



The Critical Criminologist

Newsletter of ASC's Division on Critical Criminology

A Response to Lynch and the Schwendingers

Phil Scranton

The debate over mainstream criminology, its pre-eminence in faculties, its privileged access to research funding, its overbearing presence at national and international "learned" conferences, and its purposeful manipulation of academic discourses, is necessary and complex. In raising the crucial issue of gate keeping, to the point of disqualification of knowledge via mainstream journals, Lynch and the Schwendingers trigger a range of other fundamental questions with which they are more than familiar.

The issue of the "mainstream club" as the primary site of definition, discourse and dissemination has troubled critical analysts since C. Wright Mills deconstructed Talcott Parsons. Certainly it has been a dilemma throughout my 25 years as a teacher, researcher, writer and campaigner. Do you join the club, even as an "associate" member, in the belief that you can subvert, rather than be subverted? Or, do you attempt to create an alternative paradigm, another discourse? Is the latter course simply an expression of left idealism through which you turn your back on all occupied territory? Liberal democracy is well attuned to allowing, permitting and even facilitating protected areas for those who resist the mainstream. So, as critical criminologists, we remain free to research, to write and to teach but only at the periphery, rarely at the core. Yet the essential problem remains. The "core" is the "core," mainstream is mainstream, because of

the inherent and inherited power relations of the industrial-military-state complex underwriting and underwritten by its heavily invested academy. We know precisely what a detailed study of mainstream journals, their editorial boards, their review processes and their citations, will throw up. There would be no surprises here.

A quick anecdote. Thirteen years ago Kathryn Chadwick and I published *In the Arms of the Law* (Pluto, 1987) and an article "Speaking Ill of the Dead: Institutional Responses to Deaths in Custody," (*Journal of Law and Society*, reproduced in *Law, Order and the Authoritarian State*). The publications were the product of eight years of in-depth qualitative research into deaths in prison and in police custody. At a campaign conference in London, run by Inquest (the group which brought together those bereaved by custody deaths), a young researcher from a renowned department of criminology rushed up, enthusiastic about our work. It had been "inspirational;" she would visit for a "full interview." We agreed. Silence followed.

Several years later that researcher, doctorate now complete, published a range of material on the topic. We met: "You never did make it for that interview." "No. I feel really bad about that. You see, my supervisor told me that the department was seeking substantial Home Office

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funding using my research as the basis . . . it was felt that your work would not go down well, and I had to remove all references to it." They got the funding, she got tenure, and our work was, literally, exorcised.

There are many such stories and I still remain gobsmacked (to use a Liverpool word meaning 'open-mouthed') by how crude are the processes through which critical analyses and "views from below" are marginalised. As Lynch et al. note, much of this would be an interesting diversion into the politics of knowledge and the legitimacy of discourses if it did not carry with it serious personal and professional consequences. Mainstream journals are the tip of an iceberg comprising research access (especially to closed institutions), postgraduate and postdoctoral registration, appointments and tenure, promotion and status, research council funding committees, editorial boards and government advisory bodies. Herein lies the "word," all else is propaganda.

And so to current developments in the UK. From 1979 until 1997 for those of us in critical criminology the "real" enemy was pretty obvious. One thing that was never in doubt with Thatcherism was its law and order agenda. The early years of the "authoritarian statism" – "authoritarian populism" debate among critical theorists (and at this time I was a young lecturer on Stuart Hall's Open University Crime and Social Justice team) was vital and engaging.

It all fell apart after the inner-city uprisings and during the 1984-85 coal dispute as the "left realists" attempted a "Third Way" to challenge the New Right. Bitter, acrimonious and unproductive, a second layer of disqualification or marginalisation was added. Critical theorists/campaigners found themselves not only excluded from the mainstream, but from the liberal, "new times" and post-modern agendas. Sometimes it felt as though the sting of the latter categories hurt more than that of the mainstream. For example, in a review of our article (Kathryn and myself), "The Theoretical and Political Priorities of Critical Criminology," one aspiring left/liberal realist confessed to having read nothing so "idealist" and "politically naïve" since the 1970s. Our (Joe Sim, Paula Skidmore and myself) "view from inside" book, *Prisons Under Protest* was rubbished by another reviewer for its lack of rigor in accessing prisoners' accounts (many had been smuggled out of

the equivalent of a Super Max institution!).

And so to the current situation. The Blair administration, having rejected slogans such as "Prison Works," has embraced the reactionary criminal justice agenda of its predecessor. "Tough on crime, tough on the causes of crime" has become the inscription around the new authoritarian mantle. "Zero tolerance" was stolen for headline purposes with Bratton as the new police role model. In fact, curiously, the real opposition has come from some of the more liberal police chiefs! The 1998 Crime and Disorder Act, together with a whole raft of other legislation, has consolidated rather than challenged the authoritarian agenda. Imprisonment is spiraling out of control, more 10-14 year olds are being placed in secure custody, civil injunctions are initiated by local authorities as well as the police against "anti-social behavior" etc., and a climate of intolerance has been whipped up by a media fed by the sound-bytes of politicians.

What is of real concern regarding research and publication is the extent to which previously critical, certainly liberal, theorists and campaign organizations have become incorporated into the New Labour agenda on crime, crime control and net-widening. Voluntary sector organizations, and their researchers, which previously resisted New Right initiatives, and were the vehicles for disseminating "knowledges" of resistance, now often work with the Government on crime prevention strategies of dubious political origin and motive. Their briefing papers and alternative voices have been voluntarily sacrificed to secure often-lucrative contracts from crime surveys, audits, strategy consultancies, and community interventionist programs.

University departments, severely assessed every five years by a Research Assessment Exercise which sets central government research funding for the next five years based on the ascribed status of publications and on the receipt of external funding, are desperate to secure contracts. Academics compete with each other to give keynote papers at prestigious conferences, to have their research published in the "stellar" journals and to win ESRC awards. It is a world of collusion and compromise, of horse-trading and back-scratching, and/or exchanging favors and poaching staff. If you opt out, your central funding dries up; if you opt in, you cannot retain a critical agenda. And "critical tracks" at the British Sociology Association or British Criminology Conferences are sops, presenting the new mainstream as a broad church. In reality, these conferences are no more than mirror images of the old core-periphery relationship.

Within the present climate, all central

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1 government departments and key voluntary agencies
 2 dealing with home affairs, social services, education,
 3 health and welfare have embraced new managerialism.
 4 Part of that embrace is adopting “evidence-based”
 5 research, which invariably means a revival of number
 6 crunching, schematic and instrumental positivism.
 7 “Research” is a blemished word in these corridors, with
 8 “evaluation” as a metaphor for self-justificatory and
 9 funding-related quantitative results. The bottom line is
 10 that the Government wants proof that its strategies are
 11 working. The projects are short-term, the evaluations are
 12 time-restricted (usually 3-6 months) and survival (for
 practitioners and researchers) depends on positive
 outcomes. Few academic departments have refused the
 lure of lucrative contracts . . . and we are talking millions
 of dollars here.

I guess what I am saying is that if critical
 criminology is to challenge mainstream work, we need to
 unpack the broader context in which knowledge is
 legitimated and reproduced. It seems to me that what is
 evident in the UK - and I would extend this to the
 European states - is the diminution and dilution of critical
 analysis, a solidifying of hierarchies of knowledge, and a
 refining of the “techniques of neutralization” with which
 we are well acquainted. The means through which we
 resist, organize and collaborate, it seems to my
 colleagues and me here, are vital to establish.

Phil Scraton Ph.D., Director
 Centre for Studies in Crime and Social Justice
 Edge Hill University College

***** Notice *****

As most of you probably know, we are in the
 process of forming a Critical Criminology
 section of ACJS. The first meeting will be
 at the upcoming ACJS conference in
 Washington, D.C. Officers will be elected at
 that time. The meeting will be held on
 Friday from 2:00 to 3:30 p.m. in the
 Tavern. All interested parties are encouraged
 to attend.

***** THE 2001 ASC ELECTIONS *****

Meda Chesney-Lind, former Vice President of the ASC and recipient of the Significant Achievement Award from the Division on Critical Criminology, is one of two candidates for ASC president in the upcoming elections. Recent ASC elections have sometimes been decided by just a few votes. If critical criminology is to have a strong voice at the presidential level within the ASC as a whole, it is of crucial importance that Meda's supporters vote when ballots are distributed in April of this year. We are delighted to have the opportunity to vote for Meda in the upcoming ASC elections and hope all members of the critical criminology division will join us in this support.

Sincerely,

NICOLE RAFTER

JIM MESSERSCHMIDT



Beyond Discontent

Frank Butler

1 In their article titled “A Question of Method and
2 Meaning” (*The Critical Criminologist*, 11(1): 4-7
3 [November 2000]), Lynch and the Schwendingers
4 describe many of the major issues underlying the virtual
5 exclusion of critical scholarship from criminology
6 journals that are deemed prestigious in the field. In spite
7 of their comprehensive elucidation of the problem,
8 however, the authors stop short of suggesting strategies
9 for meaningful change. In that respect, the article tends
10 toward fulfillment of the common faulting of critical
11 criminologists as those who complain for the sake of
12 complaining.

Lynch and the Schwendingers are courageous enough to begin to tackle the absurdity that predominates in mainstream publications, e.g., they allude to “articles [which] by and large operate in the service of an abstract empiricism—the endless reproduction of long known but now-a-days trivial findings that takes the place of genuinely new discoveries and innovative theories and methods for studying the causes, characteristics and control of crime.” They properly note that articles are “overwhelmingly restricted to individual treatment or control strategies or technocratically oriented theories like social control and strain.” Such articles, they might have added, are the grist of politically acceptable advancement within the academy, though they have little if any application to real life. The pressing social issues that are involved in justice and crime and that profoundly affect the lives of millions of persons remain strictly at the margins of mainstream criminology.

Criminology, the premier journal of the criminologic mainstream, is a core source of elitism within the academy. If—as Lynch and the Schwendingers assert—*Criminology* is “being produced by the witting or unwitting repression of significant contributions to science or social policy,” then members of the Critical Criminology Division (CCD) are complicit in such oppression. Rather than docilely accepting consignment to the second-class status of publishing primarily on the internet, critical criminologists should challenge ASC leadership directly regarding the issue of exclusivity. For example, why should a portion of the dues of all CCD members be used to fund *Criminology* but not to comparably fund *The Critical Criminologist*? Why should CCD members not have the choice of having

their dues fund the journal that at least attempts to address major social issues? ASC dues should fund either journal, at the option of each ASC member; those members who wish to subscribe to both journals can pay an added fee for the second journal.

The timidity of the CCD on the issue of funding for a critical journal within ASC appears symptomatic of a larger phenomenon within the CCD. The sense of struggle, protest, and reform that theoretically energizes critical criminology appears in fact to have largely evaporated. One recent publication which made this apparent was a memo (dated April 17, 2000) from the Crime, Law and Deviance Section of the American Sociological Association (ASA). The memo is an insightful critique of many of the current ills of criminology as a discipline. The authors—who ironically do not have reputations as predominantly critical criminologists—fault contemporary criminologic discourse for its isolation from other disciplines. Additionally, they decry criminology’s “increasingly inward focus on its own social reproduction;” they expose criminology’s loss of “creative integrity” as a result of “extramural funding” of research, largely by the State; and they challenge criminology to a new appreciation for diversity, multi-disciplinary frameworks, and a “renewed focus on intellectual ideas,” rather than merely on disciplinary credentials and status. It would appear that the ASA is much more scholastically “critical” of criminology than is the CCD.

It is profoundly ironic that such fundamental criticism does not seem to be coming from the CCD. Has the CCD become so co-opted into mainstream ASC that it is merely another part of the academic branch of the crime control industry? Should not the CCD be formulating statements like the ASA’s, or at least formally endorsing them? It is disillusioning to see the reality of how the great intellectual potentials of criminology have been largely transmogrified into a State-supported, theoretically-starved discipline commonly called “criminal justice” that is overwhelmingly concerned with “criminal” and little concerned with “justice.” I had hoped that one function of the CCD was to dare to proclaim the folly of the emperor’s new clothes, but it appears that other organizations completely outside ASC are the ones who dare to take up the challenge.

Frank Butler

Assistant Professor

AMERICAN SOCIETY OF CRIMINOLOGY

Annual Meeting 2001
Atlanta, Georgia
November 7-10
Atlanta Marriott Marquis Hotel

THEME: CRIMINOLOGY, JUSTICE, AND PUBLIC POLICY IN THE TWENTY-FIRST CENTURY

The 2001 Annual Meeting of the American Society of Criminology will be held at the Atlanta Marriott Marquis Hotel from Wednesday, November 7 through Saturday, November 10. The 2001 Program consists of six AREAS: 1) Theoretical Explanations and Perspectives, 2) Research Methods, 3) The Criminal Justice System and Social Control, 4) Law Making and Public Policy, 5) Criminality and Deviance and 6) Characteristics and Correlates of Victims and Offenders. Each AREA includes specific DIVISIONS within which we invite the submission of panels and papers. For more information visit the ASC web site at www.acc41.com.

Position Announcement

Northeastern Illinois University. The Department of Criminal Justice, Sociology, Social Work and Women's Studies invites applications for Coordinator of Latin American/Caribbean Studies Program. Appointment will be in Criminal Justice, which has a strong social justice/critical criminology orientation. We seek a dynamic and culturally sensitive teacher who is committed to student advocacy and social justice, who can work collaboratively and imaginatively to build an interdisciplinary program in Latin American/Caribbean Studies and US Latino Studies. Responsibilities include teaching cross-listed courses and coordination of an interdisciplinary Latin American/Caribbean Studies program. Ph.D. in sociology or related social science preferred. Commitment to community involvement in teaching and research is a plus. NEIU is an urban commuter campus with 10,800 students in Chicago, dedicated to access, diversity, and excellence. The most ethnically diverse university in the Midwest, it was recently federally designated an Hispanic serving institution. Review of applications begins immediately and will continue until position is filled. Appointment begins August, 2001. Applicants should send a letter of interest, curriculum vitae, a statement of teaching philosophy, copies of transcripts, and three letters of reference (at least one addressing leadership and teaching effectiveness) to: Kingsley Clarke, Chair, Search Committee, Criminal Justice Department, Northeastern Illinois University, 5500 N. St. Louis Ave. Chicago, IL 60625. NEIU is an affirmative action/equal opportunity employer. Minorities and women are encouraged to apply.



Call for Manuscripts

Peter Lang Publishing, Inc. seeks book manuscripts and proposals for its series *Studies in Crime and Punishment*.

Series Editors: Gregg Barak, Eastern Michigan University; Christina DeJong, Michigan State University; David Schultz., Hamline University.

Studies in Crime and Punishment is a multidisciplinary series that publishes scholarly and teaching materials from a wide range of theoretical and methodological perspectives and explores crime and punishment issues from a single nation or comparative perspective. Subject areas to be addressed in this series include, but will not be limited to: criminology, sentencing and incarceration, policing, law and the courts, juvenile crime, alternative sentencing methods and restorative justice, criminological research methods, victimology, and media, crime and justice.

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Call for Nominations

The Division on Critical Criminology is calling for nominations for the following positions:

Chair (2 year term)

Vice Chair (1 year term)

Secretary/Treasurer (2 year term)

Executive Counselors ("members at large") 3 to be elected. Candidate with most votes serves a two-year term, remaining two serve a one-year term.

Please send your nominations to Shahid Alvi, Chair, Nominations Committee by email to salvi@stthomas.edu by May 31, 2001.

Call for Papers *Critical Criminology*

This open call requests quality manuscripts pertaining to critical criminology in all its manifestations, including critical legal studies and social justice issues. We welcome qualitative and quantitative methodologies, including non-traditional approaches to data gathering and analysis. Papers should expose and oppose forms of domination that include class, gender, race/ethnicity and sexual orientation—especially their intersecting and interlocking nature. We encourage works that focus on creative and cooperative solutions to justice problems, plus strategies for the construction of a more inclusive society.

Papers should be 4,000 to 6,000 words (including tables, illustrations, notes and references) and framed in a manner that would be of interest to an international audience. Book reviews are also welcome and shorter research notes (3,000 words) will be considered for publication. Please send 2 paper copies and 1 electronic copy (IBM compatible) to the appropriate editor listed below. Submissions not from North America or Europe are welcome and can be sent to any editor. All manuscripts are subject to peer review. For more information, see <http://www.paulsjusticepage.com/critical-crim-journal.htm>

Executive Editor: Jeffrey Walker, Department of Criminal Justice, University of Arkansas at Little Rock Little Rock, AR 72204-1099 <jtwalker@ualr.edu>

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If you would like to be added to our reviewer database, please email or send a letter to the appropriate editor. Be sure to include contact information, your areas of specialization and if there is a website/URL that contains more information about you.

Brian McLean will be putting together a special theme edition on Criminology, Empowerment, and Social Justice. Please contact Brain at <bdsprm@aol.com>



State Legitimacy and Political Crime:

Bush v. Gore

Rick A. Matthews

When the last issue of the Critical Criminologist came out in November, the 2000 U.S. Presidential Election had not yet been settled. To the surprise of many, the election was not settled until mid-December.

There has been much written about the election, most of it concerning the technical problems of either how votes were cast or how they were counted. While such commentary concerning procedural/technical issues is somewhat interesting in the sense that some small changes may occur before the next election, there have been far fewer commentaries on either the substance or symbolism of the 2000 election. My hope is that those criminologists concerned with varieties of state and political crime will turn their attention to what transpired in the 2000 election. I would further add that election crimes are an underdeveloped area within the broad field of criminology and critical criminology in particular. In this essay, then, I will first briefly address several issues relevant to the study of political crime in the 2000 election. Then, in more detail, I will turn my attention to the larger question of the nexus between state legitimacy, political crime and the judicial system.

The laundry list of alleged crimes that occurred during the 2000 election is daunting. Perhaps the most disturbing allegations concern the disenfranchisement of minority community members

in several Florida counties who were: (1) prohibited from voting through the use of police check points; (2) falsely told by poll workers that they had failed to register to vote; (3) subject to excessive police presence at some precincts; and (4) voting in precincts with disproportionately high numbers of faulty voting machines.

Related to these civil rights violations (which are currently being investigated by the U.S. Civil Rights Commission—CRC) is the issue of thousands of voters being purged from voter registration lists. These voters, falsely accused of being convicted felons, were purged from voter registration lists in 1999 after Database Technologies (DBT) supplied the Florida Division of Elections (DOE) with a list of “possible” matches found by comparing Florida’s Central Voter File (CVF) with various lists of persons ineligible to vote (e.g., felons). DBT has testified before the CRC that they were only contracted to supply DOE with a list of potential matches, and were not responsible for verifying them. Each supervisor of elections for the 67 counties in Florida was, as required by Florida law, to manually verify each potential match before removing them from the CVF. The end result of this process was that many voters were illegally removed from the CVF.

Still other voters were not allowed to vote after poll workers refused them clean ballots after making mistakes on their first. Florida Attorney General Bob Butterworth testified before the CRC that his office had received numerous complaints on election day about poll workers violating Florida law in not allowing up to three new ballots to be issued if mistakes were made by voters.

Despite the testimony by DBT officials, Jeb Bush testified before the CRC that he was not informed prior to the election of any potential problems. Bush claimed that he had limited powers over the election, and that ultimately responsibility fell on the shoulders of Secretary of State Katherine Harris and the election supervisors of the 67 Florida counties. Harris, in turn, testified that the head of Florida’s division of elections, Clay Roberts, was in charge of the day-to-day running of the state’s election procedures. The mantra by Florida officials throughout their testimony has been to deny responsibility, arguing either that each county “does what it wants,” or that, in the often used terminology of Harris during her testimony before the CRC, “someone else administers those issues.” As CRC chairwoman Mary Francis Berry has noted,

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however, it is clear that Florida election laws apply to the entire state, and elected officials should be better able to articulate their responsibilities, calling Harris' testimony in particular "laughable."

Of course, all of these problems emerged immediately after the election, all were quite serious, and all involved potential violations of either federal civil rights laws, Florida state laws, or human and political rights enshrined in international law. Yet somehow these issues were not at the fore of the public, political, or legal discourse after the election. Rather, discussions of various rules and procedures, archaic and abstract legal "what ifs" were the norm. And, when the U.S. Supreme Court was delivering the election to Bush, pundits and politicians alike spoke in words of relief about how thankful we should all be that the matter had been settled without reaching a "constitutional crisis."

Just what was at stake in *Bush v. Gore* and the election as a whole? Despite Nader's overstatement to the contrary, there were serious differences between Gore and Bush, some of which are now becoming painfully obvious (e.g., the appointment of John Ashcroft as Attorney General, Gale Norton's planned assault on the environment, proposed unabashedly pro capitalist tax cuts for the rich at the further expense of the poor, and the recent military attack against Iraq—a likely precursor to military expansion in general). At a much deeper and broader level, however, the election itself threatened to expose fundamental contradictions in the United States polity. The United States was not facing a "constitutional crisis," but rather a crisis of legitimacy: not only globally as the world's bastion of democracy, but also domestically in regard to its own failed ideals and overstated promises of equality.

Gore and the Democrats could not attack the Electoral College, because to do so would expose the fact that its very existence is due not to protecting the populations of "small" lesser populated states from the tyranny of larger densely populated states, but rather was the outcome of a process of negotiation to appease southern slave owners. Speaking to this very issue, James Madison noted in 1787 that "the real difference of interest lay, not between the large and

small, but between the northern and southern states. The institution of slavery and its consequences formed the line of discrimination" (cited in Irons, 1999:32). Further, to address the question of the Electoral College would be to raise the questions of whether the Constitution has, from inception, primarily served the class interests of the wealthy elite and whether the Electoral College is inherently undemocratic (Zinn, 1980).

So, even though Gore won the popular vote, he and other Democrats did not challenge the anachronistic nature of the Electoral College. Nor did they frame the election "irregularities" as matters of civil rights, social justice, or crimes. Because of this, any political crimes or injustices done during the 2000 election will be assessed long after the fact and without opportunity for a potentially just outcome: the determination of the true winner of the election. Rather, Gore and other Democrats—like their Republican counterparts—focused their attention on procedural issues and "the rule of law." Both parties publicly maintained and promoted the doctrine of legal positivism; that the judicial system was a neutral and autonomously closed system that could, once called upon, make a fair and impartial decision. To do otherwise, they would risk raising further questions of legitimacy—those of the judiciary.

While both parties were taking this public stance, their respective legal teams were, from a legal realist's perspective, probably "working the system." Attorneys for both Bush and Gore were likely well aware that their chances of victory would improve based on extralegal factors influencing the judge(s) to last rule on the matter. In the end, the Bush legal team held the ace in their pocket: the conservative majority of the U.S. Supreme Court.

Scalia and the other conservative justices grounded their opinion in what Rehg (1996:xxxii) has termed "bourgeois formal law" which "privileges individual freedom under the banner of minimal government, formal equality before the law, and legal certainty." The decision in *Bush v. Gore*, which stopped the manual recount and effectively handed the election to Bush, affirmed

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bourgeois formal law through the Equal Protection Amendment, its emphasis on procedure (the tight timeline for recounting) over substance (social justice), and the “problematic” nature of determining voter intent. However, as Habermas (1996:198) has noted, “in order to fulfill the socially integrative function of the legal order and the legitimacy claim of law, court rulings must satisfy simultaneously the *conditions of consistent decision making* and *rational acceptability* (italics in original).” It is questionable at best whether the decision in *Bush v. Gore* meets either of these criteria. In making this assertion one only need look to the Court’s recent conservative emphasis on “states’ rights,” and the dubious extension of equal protection to irregularities in *counting* votes, when the question should have been: *how and why were people’s rights to vote—many of whom belong to historically oppressed classes—violated in the first place?* This is likely why some like Romano (2001) have argued that if the average American understood as much about the legal system as they do sports, they would have not tolerated such a decision. In a biting critique of American culture he writes “most of the public is so distanced from the founding principles of the United States, and ignorant of judicial history, that it can no longer tell the difference, even within its own jock metaphors, between the ball game and the sport—call it democracy, or political life—in which the game takes place” (Romano, 2001:B18).

In the end, the conservative majority of the Supreme Court—to use a fitting sport’s metaphor—“took one for the team,” voting 5-4 in favor of Bush. They sacrificed a bit of judicial legitimacy to protect the legitimacy of the system of elections itself, and to render the potential consequences of alleged political crimes committed during the election moot. This was not lost on Justice John Paul Stevens who noted in his dissent opinion that “although we may never know with complete certainty the identity of the winner of this year’s presidential election, the identity of the loser is perfectly clear. It is the nation’s confidence in the judge as impartial guardian of the rule of law.”

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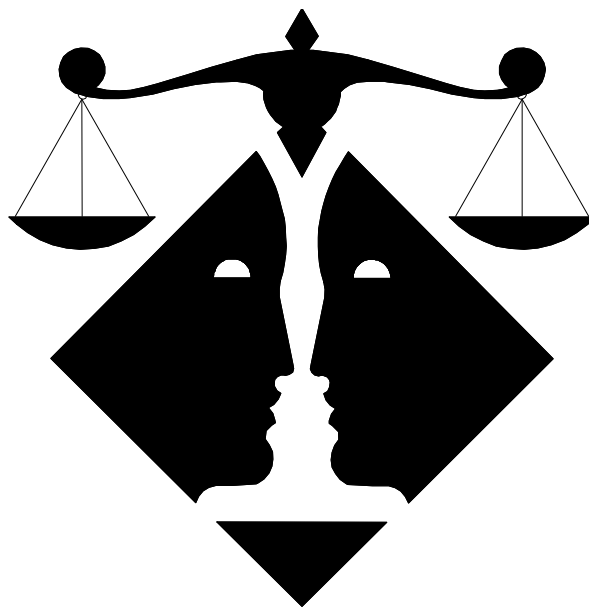
- thanks to Mike Maume and David Kauzlarich for comments on an earlier draft of this essay.

Cases Cited:

Bush v. Gore

References:

- Habermas, J. (1996). *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge, MA: MIT Press.
- Irons, P. (1999). *A People’s History of the Supreme Court*. New York: Viking.
- Rehg, W. (1996). Translator’s Note. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge, MA: MIT Press.
- Romano, C. (2001). The Supreme Court Fumbled on Democracy. *The Chronicle Review*. January 5: B17-B19.
- Zinn, H. (1980). *A People’s History of the United States*. New York: Harper & Row.



CALL FOR NOMINATIONS FOR THE DIVISION ON CRITICAL CRIMINOLOGY AWARDS

I. Major Achievement Award: Signifying singular contributions to the development of critical criminology, scholarship or pedagogy over time; or contributions of an exceptional recent accomplishment (major scholarship or something exceptionally innovative).

II. Critical Criminologist of the Year Award: Recognizing a scholar who has symbolized the spirit of the Division in some combination of scholarship, teaching, and/or service within the past year.

III. Student Paper Recognition: Recognizing graduate and undergraduate papers that best exemplify the spirit of the division.

Send three copies of nominating letters, with rationales and supporting documentation, to the Awards Chair by regular mail, or as an email attachment no later than September 1, 2001.

Jody Miller, DCC Awards Chair,
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8001 Natural Bridge Road
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MESSAGE FROM THE CHAIR

You're tired of hearing lengthy editorials from me. Just a couple of quick notes for this issue. We do have a series of initiatives around the web page, membership drives, and other things that you will shortly hear about. Self-nominations for people who want to become involved are needed badly.

First, please note elsewhere that we need nominations for various division offices for an election. Also, we now have a committee in place to accept nominations for our two regular member awards, and four student paper awards. Please self-nominate, nominate your friends, nominate your enemies, and support your students.

Second, at the Division business meeting in San Francisco the membership voted to support the appeal of Ed Sbarbaro at the University of Colorado at Colorado Springs. There is suspicion that Ed was let go because he is a critical criminologist, but the evidence is strong that various AAUP and University of Colorado procedures were not followed.

The Division, at the request of the membership, wrote a lengthy letter explaining this position to the Chancellor of the university, offering to be at help in any move to bring together nationally known and objective criminologists in the Colorado area in any hearing to examine the case. We have heard back from John C. Pierce, Vice Chancellor for Academic Affairs at the University of Colorado at Colorado Springs that he is confident that in giving notice of non-reappointment to a first year faculty member long after March 31 (see your own campus AAUP representative for information) that "the campus carefully followed all of the processes required by the University." The AAUP rule here is one of fundamental fairness, which is that jobs are so hard to get in this field that if you are going to fire someone you should do it while she or he still a chance of applying for another job. We pointed out that it can't do the university's reputation any good to violate AAUP standards.

See you all in Atlanta.

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Prison Activists: Together Let's Dismantle the Prison Industrial Complex

Mary Bosworth

Now that we face four years of Republican rule, it seems imperative to consider practical ways in which critical criminologists can make their voices heard. We will be muffled under Dubya, John Ashcroft and the rest. So it is time to shout louder. One way of making noise would be to get involved with prison activist organizations. There are more people than you might think who are currently working on the same types of issues that preoccupy us in our classrooms and in our research. Here are just a handful of them.

Prison activists seem to divide into three groups: those who try to target the war against drugs, those who seek to abolish the entire system, and those who offer support, counseling and advice to individuals who are already incarcerated. Each type of organization needs volunteers, cash and membership.

In the first group, there is FAMM and the November coalition. Families Against Minimum Sentences has been around since 1991 and currently has over 25,000 members. It is based in Washington, DC, and is very active in lobbying the government to change drug laws and to re-consider sentences of individuals sentenced for drug possession. The November coalition, which is made up of friends and families of individuals in prison for drugs, works on similar issues. They may both be contacted at the following web sites: www.famm.org and www.november.org.

Critical Resistance and No More Prisons fall into the second group, since they are concerned on a broader scale with abolishing prisons altogether. Critical Resistance, which was set up in 1997 is bi-coastal, operating out of San Francisco, New Haven, CT and New York City. They are holding a conference in New York from March 9--11, which will feature a range of academics, activists and former prisoners. More information can be found on their website at www.criticalresistance.org.

No More Prisons, which is based in New York City, was established in 1995 and is specifically targeted at a younger audience. The organization emerged from an initial project to put out a CD of hip hop music about prisons. Since 1995 it has expanded its focus to include programs of education in colleges and a nationwide fight against privatization. One of the main targets of this campaign, Sodhexxho-Marriot is a key food provider in

most universities. To see how you can get involved in any of their campaigns and set up groups of your own, go to their web site at www.nomoreprisons.org.

Finally, there are numerous organizations that work specifically to assist prisoners. Some, like the Women's Advocacy Ministry (WAM) in New York deal generally with women's needs. Others like Stop Prisoner Rape focus specifically on providing legal support and counseling for anyone sexually assaulted while in prison. The web site for the prison activist resource center at www.prisonactivist.org lists contacts for groups like these all over the country.

While it is undoubtedly hard to find time to get involved with grass-roots organizations while we are writing and delivering lectures, doing research, trying to get tenure and so on, 2001 may be the year to do it. Under the new regime of Republicans it is unlikely that any of the criminal justice problems that we know and abhor over-representation of minorities in prison, racial profiling, prison over-crowding, police violence etc. will improve.

They may well get worse. Now is the time to speak out against them, together.

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We need essays and other material for the Critical Criminologist. If you have something you would like in the newsletter, please send it to:

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