947) and developed by social theorists such as Harry Braverman (1974), George Ritzer (2004) etc. and more indirectly by Michel Foucault (1977).

These strands and the wider dynamics they presuppose are by no means without challenge. Whether these processes exist at all, or at least their consequences, are the subject of wide debate. Indeed these debates are too wide to be covered comprehensively within this thesis. My aim here is to give the debates sufficient precision to enable me to complete the main purpose of this chapter: to see my own research as confirming or at least corroborating instances of some of these more general trends. I propose to briefly review the key transition from penal welfarism to risk management in criminal justice before moving to a more detailed focus on my own contribution.

Penal welfarism and rehabilitation

The rise to predominance of the 'risk agenda', is the rise of concern by government to protect the public against the risks posed by criminal offenders and other high risk groups. The protection of the public from risk has become the overriding principle, which dominates criminal justice. For example, the extension of electric monitoring to those awaiting trial, in an attempt to reduce the risk of offending whilst on bail (Nellis 2005). Such concerns were, of course, always an element of criminal justice. It is, however, important to understand that during the period from 1950 to the early 1980s these co-existed with other elements, drawn from the orientations of the welfare state which characterised British social policy (and that of many other countries within Europe and Canada during that era).

The welfare state can be seen as based on two principles. Firstly, the philosophy of social and political inclusion around the notion of welfare citizenship and, secondly, a strategy of state-led interventions in the fields of social and economic planning aimed at the elimination of such social problems as ill health, unemployment and crime. Theorists such as Marshall (1963) saw the welfare state as the culmination of a process of progressive incorporation of all sections of the population into a system of rights: civil, political and social. The notion of social rights, or welfare citizenship, centred on the right of the individual to acceptable minimum standards of health care, education, housing and a range of other social services. The interventionist aspect of the welfare state involved a combination of economic planning (heavily inspired by the doctrines of the economist John Maynard Keynes) aimed at securing full employment and social planning which embraced a wide arc of interventions from urban design to social work with the aim that social pathology and thus crime would be eliminated (Giddens 2001: 407).

The architect of the welfare state, William Beveridge (1942) identified two important aspects of welfarism. Firstly, the principle of universalism whereby all sections of society, the middle classes as well as the poor would be entitled to welfare citizenship. This contrasts with a principle of targeting where welfare services are only available to those that demonstrate need. While the latter distinguishes and separates the welfare recipient from the 'normal' citizen, the principle of universalism would, it was understood, have the opposite effect and thus encourage and enable a binding together of all classes of citizens. Universalism was also particularly important in sustaining the financial base of welfare services. The middle classes resent taxation for welfare services which are targeted at other groups. However it was believed that middle class participation in a system of social rights would minimise this problem. The second underpinning assumption, plausible during this period of rising incomes, full employment and economic expansion, characteristic of the 1950s and 1960s, was that the need for welfare support would be minimal. In fact growing social equality would increasingly bind all social classes together in terms of common values and outlooks. This was described by sociologists such as Goldthorpe as a process of 'embourgeoisement' (Goldthorpe et al. 1968).

The impact of the welfare state on criminal justice was, at the risk of oversimplification, twofold. Firstly, criminologists of the time saw it as leading to a decrease in crime. Mannheim, for example, felt that growing equality of incomes would "eventually lead to a considerable decline of crimes of acquisitiveness, especially theft" (Mannheim 1946: 114, See also Taylor 1982). As is well known, the decline was short lived and steadily rising crime rates characterised the period following 1960 (Lea and Young 1984). The second impact concerned the orientation toward, and treatment of, the criminal offender. Probation officers, and other agencies were trained to work therapeutically with offenders. The emphasis was on creating a working relationship with the 'client' as the offender was then called, through regular engagement via one to one sessions (Oldfield 2002). The aim here was the re-integration of the offenders, using the "advise assist and befriend' alliance. The offender was assisted to find work, deal with problems etc. as a means of restoring their position within society. This is one of the major considerations of my work. The relationship between the notion of inclusive social citizenship of welfare rights in a society of full employment was not without its contradictions. On the one hand criminality arising from poverty and deprivation should be diminishing and therefore crime must therefore be viewed as resulting from extreme individual pathology. The interventionist ideal utilised the cause-and-effect model in which scientific intervention into the causes of pathology would remedy the problem. This clashed with the notion of individual responsibility which lies at the heart of criminal justice (Pitch 1995). Thus Wootton suggested the abandonment of notions of legal responsibility in favour of 'whatever course of action appears most likely to affect a cure of any particular case' (1959: 251 quoted in Taylor 1982). Criminal responsibility is entirely displaced by therapeutic intervention. This stance also infected the welfare state more generally. If society is characterised by full employment, growing social equality and opportunity for advancement then the citizen who falls by the wayside cannot help being labelled as pathological and inadequate. This, as Froggett observes, tends to undermine the very idea of welfare citizenship:

> In principle, welfare benefits accrued to the needy as a right of citizenship but
> their receipt entailed entry into a relationship with the institutions of the state and
> their representatives, which have been criticised as offering very little scope for

self-determination, and which effectively debarred the poor and disadvantaged from adult status and responsible citizenship (Froggett: 2002: 52).

The point of stressing this contradictory relation between welfare and individual responsibility is to qualify in advance any notion that the transition from welfare to risk orientations has been a complete displacement of one set of principles by another: of welfare citizenship and social inclusion by the management of risky, socially excluded groups. There was always a tension in that the welfare recipient like the criminal offender was seen as outside the body of welfare citizenship by virtue of their assumed pathology. It is rather this particular element of the welfare state which has become predominant with the rise of the risk agenda. However one could argue this perspective was present in embryo from the beginning of the penal welfarism.

However, despite these contradictions, the tasks of the probation service and other agencies aimed at the rehabilitation of the offender, as citizen and bearer of rights, exercised considerable weight, especially in penal policy. As Downes and Morgan (1994) have shown, during the period when the welfare state achieved ascendency criminal justice was essentially depoliticised. Although crime rates were continually rising (Lea and Young 1984) this did not register in the public perception because the criminal was seen as less of a threat to society and, like the poor in general, in need of treatment and rehabilitation to return them to their rightful place as a citizen with social rights. The aim of bringing the offender (or the welfare client) back into full citizenship predominated over the need to protect the public from their harmful actions. The latter, especially in the area of penality, could be taken for granted. This was the essence of what Garland (2001) calls penal welfarism.

> The ideologies and interests of the new penal professionals thus articulated smoothly with the strategies of rule and forms of authority characteristic of the welfare state. 'Reform', 'rehabilitation', 'treatment and training', 'the best interests of the child', -all of these objectives meshed effectively with the new mechanisms of social regulation, with government through experts, and with ideological stress upon universal citizenship and social integration that characterized social policies in the post-war period (Garland 2001:47).

As Downes and Morgan (1994) also observe, the main theme in penal debate and policy right up to the 1980s is penal reform and the rights of the offender in the trial process. The offender, together with the poor and those exhibiting anti-social behaviour were not viewed primarily as an imminent social threat. This was not because their behaviour individually might not be harmful, but because the integrated majority within society, who felt secure and cohesive, believed in the power of the protecting umbrella of the welfare state to devise suitable long term rehabilitative measures (Vanstone 2004, Burnett 2004). Offenders and welfare clients were citizens even if, due to their criminal activity or other inadequacies, their citizenship had become 'conditional' (Vaughan 2000). The suspension of full citizenship rights was essentially temporary. This has shifted dramatically with the 'rebalancing of the criminal justice system in favour of the victim' trumpeted by New Labour in recent years (Hudson 2003, Kemshall 2003).

From penal welfarism to the management of risky populations

The decline of penal welfarism has been a major theme in recent criminology. The dynamics of this decline have been the subject of general perspectives elaborated by theorists such as Garland (2001) and Lea (2002). Other theorists have undertaken more general studies of the emergence of modern industrial society as 'risk society' by writers such as Beck (1992) and Giddens (1991). What they all share is a view of the last quarter century as one of the gradual displacement of welfare strategies aimed at the rehabilitation and re-integration of offenders into full welfare citizenship by strategies of risk management oriented to effective protection of the public by the management of risky groups in order to neutralise their threat. A few of the elements of this transition will be summarised before focusing more closely on the relevance of these dynamics for the concerns of criminal justice and the probation service.

Firstly, the notions of collective social citizenship which characterised the welfare state have been displaced by individualism and self-responsibilisation of individuals and communities (Lea 2002). This has resulted from a mixture of factors, namely the growth of a consumer society and rising middle class incomes enabling a new individualism to displace the collective security orientations of the post war years. At

the same time, partly as a result of the ideology of neo-liberalism which influenced the Thatcher governments (Gamble 1994) and partly from the so-called 'fiscal crisis of the state' (O'Connor 1973) there has been a general withdrawal of the state from detailed social and economic planning. This has been characterised as a move from 'rowing' to 'steering' on the part of the state (Osborne and Gaebler 1992) which concedes many elements of social and economic regulation to the market or other forms of non-state governance. This process has not displaced the ultimate centrality of the state but rather led it to re-focus on tasks of problem management, coercion and constraint (Crawford 2006). Notions of citizenship have, meanwhile, been increasingly re-orientated around concerns of allegiance and security rather than guaranteeing access to a body of social rights (Braithwaite 2000, Home Office 2002a, Lea 2004).

Secondly, society has been characterised over the last quarter century by a process of growing social fragmentation and inequality and declining social mobility. These changes have undermined the basis for common social citizenship. The extent of this process has recently been confirmed by research conducted by the Joseph Rowntree Foundation (Dorling et al. 2007) which concludes that:

> with respect to both poverty and wealth, Britain became increasingly segregated and polarised over the past two or three decades of the 20th century. Particularly notable is the clustering of poverty and low wealth in urban areas, and the concentration of wealth (especially with regard to exclusively wealthy households) in the South East of England (Dorling et al. 2007: 87).

The social consequences of these developments are stressed by sociologists. In general terms there has been a transition from a welfare to a 'workfare state' (Jessop 1994) in which welfare is tied to actively seeking work and lowering expectations to accommodate the new 'Macdonaldised' regime of insecure employment (Ritzer 2004). There has been a combination of economic pressure on welfare spending due to global mobility of capital to seek low tax regimes, and a gradual shift in the demands on the welfare state, in particular the break-up of the consensus on which it originally rested (Garland 2001). The middle classes decreasingly identify with the poor, particularly those who offend, as citizens, even conditional ones, and demand

reductions in welfare spending, a linking of welfare to job seeking, a critical attitude to single parent families, immigration etc.

Additionally, writers such as Sennett (2006) and Bauman (1995, 1998) have recently argued that the fragmentation and insecurity of social life engendered by underlying rapid economic change, is having personality effects. People respond to insecurity with aggression and fear of others. The growth of social inequality, the decline in social mobility, the geographical segregation of the very rich and very poor, the increasing insecurity of sections of the middle class as well as the working class have all conspired to break the foundations of the old welfare state. The growing sense of insecurity combined with growing inequality and the decline of stable inter-generational communities based around stable employment has given rise to a growing awareness of crime and disorder, a fear of crime and a demand for public protection as the main task of criminal justice agencies. This fear is fuelled by sensationalist media coverage.

Thirdly, there have been profound changes in the dynamics of criminality. Although crime rates have recently been falling, they remain at high levels as a result of the long period of steady increases during the period from 1960 to the end of the 1990s (Lea and Young 1984). More important, perhaps, is the changing distribution of crime. In recent years an overall decline has been accompanied by concentration in areas of acute social deprivation. Hope describes the situation in Britain now as one of:

> two nations as far as criminal victimisation is concerned. Half the country suffers
> more than four fifths of the total amount of household property crime, while the
> other half makes do with the remaining 15 percent (Hope 2003 quoted in Pitts
> 2007).

Thus the social fragmentation and geographical segregation documented by the Joseph Rowntree Foundation (Dorling et al 2007) impacts directly on crime and lays the foundation for a shift, by the middle classes in particular, to a focus on security and protection. The groups from whom protection is needed are no longer fellow citizens in the old welfare state sense; they are, rather, external risks. Their risk of

criminality is seen as guaranteed in advance by virtue of their geographical location, age, employment and educational status. To use Garland's terminology there has been a transition from penal welfarism to a *crime control complex*. The essence of this shift is well captured in New Labour's slogan stating their policies aim at 'rebalancing of the criminal justice system in favour of the victim'. Thus the aim is less the rehabilitation of the offender as conditional citizen and increasingly the protection of the public from not only the already convicted offender, but those social groups and sections of society considered likely – who constitute a risk – of offending. Innes (2003:144) concludes that this crime complex forms *'an array of layered and interlocking technologies, strategies and ideas'* which are *'more intense and systematic'* than ever before. And, as Zedner concludes:

> maintaining security relies upon continued communal vigilance against a common 'enemy'. Exclusion, be it of particular economic, social, racial or political groups, is an inevitable concomitant of the security society. Is it that we have some collective psychic need for an external enemy in order to promote collective solidarity, or is the construction of an external threat simply a means of justifying the continued existence of our defence and intelligence services? A clue here might be found in the recurrent resort to a vocabulary of 'war' against crime. The language of warfare not only justifies the involvement of agencies whose remit might normally be seen as outside the sphere of criminal justice: it is reflective also of the idea that it is an entire 'enemy' population, rather than individual offenders, against whom security initiatives are targeted. The irony is that the promise of community safety and social solidarity is bought only at the cost of social exclusion (Zedner 2000: 211).

The new punitiveness and its critics

Against this backdrop I now turn to the specific area of probation and my research. There are essentially two components to the argument about the changing orientation of criminal justice, paralleling the changing nature of the welfare state. Firstly, the shift from rehabilitation of the offender to the protection of the public. Second the protection of the public from a wider range of risk groups than simply offenders.

As regards the first tendency, nowhere is the shift more clearly demonstrated than in the transition from the Probation Service to the National Offender Management Service with the clear primary role of public protection from offenders and risk groups. I documented this tendency in **Fitzgibbon 2007a,** and **2008a**. The transition of probation from social work aimed at the rehabilitation of the client to the protection of the public is clearly corroborative of the thesis of the rise of risk and insecurity and the changing nature of the welfare state as outlined by Garland (2001) and Lea (2002).

The thesis has come in for a good deal of criticism (Hutchinson, 2006; Matthews, 2006, Meyer and O'Malley 2005, Young 2003, Zedner 2002). The main stream of criticism is directed specifically at Garland (2001). Firstly, that his thesis of the decline of middle class support for penal welfare is unsubstantiated (Young 2003, Zedner 2002). This is an empirical debate. Of course this is only one possible explanation of the decline of penal welfarism. The other is associated with Feeley and Simon (1992) who see the impetus coming from a wider range of factors rooted in the growing fragmentation of society, and not just the political attitudes of the middle class, in making the transition from rehabilitation to the management of risky populations through penal means. It is to be noted that Matthews (2006) and Young (2003) offer no empirical evidence to support their arguments.

Parallel to the Garland thesis has been the notion that the decline of penal welfarism is exhibited specifically in a 'new punitiveness' constituted by the return of harsh 'ostentatious' punishment (Pratt 2000, Pratt et al. 2005) reminiscent of Victorian regimes. This involves a return to tough punishments, incarceration, just deserts etc. and a public mood about crime verging on the hysteria (see Vigarello 2001 for a discussion of parallel developments within Belgium and France). This invades both politics and the media, as well as public services such as the criminal justice system and social services (Hallsworth 2000, Pratt 2000, Pratt et al 2005). Again, this is empirically disputed by critics (Meyer and O'Malley 2005) and also it is not a necessary component of the decline of penal welfare. The Feeley and Simon (1992) thesis of the transition to risk management does not require a return to ostentatious punitiveness but indeed can be a very calm and bureaucratic process in which rehabilitation has been replaced by neutralisation strategies which do not seek to

change offenders but rather simply reduce their risk potential through incarceration, surveillance etc. (see my analysis in **Fitzgibbon 2004, 2007a, 2008a** in which I examine risk assessment practices within probation and mental health services). These preoccupations underlie the development of various forms of permanent post-sentence surveillance and continued criminalisation oriented to incapacitation (Nellis 2005).

But the central issue of the changing nature of penality is the survival or otherwise of rehabilitation. Some critics of Garland simply attempt to empirically refute such a change (Zedner 2002, O'Malley 1999). Others, for example, Hannah-Moffat (2005) attempt to show that new forms of rehabilitation have developed which incorporate certain aspects of the risk management paradigm but nevertheless still aim at the reintegration of offenders rather than simply neutralisation.

In my articles (**Fitzgibbon 2007a, 2008a**) I argued that notwithstanding the 'transformative' element in probation strategies, as argued by Hannah-Moffat (2005), firstly that these differed from traditional rehabilitation strategies and had in fact moved substantially in the direction of neutralisation as suggested by Feeley and Simon (1992). Secondly, that the techniques being deployed in the form of OASys to analysis the 'criminogenic needs' of offenders in fact, in the way they were implemented, contained a punitive thrust which clashed with rehabilitative strategies as traditionally understood (see also **Fitzgibbon 2005, 2008b, Fitzgibbon and Green 2006**). To that extent the direction of my work tends to support the direction outlined by Garland (2001) et al.

Risk groups and the spreading of the net of control

The second aspect of the transformation of criminal justice is that public protection is increasingly from a wider range of risky populations than simply offenders. This relates to a number of themes regarding the growing role of criminal justice agencies in society. Part of the shift to a crime control complex, as both Garland (2001) and Lea (2002) make clear, is that the criminal justice agencies, rather than being peripheral areas (see Zedner 2007) become central agencies of social policy and social stabilisation. Social policy is increasingly focused on crime control and oriented to

security and protection. Returning to the theme of globalisation it can be said that although the state has found its power weakened in a number of areas such as the ability to control the global movement of capital and migration, it still retains control of its legal and criminal justice systems, and for a number of reasons (see Lea 2002, also see **Fitzgibbon 2007a, 2007b,** where I have argued that this shift to crime control is evident in probation practice) these have tended to displace traditional welfare agencies such as education, housing and social services in the management of the poor and socially excluded. This is only natural considering that these populations are considered less as citizens and more as risks. Thus the actual criminal offender is then considered as the tip of the iceberg of a larger volume of threatening and risky behaviour in need of management and control as part of the protection of the public.

The growing political preoccupation with the management of risky populations in recent years has manifested itself in the rise of concerns with anti-social behaviour (Young 1999, Squires and Stephen 2005, Squires 2006, Pitts 2003). The legislation and the rise of measures such as anti-social behaviour orders (ASBOs), parenting orders, curfew orders, and other forms of collective control backed up by criminal justice sanction is well known (**Fitzgibbon 2004, 2007a, 2008a**).

A number of theoretical shifts in criminology have also backed up the tendency. The most important has been the Wilson-Kelling argument (1982) by which the classic relationship between criminal justice agencies (police in particular) and poor communities is reversed. In the classic theories of 'consensus policing' officers would ignore all manner of minor infractions or 'anti-social behaviour' in return for community tolerance of the police and the willingness to co-operate with police inquiries in the case of more serious crime. For Wilson and Kelling (1982) these minor infractions, if left unattended, become precisely the *precursors* of more serious future crime.

This has led, in turn, to the emergence into academic respectability of the notion of pre-crime (taken from the film *Minority Report* directed by Spielberg 2002) as a legitimate object of restraint and coercion (See Zedner 2007). The two themes cohere: Wilson-Kelling's elevation of incivilities or anti-social behaviour to the level

of precursors to the development of serious crime amounts to seeing anti-social behaviour as pre-crime.

My work has contributed to this in two ways. Firstly, by clarification of the links between a number of aspects of this strategy for the management of groups, aspects hitherto thought of as separate, namely, pre-emptive criminalisation (the use of criminal justice sanctions against groups characterised as anti-social or pre-criminal) risk analysis as a method of identification of problem populations, and institutional racism (**Fitzgibbon 2004, 2007b).** As regards the latter I was able to clarify that such racism (as a characteristic of police or offender management strategies) was racist not primarily because of its motivations but because it was used as a trigger for risk identifiers which had discriminatory consequences **(Fitzgibbon 2007b)**.

The second was my precise characterisation of the 'actuarial fallacy' (see page 32 below) built into the very working of risk identification methods – both as regards offenders as well as non-offenders – whereby risk groups are characterised in the first place (**Fitzgibbon 2007a**, **2008a**). The actuarial fallacy highlights the difference between the new public protection from risk groups orientation of criminal justice and classic criminal justice which was concerned with the apprehending and punishment of offenders. Though, as I acknowledge, it has always been a feature of policing – indeed in this as in other areas (see Lea 2004) there is an adoption of the methodology of 'police suspicion' into both social policy generally and even into the criminal justice management of convicted offenders.

To identify these risk groups, the notions of risk assessment and predictability of risks need to be operationalised. One way of operationalising risk is by using actuarial tools to calculate probabilistic outcomes (Kemshall, 2003). This can lead both to a tendency to over predict risk in order to make defensible positions and to pre-emptively criminalise certain categorical groups identified as statistically more likely to commit offences or other threats (**Fitzgibbon 2004, 2007a, 2007b**). The tendency is to operationalise risk, and then use these assessments to impose non transformative risk strategies to neutralise and manage people as discussed above (Hannah-Moffat, 2005).

Within criminal justice and public services generally there is a new managerialist culture which involves performance targets, measures of efficiency and effectiveness and an overriding concern with 'best value' in terms of public expenditure (Cutler and Waine 1997, James and Raine 1998). The main task of the practitioner is effective assessment and management of the 'problem'(Webb 2006). As the pre-occupation within the criminal justice system becomes the calculation and management of risk, trust, both of employee and the client/offender, is replaced by audit (Munro 2004). Within this audit culture performance targets and outcomes are increasingly measurable and lead to professionals/practitioners performing regimented, formulaic assessments, which are defensible, when scrutinised by inspectors (**Fitzgibbon 2007a, Fitzgibbon and Green 2006**). Inspections with measurable targets and outcomes become the priority in public sector institutions where new managerialism and business methods become the norm (**Fitzgibbon 2007a, 2008a**, **Fitzgibbon and Cameron 2007,** Munro 2004).

Thus operationalised actuarial risk assessment tools, such as OASys, are utilised as a principle component of this managerialist strategy. However scrutiny of these tools highlights the actuarial fallacy examined above, in that, although individuals may belong to groups statistically more likely to commit a crime or pose a threat, there is no way that such tools can identify which particular individuals within those groups will commit such behaviours (**Fitzgibbon 2007a**). This process also leads to a tendency to stereotype various groups such as black people, mentally ill people and young people (**Fitzgibbon 2004, 2007b**). This is a result of the tendency of such actuarial techniques to enable and encourage the practitioner to produce collections of data instead of a holistic historical context regarding the offender's life.

One could argue that in order to achieve a measurable risk assessment, the offender has to become disembodied, a collection of data removed from their biography, narrative and any contextualisation of their behaviours' meaning (Franko Aas 2004, 2005). This process also reinforces the tendency to stereotype certain groups such as the poor, black and minority ethnic people, mentally ill people and young people. There then is a propensity to criminalise young people by imposing anti-social behaviour orders (Squires and Stephen 2005, Squires 2006, Pitts 2003), to assume mentally ill people pose a dangerous threat (**Fitzgibbon & Cameron 2007**, Prins

2005), or to consider ethnic minorities as potentially threatening people, rather than people who have suffered from institutional racism (**Fitzgibbon 2007b**). It can be seen that stereotyping can take on a momentum and importance of its own.

The offenders' disembodied data is often represented in terms of criminogenic needs. However there is little attempt to understand in any concrete sense the meaning or context of these needs. Contextual analysis or the cultural implications of the offenders' behaviour is viewed as 'soft' data and downplayed (Ferrel et al 2004, Young 2004). Cultural criminology rejects these notions of representing crime and criminal behaviours merely as positivistic collections of statistics and argues that culture and meaning should be re-injected into criminology and criminal justice (Hayward and Young 2007). Thus criminogenic needs removed from any narrative will ultimately prove unhelpful in that they just become more signs of deviancy, more data that is weighed up in the risk assessment process (Franko Aas 2005). Stereotypes are influenced by the notion of the crime control complex whereby the mechanisms of control are made wider (Garland 2001). However, during this process, the boundaries between those who commit crime or pose a threat, blur (**Fitzgibbon 2004, 2008a**). Are people deserving or undeserving poor, those who are genuinely unemployed or welfare scroungers? All people within society with problems or in certain 'risky categories' become more blurred and a potential dangerous threat. A prime example of this is the new mental health bill (2006), which widens and makes more vague, the definition of mental illness (**Fitzgibbon 2004, 2008a**). Some have stated that there has been a process of medicalisation of crime whereby anyone that commits a crime is seen as a mentally ill person (Coid & Maden 2003).

But, finally on this theme of net widening and the blurring of boundaries, the prescience of Cohen (1985) in identifying many of these dynamics long before they became mainstream features of criminal justice practice and discourse, must be acknowledged. It could be argued that Cohen's original concept of the widening net as social control, has gained complexity as the web is now pulled so wide that there are countless holes within it. In other words, the very complexity and breadth of this social control allows areas or pockets of risk or danger to evade scrutiny. For example, the notion of cyber crime, whereby policing of the Web becomes impossible, a virtual Badlands (Lea 2002).

Rationalisation and deprofessionalisation

The final theme, which relates to my work is that of rationalisation, de-skilling and de-professionalisation. This of course is a theme which is co-terminus with the development of modern industrial society itself and has been treated by the major social theorists from Adam Smith (1974) through to Max Weber (1947), Karl Marx (2002) and Emile Durkheim (1933). All the themes can not be reviewed here, but in my view there are probably two key aspects which are particularly relevant to my argument. Weber's theory of growing rationalisation and bureaucratisation of modern organisation (the state, the company etc.) in which individual creativity and freedom is increasingly constrained within an 'iron cage' of 'impartial' bureaucratic norms and regulations (Weber 1947). Secondly, I focus on the study, mainly by Marxists (Gramsci 1971, Braverman 1974) of the workplace division of labour whereby the capitalist appropriates the skills of the worker and embodies them in the organisation of production. The worker experiences this process as an alien power embodied in the speed of the production line determined not by the worker but by the employer. Braverman remains the pre-eminent study of this process in the modern factory (1974).

Both the Weberian and Marxist traditions connect deskilling and the 'iron cage' with the growth of large organisations. For Weber (1947) the autonomy of the individual declines in the face of the large bureaucratic organisation while for Marxists the deskilling of the worker is made possible by the large 'assembly line' factory first devised by Henry Ford and utilising the 'scientific management' techniques pioneered by Frederick Winslow Taylor (1998). Ford introduced the notion of a production line to stream line production. However, it was Taylor who appropriated the skills of the workers, separating them into individual components which were then embodied within fragmented, repetitive tasks which could be performed at a speed dictated by the foreman overseeing the workers (Taylor 1998).

During the 1970s 'Fordism' became more than a description of the regime of deskilling in the large factory (or office). In sociology and political economics Fordism became a means of describing the social structure underlying the welfare state (Lea 1997). 'Fordism' described the socially homogenous working class that

worked in large factories, who willingly entered into the mass consumption of commodities produced by those factories at a time of full employment and economic expansion in which the welfare state reflected, as noted above, the process of embourgeoisement or social homogenisation. Deskilling was but one aspect of 'Fordism'.

This interpretation made way during the late 1980s for the transition to 'Post-Fordism' in which a number of themes combined. First there was growing decentralisation. The large 'Fordist' factory had become too top heavy and costly. Many sectors of the economy were decentralising, downsizing and contracting out to a plethora of independent smaller producers. Some optimists viewed this new regime as a post-modern 'New Times' (Hall 1989) characterised by diversity, self-autonomy within of a plurality of identities and cultures and a flexible production system, which catered for this wide range of identities. In the latter, the small firm, symbolised in the 'dot.com' revolution, was unencumbered by large bureaucracy and fixed assets. The workers within these small organizations were co-partners employed in flat hierarchies and self management, and thus were better equipped to respond to the new diversified consumption than the old bureaucratic Fordist factories. The celebration of this new society fitted in well with the neo-liberalism of the Thatcher and Regan period.

As far as the large bureaucracies of the criminal justice system were concerned, the post-Fordist neo-liberal idea was to inject a new competitive stimulus through a mixture of privatisation and performance culture. Particularly, in the area of crime prevention there seemed ample room for decentralised private initiatives and this has been reflected in criminology by some writers – Shearing in particular (see Johnston and Shearing 2003) – with a celebration of decentralisation, privatisation and pluralism in the governance of crime. Shearing talks about dispersed 'nodal governance' of crime involving a variety of actors including police but with none having any obvious prominence.

Similarly the inception of National Offender Management Service, has lent itself to the notion of contestability whereby various parts of the probation and prison service can be hived off to other providers, which permits privatisation of certain functions, for example, unpaid work or provision of cognitive behavioural programmes

(Gelsthorpe & Morgan 2007). These can be performed either by voluntary sector agencies or private security companies. Although these tasks may in the future be performed by workers, other than those employed by the public sector, their working remits will still, if not increasingly so, be laid down by government guidelines and rules. Thus although one could see a multiplicity of providers as a means of being more responsive to local needs, the fact that targets and contracts will be dictated by a centralised department means in reality methods of working with offenders may well become more prescriptive and mechanised.

But the dark side of post-Fordism and the decline of a homogenous culture was precisely the fragmentation and insecurity noted above. At the level of employment, outsourcing, 'flexible production' and downsizing were by-words for low wages and job insecurity (Ritzer 2004). Fordism was seen as 'inefficient' because the large factory had led to a cohesive work-force and strong trade unions which would no longer be tolerated by employers within the new conditions of global capital mobility.

Yet at the end of the day the large bureaucratic organisation has remained the norm, in criminal justice as in business. Measures of decentralisation and privatisation have, in fact, gone hand in hand with increased patterns of rationalisation, deskilling and deprofessionalisation. In policing for example, increased local accountability has co-existed with centralisation in the form of Home Office devised targets, performance indicators and resource allocations in accordance with 'best value'. Many private or community based initiatives in crime prevention have been so laid down by central government targets that they are decentralised in name only (Crawford 2006). Beneath the veneer of post-Fordism, Fordist principles of organisation are alive and well.

Therefore a return to the classic studies of Taylorism and Fordism are in order. In my publications (**Fitzgibbon 2007a, 2008a, 2008b, Fitzgibbon and Cameron 2007**) I have attempted to link the Taylorist developments in probation with the risk management agenda discussed already. I argued that the old holistic social work approach centering on the client had been deconstructed – that is subject to further fragmentation and division of labour – on both sides. The client is deconstructed into a bundle of criminogenic needs which could then be categorised and allocated to

specific treatment programmes based on the needs mix. In order to further the measurability of professional tasks, technology has been used to dictate methods of working with offenders and means of assessing and managing the risks they pose (Franko Aas 2004, Hannah-Moffat 2005, Jones 2000, Maurutto & Hannah-Moffat 2006). Far from leading to more available time with offenders, the de-skilled operative is pressured to undertake more work, illustrate that targets have been monitored and achieved and all this is undertaken, within a culture of speed up (**Fitzgibbon 2008a**). The concerns are that such risk assessment tools have been introduced as a means of managing risk with limited resources and scarce manpower utilising new technologies (Kemshall 2003, Robinson 2003). The practitioner is deskilled or deconstructed into a ticker of boxes and allocator of OASys scores. Just as in the Fordist factory the skills of the worker are repossessed by the technology of the production line, so the skills of the probation officer are repossessed by the technology of OASys.

The expansion of the use of Probation Service Officers (like the introduction of Police Community Safety Officers in the police) is testimony to the fact that the worker no longer needs the old skills: they are embodied in codes of conduct and tools such as OASys. Justice and professional integrity are condensed into the notion of *what works* which dominates professional Codes of Conduct and National Standards for both mental health services (Department of Health 1999), and the Probation Service (Home Office 2000) when dealing with the implementation of legislation.

Braverman's thesis regarding the expansion of scientific management techniques separating the hand of the worker from the brain of the manager has thus moved into the public sector (Carey 2007, Tinker 2002). The deskilling occurring in the probation service and the police service with an expansion of lower paid and less qualified staff illustrates the adaptation of both Taylorism and the methods of the industrial sector in areas such as probation and social work (Carey 2007, Ritzer 2004). In this way the probation practitioner becomes just another arm of the punishment and surveillance apparatus (Farrant 2006). The deskilling of the probation officer is no more clearly illustrated than by the fact that prison officers can equally implement the risk analysis templates such as OASys. This process of deskilling, which is apparent in the

probation service (NOMS) is also evident in other allied professions such as youth workers, social work and mental health workers (**Fitzgibbon 2008a**).

But my analysis parts company with the classic studies of Taylorism-Fordism at a crucial point. Whereas Henry Ford's production line led to a new era of mass production of consumer durables and, for a time at least, rising incomes; the introduction of the same principles into probation has, I argue in my publications (**Fitzgibbon 2007a, 2008a, 2008b, Fitzgibbon and Cameron 2007**), led to a contradiction. The fact is that the technology of OASys cannot be effectively implemented except by those practitioners who still retain the old craft skills and so a measure of irrationality is introduced into the system. The effect of deskilling is however that the practitioner loses those craft skills, namely, the identification with, and accountability to, the offender that made the classic penal welfare relation of 'advise, assist and befriend' possible.

In his classic study of the likely consequences of the introduction of Fordist principles into European capitalism, Gramsci (1971) argued that the unintended consequence of deskilling was that the worker, having lost the intense identification with the manufacturing process characteristic of the skilled craft worker, becomes free to think of other things. In Gramsci's mind was of course worker organisation and socialist politics. But the downside of this detachment is of course subsumed into mindless recreation − for example reading the *Sun* while on the production line. For the deskilled probation practitioner the equivalent is looking at one's watch while administering the umpteenth OASys schedule of the day. All empathy with, and understanding of, the client has been lost (See Carey 2007, for related discussion regarding social work practitioners).

Rehabilitation and Desistance

Once empathy and understanding of the client or offender is lost the chance of assisting or enabling them to make positive changes within their lives is minimal. Many researchers have pointed out that rehabilitation and desistance is reliant on these qualities being retained within the client/practitioner relationship (Burnett 2004, Robinson 2005, **Fitzgibbon 2007a, 2008a**) My argument is that in order to

rehabilitate and reintegrate offenders, thus reducing risk, one needs to transform offenders' lives in a real sense by which they regain all their citizenship rights and have access to employment, housing and education. By this, the professional is required to encourage an engagement model of working with the offender/client. The emphasis in this relationship is one of building rapport and recognition with the offender/client of the social capital or personal strengths they possess, and which can be built on (Burnett & Maruna 2006, Maruna & Immaribeon 2004, McNeill 2006).

Risk assessment tools such as OASys can be used as a supplement to this method of working in order to encourage transformative risk assessments to take place (**Fitzgibbon 2007a, 2008a**). Real rehabilitation requires professional knowledge and a mutual trust between offender/client and practitioner. Real re-integration requires real economic regeneration, with employment, educational opportunities and community cohesion.

Conclusion

To conclude, this chapter has examined the shift from penal welfarism towards a society pre-occupied by risk and, as I have argued, a growing tendency towards punitiveness and containment by a variety of strategies, which have affected the ways in which courts and society deal with offenders and other 'risky', usually vulnerable, groups. This shift has also influenced the methods by which practitioners undertake their role, with an increasing focus on risk assessment removing them from the principles engendered within their professional disciplines and further away from an empathetic and meaningful relationship with their clients. Finally I have briefly discussed the counter evidence which stresses that it is only through client/practitioner relationships that any real re-integration and therefore risk reduction can occur. The next chapter examines the research I have undertaken to explore these issues and discusses the publications which have arisen out of these projects.

Chapter 3. The Published Work.

The first publication, a monograph, (**Pre- emptive Criminalisation; Risk Control And Alternative Futures, Fitzgibbon 2004**) examines how New Labour, despite emphasising the rhetoric of social inclusion, has introduced a series of social and criminal justice policies, which promote risk management strategies. The rise to predominance of the 'risk agenda', the concern by government to protect the public against the risks posed by offenders and other high risk groups, it can be argued, is inextricably connected to 'the decline of the welfare state' (Hudson 2003). In its widest sense the welfare state is incompatible with the 'risk society'(Beck 1992) in that commitment to welfare presupposes a desire by tax payers to invest in the re-integration of offenders for the good of society as a whole. The risk society is concerned with excluding those it deems a threat and ensuring that the worthy majority feel protected against such persons. This new penology is characterised, according to Feeley and Simon (1992), by an *actuarial* style of criminal justice oriented more towards the effective neutralisation of *risk groups* than either the welfare-inspired rehabilitation or the classicist retributive punishment of *individuals.* These policies aimed to identify, label and contain potentially risky populations. This is not undertaken on the basis of their actual anti-social or criminal behaviours, but on the actuarial likelihood, a statistical calculation based on aggregated probabilities, of the individual committing these behaviours at some time in the future, due to being members of groups who statistically have a higher rate of these behaviours. I describe this process as 'pre-emptive criminalisation' and illustrate this by analysing mental health policy following the Second World War. My argument is that mental health policy and legislation clearly illustrate the government's attempts to identify and neutralise actuarially high risk groups in order to reassure and protect the public. By looking at three mental health white papers, representative of the philosophy underpinning the politics of the time, I chart the move from welfarism through to neo-liberalism to the current punitiveness concerned primarily with risk control and containment.

The early chapters *(chapters 2/3)* of this monograph, using the work of criminologists and social theorists (Lea and Young 1984, Stenson 2001, Garland 2001, Lea 2002,

Feeley and Simon 1992, Beck 1992, Martinson 1974) identified three clear stages in the development of post-war social policy with regard to mental health. These are:

- the State leading inclusion by welfare. (1950s-early 1980s)
- Individual and community 'responsibilisation' (Early 1980s-1990s)
- risk management, using pre-emptive criminalisation against those perceived as dangerous or deviant. (mid 1990s onwards)

The primary method used to illustrate this argument is the detailed contextual analysis of the three mental health white papers, published in 1957, 1981 and 2000, which subsequently informed the 1959 Mental Health act, the 1983 Mental Health act, and the current White Paper (2006), now in its third version. This third white paper was still being debated at the time of the research, it subsequently was amended and finally informed the Amendments to the Mental Health Act 1983, which were passed in July 2007. The final white paper entitled 'Reforming the Mental Health Act' reveals a widening of social control and containment. I argue that this is not due to a concern with the treatability or care of the person suffering mental illness, but rather the exploration and assessment of potential risk overshadows and determines any more traditional welfare based considerations. Pre-emptive criminalisation underlies the introduction of the term Dangerous and Severe Personality Disorder. This new label of 'Dangerous and Severely Personality Disordered' person or DSPD for short dominates the text of the third white paper. I believe the issue here is not what the definition of such a term is medically or socially but again the perception that this group poses a problem. Thus under the proposals a person with DSPD could be placed on an indeterminate sentence due to possible further behaviours. This statement appears to negate the right of a person on a determinate sentence to be released when they have completed their period of punishment. It also questions the validity of the professional to judge whether containment of an individual with mental health problems for medical treatment is a desirable or beneficial action to take. This label can be attached to a person prior to their committing any offence and used to restrict that person's liberty. This policy can be used to justify itself in the name of public protection but, I would argue has lost sight of human rights and social justice in the process.

I point to the fact that these tendencies/trends are also observable in other areas of social and criminal justice policy. A review of white papers and legislation including the 1998 Crime and Disorder Act, reveal such trends. Examples such as anti-social behaviour orders, child safety orders, and the extension of punishment and surveillance permissible now for sex offenders on release from custody, indicate the scope and the range of pre-emptive criminalisation.

In the final part of this monograph, chapters 5/6, I explore the way asylum seekers, black and minority ethnic people, young people and social housing tenants are viewed as a threat to public security, and therefore made subject to policies seeking to contain and control their potentially anti-social activities/freedoms.

The review of this monograph written by Gwen Robinson for the Probation Journal in 2006 states that it is 'well-written, engaging and timely… an excellent contribution' (Robertson 2006:84).

The analysis started in the first publication was continued and extended in the second publication, written in 2005 but published two years later (**Institutional Racism, Pre-emptive Criminalisation and Risk Analysis**, **Fitzgibbon 2007b**). This article develops an account of the dynamics of discrimination against black and minority ethnic people in the criminal justice system, and then uses the same analytical framework, to explore areas of mental health policy and practice. The conceptual framework employed in this analysis links three processes: pre-emptive criminalisation, institutional racism and risk analysis.

Again I chart the growth of pre-emptive criminalisation, using examples such as the Proceeds of Crime Act 2002 and other policies such as the Football (Disorder) Act of 2000 and the Crime and Disorder Act 1998 (introducing anti-social behaviour orders) to illustrate the erosion of a traditional commitment to due process and the rights of the accused (Kennedy 2004, Belloni and Hodgson 1999).

This article is concerned with efficient and effective crime control. Pre-emptive criminalisation is used to incapacitate those unconvicted of criminal offences, and

those released having served their sentences by new rights to surveillance and monitoring. To those measures already mentioned above can be added others, such as electronic tagging, curfew orders, and Drug Treatment and Testing Orders, which were originally developed as alternatives to custody for those convicted of criminal offences. However, such restrictions are increasingly viewed by the courts as additional safeguards to effectively monitor and incapacitate risk groups, when they return to the community, having served their prison sentences (Bottomley et al. 2004).

Pre-emptive criminalisation works to reinforce risk assessment and analysis by utilising actuarial risk strategies whereby the State attempts to manage, sort and clarify various categories of people by statistical predictions. Thus, not only does group membership allow these people to be criminalised and viewed as dangerous, it enables those who associate with such groups (i.e., football fans under the Football Disorder Act 2000), to be subject to the same pre-emptive criminalisation process. This also applies to youth inclusion programmes which target the 50 most risky young offenders and then additionally 150 of their associates (Pitts 2001).

The third process in this analytic framework is institutional racism. This is defined in the article as racism present in the policies and routine practices of an institution, whereby stereotypes of black and minority ethnic communities underpin modes of working with these groups and are reinforced by the prejudices of individual practitioners.

To further illustrate the way these three processes reinforce and exacerbate each other, two other examples were utilised. Firstly, the article examined the police policy of stop and search, which is supposed to be based on 'reasonable suspicion' of the suspect. The preoccupation with risk groups, the poor, unemployed, disproportionately affects the black and minority ethnic population (BME) and therefore they become subject to greater levels of surveillance. Hence black and minority ethnic people are far more likely to be stopped and searched, and thus 'sustains police culture magnifying the disproportionality through the deployment of race as a shorthand for risk' **(Fitzgibbon 2007b: 134)**. The task of generalised surveillance of risk groups creates an institutional environment in which race is elevated to the status of indicator of risk. If police selection procedures are biased and

select certain people to arrest based on race or social status as a predictor of risk then studies which measure police agencies are likely to identify such factors as predictors of criminality as Jones observed (Jones 1996: 45).

The final example, to utilise this framework is an examination of BME and mental health policy. Due to institutional racism in psychiatry many black mentally ill people come to the attention of the National Health Service via the criminal justice system, having approached the health services and been denied the help they require, they often come to the notice of the police due to petty offences or disruptive behaviour, thus 'they follow adverse pathways' (**Fitzgibbon 2007b: 136**). The case of David Bennett, a thirty eight year old black man who died in psychiatric care due to mis-management of his case, is quoted in the article as a tragic illustration of the cumulative harm such a process can cause.

My research concludes that practitioners have a responsibility to prevent harm and promote human rights, their 'reflexive practice and risk assessment can contribute to social justice and inclusion' (**Fitzgibbon 2007b: 140**).

I then became concerned with the risk assessment process as deployed by probation practitioners. The recognition that net-widening (Cohen 1985), via the introduction of risk assessment tools in probation and mental health services, is another example of the rise of pre-emptive criminalisation in the criminal justice system, a theme introduced in the first two publications. The offender assessment system (OASys) was designed to replace existing instruments and to be used by both probation and prison services. OASys consolidated the changes in professional values and reinforced that the primary aim of probation was protection of the public and punishment of offenders, alongside evidence base practice. The publications concerning OASys, and its use to assess the risk of mentally disordered offenders arose out of a research study undertaken for a large metropolitan probation area (**Fitzgibbon and Cameron 2005, Fitzgibbon and Green 2006, Fitzgibbon and Cameron 2007**). This research involved examination of a number of randomly selected OASys assessments on a cross-section of mentally disordered offenders. The ability of the OASys assessments to provide accurate, effective, risk analysis and sentence planning was found to be questionable according to the research findings. The accuracy and ability of

practitioners to utilise all parts of the risk assessment tool was doubtful from the findings of my research. Kemshall (2003) identified the limitations and failure of risk assessment as predictors of individuals behaviours. Also, as Munro and Rumgay (2000) state 'undue emphasis on risk assessment can distort or prevent the quality of care received by those with mental disorder' (**Fitzgibbon and Green 2006:43**). This study highlighted the increasing important for professionals and other practitioners within Criminal Justice agencies to be trained and experienced with regard to the effective use of these assessments if they are going to avoid averse risk assessments based on prejudicial views about those with mental health problems.

The final paper utilising this research project examining OASys (**Fitzgibbon and Cameron 2007**) attempted to influence policy by using the findings to campaign for changes in the OASys assessment tool. These changes would guide and assist practitioners in identifying mental health difficulties in offenders. As Grounds (1995) stated risk assessment tools can only be effective if they enable appropriate and sensitive support of mentally disordered offenders. My research provided evidence that practitioners were not able to use the OASys risk tool to identify those with mental health difficulties and required assistance in the form of a flag system which would highlight when particular issues regarding mental health were significant and guide the practitioner to seek more experienced and specialist advice (**Fitzgibbon and Cameron 2007**). This research concluded, as Prins (2005: 354) confirmed, that for professionals 'to keep their heads above these turbulent waters' they require informed knowledge which can be promoted by high skills, knowledge and resources in terms of sensitive risk assessment tools and time/resources to efficiently and effectively use them with mentally disordered offenders.

Having focused on specific research into mentally disordered offenders, OASys, and the National Offender Management Service, the next publications sought to locate the debate regarding the implementation of OASys within the wider context of the new managerialist approaches evident in criminal justice and allied agencies, i.e. social work and mental health. (**Risk analysis and the new practitioner: Myth or reality? Fitzgibbon 2007a, Deconstructing Probation: Risk and Developments in Practice, Fitzgibbon 2008a**) The new managerialist approach to public services with centralised management, accountability and audit has promoted centralised codes of

conduct and working. Practitioners now have to follow strict criteria which lay down guidelines regarding work practices and often a manual providing step by step instructions is complied by a centralised government department such as the Home Office. The practitioner's accountability has shifted away from the offender to the taxpayer and the emphasis is on public protection which also symbolises the decline in the penal welfarism (Garland 2001) where offenders are citizens to be reclaimed, rehabilitated and reintegrated, towards the conditional citizenship model, whereby citizenship is only awarded to those who have acted responsibly, through employment etc.

I argue that the skills and tasks performed by the probation practitioner are no longer creative or autonomous, but stipulated via manuals and in-service training.   The publications explore this shift away from professional practitioners with high levels of skill and autonomy, to the increasingly deskilled workforce with more emphasis on audit and accountability. This process mirrors that occurring to the offender, who is assessed and processed into a category, and then referred to a cognitive behavioural programme, which is dependent on his or her OASys scoring.

Both publications argue that skilled practitioners require high levels of training and experience, as well as resources in order to perform accurate risk assessments and devise effective supervision plans. These publications explore these developments and suggest that OASys can only *supplement* knowledgeable professional assessment and if behaviours are assessed ignoring their contextual meaning, the assessment will be flawed. However, if the emphasis continues to be on data collection via such tools as OASys and prescribed cognitive behavioural programmes, the temptation to employ staff with lower levels of skills, knowledge and professional training for the performance of set tasks is reminiscent of Braverman's thesis in 'Labour and Monopoly Capital' (1974). The Taylorisation of the workforce and the splitting of the 'brains' that is the managerial level, from the 'hands' of the worker/practitioner enables the deconstruction of the probation service, and further deskilling of the workforce to continue. This ability to process data and offenders or data-dividuals, as Franko Aas (2005) states, is impeded by creative analytic thoughts and narratives. These themes arise out of these two publications and are going to be explored by a future subsequent article. I was one of the first people to apply this analysis to the

changes occurring in the probation workforce in England and Wales. The concept of pre-emptive criminalisation first appeared as 'anticipatory criminalisation' discussed by Lea in his book *Crime and Modernity* (2002: Chapter 7).

In these publications, as indicated earlier, I develop the concept of an *actuarial fallacy*, wherein the aggregated risks of a large cohort fail to identify which individuals within those cohorts will actually become a threat or danger, is introduced.

> The *ecological fallacy*, well-known to statisticians, observes that the characteristics of individuals cannot be inferred from the characteristics of the areas or groups. In risk analysis there is thus the very real possibility of an *actuarial fallacy*, whereby the behaviour of individuals is spuriously inferred from the behaviour of groups. The result is a tendency towards inflation, taking the form of over prediction of dangerousness of individuals, such dangerousness being conflated with the risk characteristics of the group to which the individual has been allocated (**Risk analysis and the new practitioner: Myth or reality? Fitzgibbon 2007a: 91**).

The final publication to be considered within this thesis was based upon research that compared and contrasted risk assessments undertaken by probation officers, both via more traditional written reports (the home probation officer and the seconded probation officer parole reports) and OASys assessments within parole dossiers (**Fit for Purpose: OASys assessments and parole decisions, Fitzgibbon 2008b**). Many of the findings of my previous publications/research were confirmed by this new research into the effectiveness and consistency of risk assessment methods when dealing with offenders applying for parole.

This publication points to the fact that within the 'risk society' (Beck 1992) risk assessment is destined to be subjective and politically constrained. Uncertainty about the future of the Probation/National Offender Management Services and the growth of public concern regarding high-profile murders whilst offenders are on parole licence, is, I argue, leading practitioners to make adverse risk assessments. During this research I found that OASys can add to the disorientation regarding risk levels identified by practitioners. This is a particular problem, when the information

contained in the OASys assessment is contradicted by other reports, or risk tools in the parole dossiers. In fact, one parole board member stated the different tools and differing predictions succeed in causing more confusion. This statement was made during an observation of the parole board discussing individual cases. Also the narrative style used in home probation officer and seconded probation officer reports was favoured by members of the parole board, as it provided a more holistic contextualised picture of the offender than the data collected by the OASys tool. As Franko Aas (2005) suggests data can 'disembody' the offender and make the meaning of their behaviours far harder to understand. In fact, the research showed the home probation officers often rated risk higher than OASys and the seconded probation officers. This could indicate more in-depth knowledge provides a better basis on which to make a more accurate assessment, whilst pure data collection decontextualises and distorts risk and other factors. This finding reinforced the need for skilled in-depth knowledge of the offender to achieve the most accurate OASys, and therefore the most useful assessment of risk.

> It would appear from this study that reliance on prescriptive processes, such as OASys, may result in less emphasis on analysis of information in order to identify when, where and how harm to self and others may increase or be effectively managed and reduced (**Fitzgibbon 2008b: 67**).

Two other findings triangulate previous research findings. Firstly, as I discussed in **Fitzgibbon** (**2007b**) race is still not receiving the consideration it requires. If research is going to accurately explore the treatment of ethnic and racial minorities in terms of their comparative success during the parole process or how they are relatively rated with regards to risk levels, race needs to be monitored and recorded. Otherwise there is no means of ensuring that unfair and prejudicial treatment is not occurring. The missing information on race and ethnicity reinforced similar findings by H.M. Inspectorate of Probation (2006). There also needs to be research into why there is still a continuing reluctance or lack of commitment to record this data.

Another flaw in the OASys system was the lack of attention self harm received. This is a great concern, if the tragic deaths occurring in custody and on release into the community are to be avoided in the future.

The minimisation of risk when offenders are released on parole licence requires resources and partnerships, as well as staff with highly developed assessment and communication skills. Another area for further research and linked to the arguments against deskilling, is the exploration of the core skills required by the practitioner/offender manager to ensure and enable the probation practitioner and wider Criminal Justice practitioners to be equipped for their important role in risk assessment. Also how can this be accommodated into the agenda of contestability and possible privatised provision of some forms of offender management?

This chapter has sought to contextualise my publications being considered by this thesis. The next chapter will discuss the research projects that informed these publications placing them within a methodological framework.

Chapter 4. Methodology and Theoretical Discussion

> Critical research… within criminology, has a significant role in resisting the political and ideological imperatives of official discourse, state-sponsored evaluations of official policy initiatives and the correspondence of vocational training to the requirements of crime control industry (Scraton 2002:35)

This chapter will critically examine my research methods used for the three research studies, which inform the publications considered by this thesis. Having discussed the theoretical framework which underpinned my projects, I will undertake a general exploration of the benefits and challenges which arose from choosing content analysis as my main research tool.

Theoretical Perspectives

The theoretical framework underpinning my research was eclectic, but a number of theories were significant, namely critical social theory and theoretical work on risk, which will be discussed in detail below.

Jupp (2001) recognised that methodological pluralism, whereby the researcher uses different methodologies to examine different aspects of the same problem enabled data triangulation to occur. Also Hammersely and Atkinson (1995) stressed the importance of 'reflexive triangulation', in that the researcher is not neutral, but part of their own social world and unless they overcome their own cynicism and bias, there is little chance of establishing any valid findings by a qualitative research method.

In order to appreciate the social world, from the point of view of the offender, victim, and criminal justice professional, I undertook qualitative research, which looked at the context of the offending and the meanings attached to the behaviours of both staff and offenders. Thus qualitative research can be utilized to explore the way social reality can be constructed by examining social phenomena, and their meanings, and how these are continually being produced and altered in relation to their cultural and historical context (Gubrium & Holstein 1997). Qualitative data can flesh out the

context in which crime and thus criminal justice is administered by adding detail to quantitative skeletal statistics. Although I did undertake some quantitative analysis of my data when observing the parole board and examining the parole dossiers **(Fitzgibbon 2008b)**, my research primarily used a qualitative approach as this enabled me to gain a deeper knowledge of the offenders subject to my study and the social phenomena surrounding their situations. Thus, in my research, which particularly focused on examination of approaches to risk assessment by practitioners, detailed analysis of my findings enabled me to produce two emergent theories. One concerning the pre-emptive criminalisation of certain groups of people, as discussed earlier in this thesis (see **Fitzgibbon 2004, 2007a, 2007b, 2008a, 2008b, Fitzgibbon and Cameron 2005, 2007, Fitzgibbon and Green 2006**) and the other focusing on the nature of the deskilling of the probation practitioner within the probation service / National Offender Management Service (**Fitzgibbon 2007a, 2008 a**).

I found the Chicago School of Criminology in the United States useful as it bequeathed a tradition of conducting criminological research, which was distinctive in that they used qualitative techniques, such as participant observation, life histories and documents, to explore groups on the margins of urban industrial society in the 1920s and 1930s (Noaks and Wincup 2004).

Similarly the work of British criminology in the 1960s influenced my work as it drew increasingly on American sources for ideas and inspiration. The new sociology of deviance, variously called labelling theory (Becker 1974, Cohen 1974) social reaction theory, transactionalism and interactionism sought a new approach to criminological research and thus was seen by some as subversive (Tierney 2005). This form of criminology led to a critical stance against positivism, which had previously dominated the field. It promised a radical new alternative to the 'moribund perspectives that are traditional criminology' (Tierney 2005:128). Researchers were encouraged to have a critical frame of mind, by focusing on deviance rather than crime and thus drew on innovative qualitative work, following symbolic interactivism theory (Blumer 1969, Mead 1934), which emphasised the importance of human agency, consciousness and meaning in social activity.

To examine my critical analysis more deeply, I use critical theory as it is a social theory orientated towards critiquing and changing society as a whole, in contrast to traditional theory which sought only to understand or explain it (Horkheimer 1937). Critical theory originated with the Frankfurt School of social science, but prevails among other more recent social scientists such as Bourdieu (1993) Altusser (1970) and arguably Foucault (1977). Horkheimer (1937) wanted to distinguish critical theory as a radical emancipatory form of Marxian theory, critiquing both science's logical positivism and the covert positivism and authoritarianism of Marxism and communism.

In the late 1960s, Juergen Habermas of the Frankfurt School redefined critical theory in a way that freed it from a direct link to its origins in Marxism or the prior work of the Frankfurt School. Habermas (1971) stated that critical knowledge was conceptualised as knowledge to enable human beings to emancipate themselves from performance of domination through self reflection. This then expanded considerably the scope of what counted as critical theory within the social sciences. Thus, you could include such approaches as world systems theory, feminist theory, postcolonial theory, critical race theory, etc.

The fundamental conviction, which underpins critical social theory is that no aspect of social phenomenon can be understood unless it is related to the history and structure in which it is found (Fulton 1997). Habermas promotes critical social theory as an imperative branch of scientific inquiry, which describes 'distortions and constraints that impede free, equal and uncoerced participation in society' (Stevens 1989:58). Critical researchers seek analytically to place such actions in the wider context, limited by economic, political and ideological forces, forces that might otherwise remain unacknowledged.

Thus critical social theory should be directed at the totality of society and its high historical specificity analysing how it came to be configured at the specific point in time. Critical theory also seeks to improve understanding of society by integrating all major social sciences including economics, sociology, history and psychology.

Critical researchers therefore aim to understand the relationship between societal structures (especially economic and political) and ideological patterns of thought that constrain the human imagination and limit opportunities for confronting and changing unjust social systems. Critical social theorists are committed to understanding the complexity of such relations, thus distancing themselves from what they see as reductionist Marxist's approaches (Gramsci 1971). Marxist approaches were believed to overemphasise the determinative nature of economic and political structures whilst critical social theorists focus their concerns on how social changes occur in relation to social struggle (Weber 1947). Researchers from this perspective assume that the knowledge developed in their research may serve as a first step towards addressing such injustices. Thus this approach to research aims for a transformative outcome, and thus is not interested in 'knowledge for knowledge's sake'. Some critical researchers, in fact argue that neutral approaches towards research can play into conservative agendas of those who would rather preserve the status quo than challenge it using research findings (Schofield Clark, 2008).

Critical research stresses that meaning and language are socially constructed interpretations, which may be constructed as forces of oppression. Most critical theorists are interested in how these meanings may remain the same or change over time. Thus researchers from this perspective tend to insist upon a recognition of power differentials between research participants, those conducting the research and the importance of locating the various bias within social systems (Fulton 1997).

My research and subsequent publications are rooted in this critical theoretical approach, as the aim of my research was to analysis how shifts in probation and wider agencies reflected political and ideological concerns with security, risk and predicting future behaviours. The purpose of these changes of emphasis is not, I have argued, to enable offenders to be reintegrated more effectively but in order to manage and contain certain vulnerable and 'risky' groups such as those with mental health problems and those from black and minority ethnic groups. Thus, as has been illustrated in the discussion above the prevalence of risk assessment as opposed to more traditional means of assisting offenders to prevent criminal behaviour is emphasised by the introduction of a centralised unified approach to working with offenders. I was not content just to expose these facts but wished to challenge the

underlying notion that risk assessment and containment were in fact efficient means of crime reduction and would ultimately make society and the public feel more protected and indeed safer in real terms.

As I highlighted in two of my articles the concentration on risk assessments and assignments of scores to certain group characteristics, leads in fact to an *actuarial fallacy,* which causes certain vulnerable groups to be pre-emptively criminalised. It also, I would argue, is in danger of deskilling practitioners who then will be unable to utilise previously valued clinical assessment skills in order to critically evaluate risk and thus ultimately, protect the public and offender at the same time (**Fitzgibbon 2007a, 2008a**). My research uses a critical approach as it does not merely accept these changes but challenges the very basis on which they are founded.

Thus critical social theories informed my methodology and were also linked to selectively adopted theoretical work on risk. As discussed in chapter 2, there has been a rapid growth in recent years in social science research into risk in society (Lupton 1999). Risk is now perceived as concerned with anxiety provoking danger and thus viewed negatively (Noaks and Wincup 2004:141). This contrasts sharply with previous ideas arising in the 17th century, where risk was equated with probability (Douglas 1990). Previously, risk had many attractions as a way of individuals finding opportunities for excitement, challenge and personal fulfilment.

Now, as my theoretical chapter discussed in detail, risk is perceived as negative, fearful and dominates professional and organisational policies and practices:

> Risks in late or postmodernity… are characterised by uncertainty, indeterminacy, contingency and their global impact. Contemporary risks also require personal choice and navigation, resulting in increased uncertainty, anxiety and reflexivity (Kemshall 2003:8).

As Garland rightly summarised,

> Risk management is forward-looking, predictive, orientated to aggregate entities and concerned with the minimisation of harms and costs, rather than with the

attribution of blame, or the dispensation of individual justice (Garland, 1997:182).

In conclusion the theoretical stance that informed my qualitative research used elements of critical theory and risk discourses to expose the false economy of reliance on risk assessment tools and pre-emptive criminalisation techniques as methods which dominate political and policy agendas as well as dictating the practice and skills base of practitioners within probation and social services.

Content Analysis

The research method I used for my three projects was content analysis (Krippendorff 2004) and is particularly suited to the type of research I undertook. Documentary contextual analysis is of benefit in that it is a way of ascertaining information in a non-reactive environment. Therefore it is not susceptible to possible distortion from the interaction between the researcher and the subject (Corbetta 2003). The other advantage is institutional documents are produced in large numbers, which mean samples can be obtained and examined at low cost. Thus when considering the enormous pressures on staff in the Probation Area studied, it was decided that documentary research would be undertaken as it could be conducted solely by the researcher and not impose any resource implications on probation staff. It was therefore, approved readily by the Probation Area as a method of investigation.

I was also aware of the disadvantages of using institutional documents. The information provided could be incomplete and primarily represent the official position in relation to offenders and their situations. However, despite these disadvantages, I felt that the institutional dimension may in fact throw more light on the pressures on staff completing the risk assessments. Thus live cases were accessed as a way to understand their substantive content and reveal the usefulness of the risk assessment tool not only to the practitioner but as a method of communication and information sharing as part of the Government's National Action Plan for Reducing Re-offending (Home Office 2004).

Qualitative approaches to content analysis have their roots in literary theory, and various social science theories such as symbolic interactionism and critical theory as discussed above. Sometimes this approach to content analysis is given the label of 'interpretive'. This method shares the following characteristics. This approach uses relatively small amounts of textual matter which are closely read to gather data. Secondly the researcher is involved in the articulation (interpretation) of given texts into new (analytical, deconstructive, emancipatory, or critical) narratives that are accepted within particular scholarly communities that are sometimes opposed to positivist traditions of inquiry. Finally the analyst acknowledges working within hermeneutic circles in which their own socially and culturally conditioned understandings constitutively participate (Krippendorff 2004:17). Therefore the process of engaging in interpretations of the text whilst acknowledging your theoretical and contextual biases is crucial.

Content analysis is a research technique that makes replicable and valid inferences from text (or other meaningful matter) within the context of their use. The technique of content analysis involves specialist procedures, which are learnable and divorceable from the personal authority of the researcher. As a method of enquiry it provides new insights and increases the researchers understanding of the particular political and practical uses of given texts. Content analysis as a scientific technique is expected to be reliable and replicable.

Most content analysis has as its starting point the analysis of text (printed matter, the documents), which is quite unlike research focusing on physical events in that the texts are meaningful to others independently not just in relationship to the analysts. Thus as a researcher using this method one must look outside the characteristics of the text to examine how other individuals have used various texts.

Text messages and data arise in the process of someone engaging with them conceptually. Texts have no objective qualities that are not reader-independence. The text does not exist without a reader; there is nothing inherent in the text. The meanings of the texts are therefore, supported by someone. Thus the ordinary reader and content analyst merely read differently. The content analyst engages with the text to make interpretations. As a consequence, texts do not have single meanings, as they

can be read from numerous perspectives. One can offer psychiatric, social, logical or political interpretations of any text. All of which may be valid but different. The meanings invoked by texts need not be shared. If content analysts were not allowed to read text in ways that are different from the ways other readers do content analysis would be pointless. In fact, researchers are expected to interpret the text. Critical scholarship would be stifled if one did not go outside the constrains that everybody accepts as true. Content analysis is in trouble only when expert interpretations fail to acknowledge the uses of text by designated populations of readers or actors, particularly when content analysts fail to spell out the criteria for validating their results.

Text can provide information about the events at distant locations, about objects that no longer exist and about ideas in people's minds about available actions. The inability to use direct observation is an invitation to apply content analysis, as in the case of my analysis of the treatment of mentally disordered people over time by looking at government documents (**Fitzgibbon 2004**). The researcher is required to look outside the physicality of text: for example to how people used the text, what the text conveyed about the conceptions and actions informing the document.

This process can not be done purely by a computer data analysis as without human intelligence and human ability to read and draw inferences from text, content analysis would operate without understanding the text in its context. This stresses the importance of textual meanings, relative to a particular context. Messages always occur in particular situations, hence texts are read with particular intentions and data is informative relative to particular problems. Differences and interpretations do not pollute the possibility of agreements within particular context. Once the content analyst has chosen the context within which they intend to make sense of a given text, the diversity of interpretations may well be reduced to a manageable number. Content analysis requires a context within which the available texts are examined. The analysts must construct a world in which the text makes sense and can answer the analyst research questions. Often analysts chose a particular context based on their own disciplinary commitments. Due to my interest in risk analysis and the skills base of professionals working in the probation service, my concerns when reading documents may have differed widely from the policy makers and politicians who

originally introduced these institutional papers. Thus the analyst selects and places a particular body of text in a context and clearly explores that context in order to gain understanding of certain kinds of questions.

The nature of text demands that the researcher draws specific inferences from a body of text to their own chosen context; this information then allows the reader to select among a number of alternatives. The systematic reading of a body of text narrows a range of possible inferences/interpretations concerning unobserved facts, intentions, mental states, effects of prejudices, planned actions and antecedents, all consequent conditions. Content analysis infers answers to particular research questions from the texts. However these readings must never to be taken as the only legitimate one. The research questions of the content analyst must be answered through inferences drawn from texts. The researcher is required to make the chosen context explicit so that the results of their analysis will be clear.

Past happenings come comprehensible to us only by inferences from the documents that have survived until the present (Dibble 1963). Without the appropriate context, the document means very little. The document placed in the wrong context can hide or distort meanings and therefore may not make much sense.

Interpretive approaches to reading cherish an open mind. The content analyst explores the meanings that come to mind when reading a text following the threads of the inferences to wherever they may lead by engaging in so-called fishing expeditions (Krippendorff 2004). When comparing similar phenomena inferred from different bodies of text, researchers have to draw distinctions within a body of text and apply the same content analysis to each part of the texts sampled.

When choosing the institutional papers to be considered in my research projects one method of sampling was used. This was relevance sampling (Krippendorff 2004:119). The texts were chosen in order to contribute to answering a particular research question, in my case considering policy changes toward those with mental health problems and also the accuracy of risk assessments. The resulting sample is defined by the problem it seeks to answer and therefore it can be known as purposive sampling as well (Riffe, Lacy, & Fico 1998). In using this form of sampling the

researcher follows a conceptual hierarchy which knows the number of units that need to be considered in the process. However the units of text are not meant to be representative of the population of text. They do contain the relevant texts for the purpose of the study. Thus the issue of accurate representation may arise at any point as the sample was drawn not relative to the whole population of possible texts.

Data Analysis

Once the data has been collected the next analytic procedure is coding. Coding entails bringing a measure of organisation to the data and identifying conceptual categories. It shouldn't be just a mechanical process, but an opportunity for further reflection and thought on the part of the researcher regarding messages that emerge from the data (Noaks and Wincup 2004). The qualitative researcher will be interested in the regularity with which particular concepts, inferences, events, labels and statements are reported. May (2001:164) points to the importance of the probability of phenomena to the qualitative researcher and the significance of mapping the frequency of occurrences. Coding can be undertaken manually or electronically. In the case of my research projects I used manual coding techniques and then recorded the findings on EXCEL spreadsheets to assist with analysis. Categories and subcategories were useful as coding was an incremental stage to interpretation. Coding is a reductive process which facilitates the manipulation of data. Then this process goes beyond the data and I was able to think creatively asking questions of the data generating theories and frameworks. The key process was the interpretation of the findings where I looked for embedded meanings and understandings. The researcher is then required to stand back and reflect on the data. During this reflective focus, writing up is fundamental to this process. It deepens and enhances thinking and leads to theoretical frameworks and conceptual models emerging. These can then be cross-checked by means of triangulation of research methodologies as mentioned earlier.

> Writing and representing is a vital way of thinking about one's data. Writing makes us think about data in new and different ways. Thinking about how to represent our data also forces us to think about the meanings and understandings,

voices and experiences present in the data. As such, writing actually deepens our level of academic endeavour (Coffey & Atkinson 1996:109).

A brief introduction to my research projects.

Comparative Study of Three Mental Health White Papers

The comparative study which was undertaken to investigate and expose the shift in penal policy and mental health legislation over a period from the second world war through to the present day analysed three mental health white papers in order to map a historical development in terms of ethos, language and policy towards those with mental health problems. White papers were used as the last white paper (dated 2000) was still proceeding through parliamentary debate at the time of the research and in order to undertake a comparative analysis it is essential similar comparable documents were examined. The extract below discusses the relevance of the White papers,

> As the outcomes of extensive discussion and deliberation they are well suited to serve as exemplars of the changing policy orientations outlined in the preceding chapters (**Fitzgibbon 2004:14**).

The contextual examination of the documents followed the approach detailed above. The findings and interpretation of those findings are discussed at length in the monograph (**Fitzgibbon 2004**).

E-OASys Research Study

For the second research project I decided to conduct a small scale explorary research project in a large metropolitan probation area over a period of three months between December 2004 and February 2005. Permission was obtained for access to data from the area's probation research unit and ethical approval for the research was given by the University of Hertfordshire, and the probation service in question.

It was decided to examine a small purposive sample of ten cases where the E-OASys had been undertaken and that these assessments and the relevant on-line case records would be analysed to explore whether mental health concerns had been appropriately identified and how this had influenced the management of the case.

This research project is fully described in the research report (**Fitzgibbon and Cameron 2005**) submitted as one of my publications. The subsequent journal articles expanding on and interpreting the data are also in the body of works (**Fitzgibbon and Green 2006, Fitzgibbon 2007a, Fitzgibbon and Cameron 2007**).

Project Researching the Parole Process and Risk Assessment

The final study was undertaken through the Home Office. Three parole board panels, each consisting of three members, were observed in July and September 2006. Each panel considered 24 prisoner dossiers from probation areas across England and Wales where the parole eligibility date had been reached. The cases of 72 prisoners were therefore examined with a range of demographic characteristics and offences.

This project did utilise some quantitative interpretive techniques as well as qualitative ones, although due to the size of the sample no conclusive data could be collected. However, for Silverman (1998) 'it is absurd to push too far distinction between qualitative and quantitative' (Noaks and Wincup 2004:7). As my research shows this dichotomy is unhelpful, and I agree with Silverman that it can lead to oppositional groups. What was important in this project concerning parole risk assessments was that the combining of qualitative and quantitative data and methodologies enabled the findings to be verified and lead to triangulation. As Jupp (2001) states the use of different methods of research, sources of data or types of data to address the same research question, in this case the quality of risk assessments in parole dossiers, leads to triangulation for the investigator, method and theoretical approach. Methodological pluralism allows the researcher to use different methods to examine different aspects of the same problem. Thus this research not only looked at three different reports in the dossiers but also observed the discussion of these reports by the parole board to gain more insight into the process and the way the reports were perceived by the

board enabling them to make their decisions. The results and emergent themes of this project were published in **Fitzgibbon** (**2008b**).

Critical Review of Content Analysis as an Effective Methodology in Relation to my Research.

As with any research study the methods adopted can be scrutinised in terms of their strengths and weaknesses. May (2001) uses Scott's (1990) typology for assessing the quality of evidence available from institutional documentary sources. There are four criteria with which to analyse the quality of the research.

Authenticity is the first criteria. By using documents that are produced by professionals working in the probation service, the evidence is genuine and of unquestionable origin. When looking at the second quality measurement, credibility of the evidence provided by the E-OASys assessments, white papers, and parole reports, Scott stated that 'evidence had to be undistorted and sincere, free from error, and evasion' (1990:7). In reflecting on this criteria, one could argue that practitioners produce risk assessments, not only to assess the risks posed by their offenders, but to justify and to defend their own practice decisions (Kemshall 2003). Thus, one could argue the credibility of the documents used for this research would need to be tested by further investigation, such as semi-structured interviews conducted with the authors of the assessments. However, the research has benefited in some ways from interpretation of the errors or omissions which have occurred in many of the assessments as this has informed some of the findings. As Brookman (1999:55) stated when using court reports as evidence for her research, the reports are 'not neutral documents'.

The other two important areas that Scott identified were representativeness and meaning. These two criteria are hard to test by the research undertaken in this study. Obviously, the samples used were small and, for the E-OASys study, taken from one probation area which can hardly be claimed as representative of all probation areas, particularly when the large metropolitan area used is unique in terms of it's demographic makeup and size. Secondly, some of the assessments provided information that was not clear and, because no follow-up interviews were done with

the staff producing the documents, some of the errors or judgments made within the documents could not be explored or questioned.

Although the institutional documents of the kind used for all three research projects do provide a rich source of genuine material, the production of these documents, needs to be placed within the organisational context and resource pressures exerted on staff. This obviously influences the priority given to their completion, and the emphasis placed on issues such as risk as opposed to other factors such as mental health provision.

A more in-depth, extended exploration of these documents with follow up semi - structured interviews with the staff undertaking the writing of the white papers or the assessments would have been advantageous. Not only would the findings be more representative of the work undertaken by probation practitioners, the meaning and interpretation of offenders behaviour/risk could be more thoroughly investigated. However, as Silverman (2001), emphasises it is important that data collection is limited to that which is manageable. He emphasises the need for clarity when using an analytic approach to ensure it is explicit and defendable. I would agree with this observation in the light of restrictions in terms of time implications for both the researcher and more pressingly the practitioners. However in an ideal world with more resources I feel the research projects would have been enhanced by semi-structured interviews to follow up and explore findings.

Chapter 5. Contribution to existing knowledge, policy and practice

This chapter of the thesis will discuss the contribution my work has made to existing knowledge in the public domain. I will also examine how my research has effected the formulation of policy and thus influenced the practice and training of those working in the criminal justice system.

Academic and Wider Society Dissemination

I have disseminated my research findings widely through a number of papers at national and international conferences and lectures listed below:

National Conferences

British Criminology Conference (Portsmouth) July 2004, *Pre-emptive Criminalisation.*

British Criminology Conference (Leeds) July 2005, R*isk Analysis and the New Practitioner*.

British Criminology Conference (Glasgow) July 2006 *Institutional Racism, Pre-emptive Criminalisation and Risk Analysis*

British Criminology Conference (London) September 2007 *'Prison is good but I shouldn't be here' Perspectives from prisoners interviewed in an Indian jail* with Devinder Curry

Northumberland Probation Area Conference (Newcastle) January 2008 *Pre-emptive criminalisation of the mentally ill: Early interventions, the way forward?*

International Conferences

European Criminology Network Conference (Middlesex University) September 2004 *Pre-emptive Criminalisation and the Mentally Ill*

Berlin Online Education Conference, (Berlin) December 2005, *Combine Theory with Practice - A Case Study in Blended-Learning Implementation within Criminal Justice,* with Stella Lee

American Society of Criminology (ASC Los Angeles) November 2006 *Institutional Racism, Pre-emptive Criminalisation and Risk Analysis*

ANZSOC Conference (Adelaide) September 2007 *Perspectives from prisoners interviewed in an Indian jail* with Devinder Curry

Simon Fraser University (Vancouver) June 2008 *Institutional Racism, Risk and Mental Disorder*

International Guest Lectures

Tata Institute, (Mumbai) *The British Probation Service and the Risk Agenda* September 2005

Dublin Technological Institute (Dublin) April 2007 and April 2008 *Institutional Racism, Pre-emptive Criminalisation and Risk Analysis,* Annual Visiting Lecture

Griffith University Lecture (Brisbane) October 2007 *Prisoners experiences: what can be learnt to reduce risk on release from custody?*

I have been invited to give guest lectures in Mumbai, Dublin, Brisbane and a plenary session paper in Newcastle at a conference for practitioners, as a result of my publications and conference papers.

Media

I am building a profile in the area of risk, social control, pre-emptive criminalisation, probation and the implications of deskilling. My research has been cited in the media (see 'Locked up to make us feel better'. David Rose *New Statesman* 19th March 2007). My paper (**Fitzgibbon 2007a**) published in *Punishment and Society* (see above) was the 6th most read article from that periodical for six months. My research findings, concerning OASys risk assessments (**Fitzgibbon and Cameron 2005, Fitzgibbon and Green 2006, Fitzgibbon 2007a, 2008a**) and the parole process (**Fitzgibbon 2008b**), have been used by the print and broadcast media. I have also been interviewed about my research on the national radio (BBC Three Counties Radio -'Beds, Herts & Bucks') and for two documentaries, one by City University and one for Channel Four.

Citation of My Work

My research projects have been quoted by other academics and referred to at conferences, such as the British Criminology Conference 2006 by Dr. Anthony Goodman (Middlesex University).

Teaching

In my current post of employment as a Senior Lecturer I teach both at an undergraduate and post-graduate level. I am currently involved in supervising research projects for students on the MSc Applied Criminology course. I also contribute to the research methods teaching on the research module on this course and the MA in Social Work Practice. I believe my first hand experience of designing and managing research projects informs my teaching and students enjoy discussing the challenges and findings of my recent research. I feel this not only adds interest and examples to theoretical discussions concerning research methods but also enables students to engage with research as I act as a mentor providing a pro-social model of how 'real' research is conducted.

Wider Dissemination

I am also involved in the European Social Work Network, and I will be presenting a research paper on the Parole Process and the Mentally Disordered Offender, at the Spring School in the Czech Republic in April 2008. I have contributed a chapter to a book (Edited by Cox P. Geisen T. and Green R. forthcoming) on *Qualitative Research and Social Change*, which is due to be published by Palgrave in 2008. I have also been invited to contribute a chapter on Black and Mentally Disordered Offenders in a Sage publication edited by Hindpal Bhui (forthcoming) on *Race and Criminal Justice.*

Policy and Practice

I have been able to directly influence probation policy and practice. A number of my articles have been printed in journals primarily directed towards criminal justice

practitioners (**Fitzgibbon and Green 2006, Fitzgibbon and Cameron 2007, Fitzgibbon 2007c, 2008a**). My publication with Cameron (**Fitzgibbon and Cameron, 2007**) has had a direct impact on the introduction of a flagging system to alert practitioners undertaking E-OASys risk assessments when there are a cluster of significant factors which indicate a need for a more specialist and in-depth assessment of the offenders' mental health issues. This development has both encouraged and guided practitioners to ask for more support and expert advice when assessing those suffering from mental health problems. It could also be argued that the primary purpose of this initiative is to ensure that mentally disordered offenders receive care in the most appropriate and timely manner possible. The London Probation Area report, which I published with Cameron (**Fitzgibbon and Cameron 2005**), has been disseminated to all managers and practitioners within the London area to guide them in their practice.

My paper in Punishment and Society (**Fitzgibbon 2007a**) had a direct impact on the Scottish Office, who used my research findings when discussing the future developments of work with offenders in the community in Scotland and the dangers of over-reliance on risk assessment tools rather than professional relationships with the offender.

Similarly, my work on OASys has been referred to during research meetings regarding future developments in OASys at the Home Office and the NOMS research conference discussing partnership research in February 2007. As a result of this I have liaised with staff involved in OASys development/revision disseminating my research findings.

As previously mentioned I was invited to address a plenary session at a conference for practitioners in Newcastle, on my research and theories about the pre-emptive criminalisation of mentally ill people, in January 2008.

I have had many of my research findings published in practice journals such as The British Journal of Forensic Practice, The Probation Journal, The Journal of Social Work Practice, The British Journal of Community and Criminal Justice and Vista: Perspectives on probation, criminal justice and civil renewal. These journals are

primarily aimed at practitioners and their managers to disseminate research and encourage debate on practice and policy issues. In fact, Gwen Robinson wrote a review on my monograph (2006), in which she advised that it would be helpful resource for managers, and practitioners in mental health and criminal justice agencies, as well as students in practice in addition to policymakers and academics.

I have liaised with the Parole Board and the Home Office research departments informing them of my research findings and providing them with a written summary of the research. These findings have been compared to their own research outputs and verified some of their concerns, for example regarding the omissions concerning race/ethnicity data.

Many of the research activities I have undertaken to date suggest future areas which can be developed within my research portfolio. These will be discussed in the next chapter.

Chapter 6. Future Research

The research projects and articles I have considered in this thesis have suggested new ways in which my future research should be directed. There are a number of issues that arose from my research into risk assessments, practitioners' reports and the parole process.

The first of these concerned the continued failure of institutions and practitioners working within those institutions to take race and ethnicity into account. There were a number of omissions discovered both in the research project considering OASys risk assessments and the mentally ill, and in the study undertaken with the Parole Board. Obviously this limited the extent to which the data could be analysed in terms of the effect race/ethnicity had on risk assessment and parole success. What would be interesting to analyse via semi-structured interviews with practitioners is why these omissions continue to occur, and what they signify. I have written an article concerning institutional racism, pre-emptive criminalisation and risk analysis **Fitzgibbon 2007b**). This could be extended by examining, with practitioners, their attitudes to race and ethnicity either via focus groups, semi-structured interviews or via direct observation of real practice with offenders. Obviously issues such as ethical approval, informed consent and confidentiality would be foremost when planning and undertaking such sensitive research.

Another area that seemed to be neglected by practitioners in both research projects was that of self harm/potential suicide risk. I am unsure whether this is due to inexperience, fear or lack of resources in terms of time/training for practitioners. Again it would be interesting to spend time either with focus groups or individual practitioners of varying degrees of training/experience to ascertain how this area could be improved. Also what necessary training or core skills are needed to enable this to happen.

Obviously, much of my research to date has concerned the plight of mentally disordered offenders and their access to appropriate care/treatment. I feel this is an ongoing project as mentally disordered people are still over represented in the criminal justice system and particularly within prisons. Again, I would like to attempt

more research maybe within penitentiaries, to ascertain how such environments can be made more humane and how the process of diverting mentally disordered offenders away from the criminal justice system can be enhanced. Another area of research, which I have undertaken, not included in this thesis, was a project investigating prisoners' experiences in a Punjabi jail in India. This project involved interviewing a number of inmates in order to try and ascertain which aspects of prison were helpful, and which were detrimental. This work has been published in a practice journal, Vista: Perspectives on probation criminal justice and civil renewal (**Fitzgibbon and Curry 2007**). It would be useful to use some of the techniques deployed in the interviews with these inmates to explore how prisoners/offenders can be enabled to survive incarceration in a more positive way. And what protective mechanisms can be put in place to counter isolation, depression and despair. This could incorporate an international perspective to see if other countries in Europe and beyond can suggest a more progressive method of dealing with mentally disordered offenders who may pose a risk to themselves or others whilst in custody or when released into the community.

The final area in which I intend to extend my research interests is examining the process of de-skilling I have begun to explore within my publications to date. I feel there is a need to investigate the core values required by practitioners to undertake useful and effective work with offenders to reduce risk and utilise desistance based models of work with people's strengths and social capital. I again feel in depth semi-structured interviews with a range of differently qualified staff and their managers would begin to address some of the issues and gaps both in training, experience and supervision that seem to be evident from my studies so far. I intend to use the theoretical perspectives put forward by Braverman (1974) and Gramsci (1971) to debate these issues in a historical and political context.

In addition, I am keen to pursue research funding to enable my research ideas to be realised. I am currently preparing to apply for a research grant from the Economic and Social Research Council for consideration under a number of their schemes, namely the First Grants Scheme available for early researchers within six years of completion of their PhD, the Small Grants Award Scheme and the European Collaboration Research Project Scheme. I also intend to approach the Nuffield Institute who run a

new career development scheme for new PhD researchers who team up with a mentor who is an established social scientist. The Nuffield Institute also run a social science award for Serious Socially Significant Research related to social policy. Finally, I intend to apply in the near future, to the European Research Council under their Seventh Framework Programme which considers applications for early career researchers under their 'people' division. I hope to continue expanding and elaborating on my identified areas of research interest by securing funding from these sources.

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