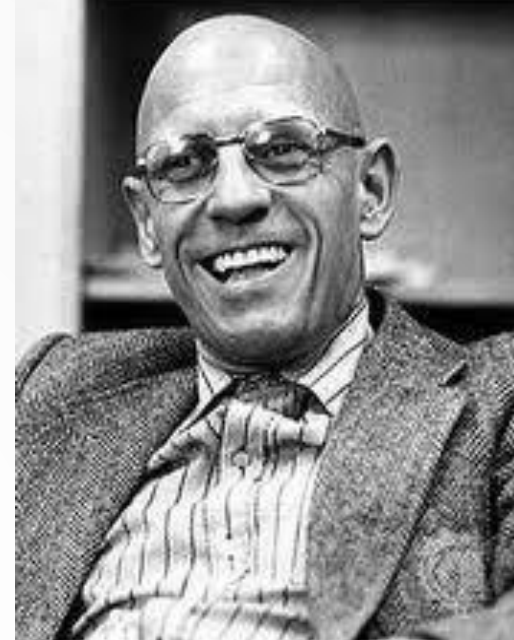


Zygmunt Bauman, 1925- 2017;



Michel Foucault (1926-1984)

Sociology; Crime and Punishment

1

Dr Liz Dean

Objectives:

2

- ***Sociology and criminology; brief sketch***
- ***Discipline and Punish; The Birth of the Prison (1979); Governmentality 1991 (1979)***
 - **how discourses create subjects by producing ideas of body; relation of power/knowledge**

becomes *both* practices of surveillance application and normalisation of forms of social order *and* practices of resistance (Foucault)
 - **brief: how sociological theory relates to criminology; interrelationship of order, disorder; knowledge and power, and governing risk and offenders**

Sociological theory; different emphases

3

- what do theories say about crime, order, disorder, and the relation between free will and structural constraints
- generally; concepts of social structure and agency to criminological theory;
- a) strives to understand what *causes* crime
- b) asks- why is crime defined the way it is?

do theories see crime as the pathology of order (outside of that norm) or is crime a product of disorder? (Emile Durkheim)

- theoretical analysis at the level of “macro”; groups, structure and “micro”; human activities
- i.e., Marxist criminology; emphasise economic structure;
 - uneven distribution of wealth and power; harm results from the disjunction between rich and poor;
 - crimes of the powerless (structure); need
 - crimes of the powerful (ambivalent); greed
 - solution; as policies are structural and support greed capitalism must change

Foucault Key Concerns;

4

- ***‘knowledge-power’; the emergence of disciplines, specialisation and experts***
 - **and institutional practices**
- **discourses *generate what* is known; *authorises* knowing subject (the expert) *and***
- ***categorizes* object known; for instance, how deviance, crime, criminal, punishment and social order is identified**
- **centrality of body; a target of ‘disciplinary power’**
 - ***produces* an idea of a body – (subjects behaviour) as knowable;**
 - **able to be manipulated and controlled**
 - **disciplines shape an interconnected “useful and intelligible body” and *politically compliant* subject**
 - **activate normalising principles and regulations to produces ‘uniform subjects’; governmentality**
 - **constitutes the bodies a particular economy requires; *useful***
 - **processes of subjection enacted through ‘our’ abilities to act** (Foucault, Discipline and Punish, 1979)

Early Punishment: Public Spectacle *Discipline and*

5 *Punish 1979*

- **visible inflictions on body**

acted as;

- **a coercive warning to public**

- **to reassert the power of the sovereign**

- **means of extracting truth**

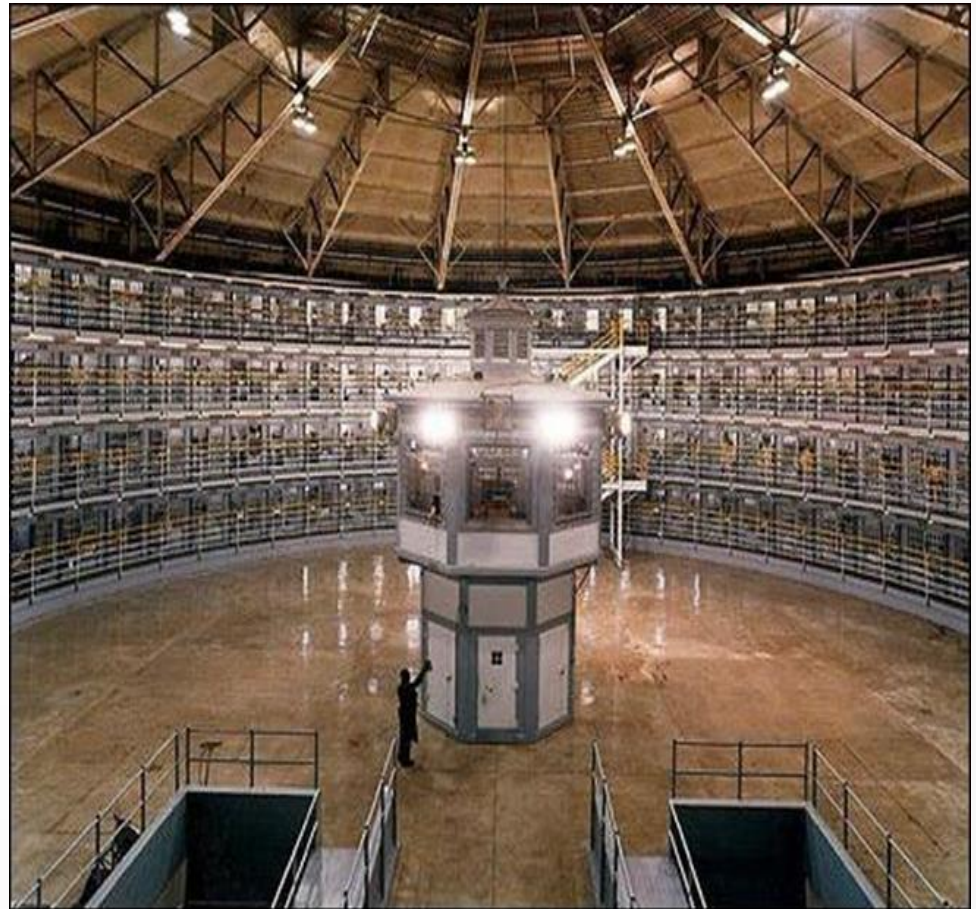
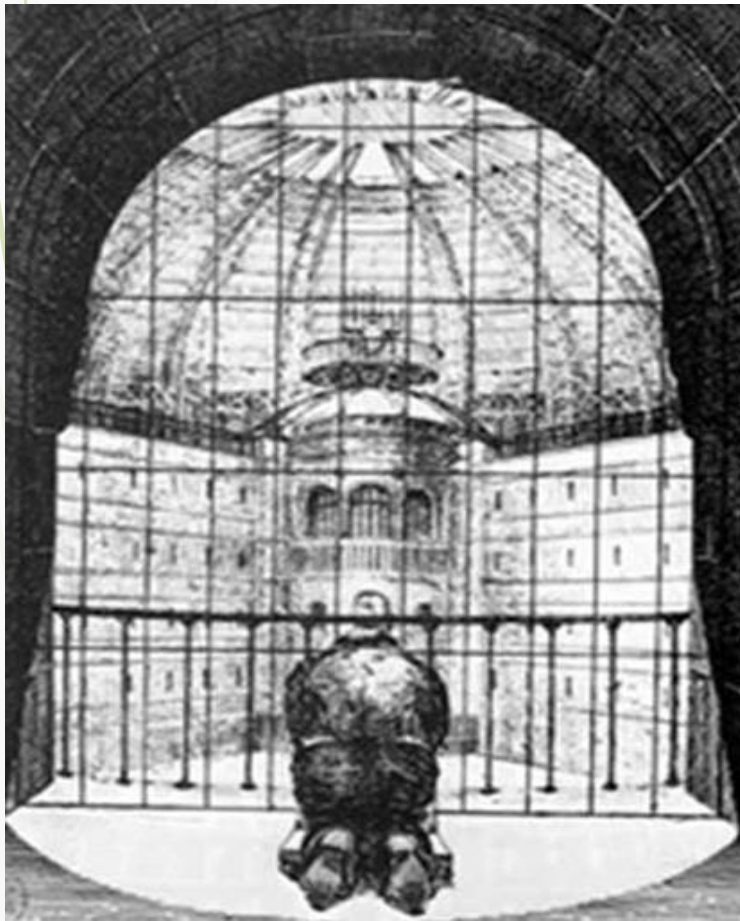
- **restore political – social order
and public good**



Emergence of Prison System

⁶
Jeremy Bentham's Prison; "Panopticon"

changes in punishment from visible control of criminal body to surveillance and bodily confinement



doug duBois & tim goldberg NYTimes 9-22-2002

Emergence of Prison System

7

shift from external gaze to practices of subjection; the operations of the 'gaze' in prison system

- extends control to potentially *all prisoners*
- greater control *over* subjects through bodily regulations; relates to temporal and spatial relations
- *codifies* bodies; through routines train - limit and value an efficient 'normal' body; create control over 'abnormal' "bodies"
- self-surveillance;
- individual subjects who come to *self-regulate* and monitor each other;
- who reproduce discipline- social order
- a notion of a private *self-reflecting individual* (self-conscious) emerges (Foucault 1979)
- reflect social and political desire for different types of bodies and imposition of social order (Foucault 1979, 1991; ; Bauman, Social Uses of Law and Order 2000)



How is reform productive?

9

normalises social order

- subjects subjected to practices of constraint over their body –actions; corrected through “invisible regulations” and discipline
- not simply docile passive body
- rather productive; *invested* with power;
- “invisible regulations” *produce* bodily activities; “conduct on conduct”
- people live and reproduce power relations
- devalue certain ‘noncompliant’ subjects; to exclude (imprison) also activates ‘interplay of normal abnormal’ through disciplines
- bio-politics moves away from notion of power as imposition (sovereign)
- reflects how *productive* aspects of power; *more insidious* than the repressive arenas of power (Foucault 1978, 1979)

**“Crimes of the powerful”;
“Crimes of the state;**

**-choice of social order and
norms;
constrain possible behaviour;
impose uniformity, regularity
and predictability**



2014-2016 NT Don Dale detention centre
<http://www.abc.net.au/4corners/stories/2016/07/25/4504895.htm>



- **“ a reflection of the model of order as it is projected on human conduct”** (Bauman 2000)
- **“privileges certain kinds of conduct as normal, against “abnormal”**
- **whose in and who becomes excluded from the social world;**
- **order as exclusions and norm creates idea of “self marginalization as choice** (Bauman

Docile and Useful Bodies

11

- ▶ **power-knowledge reaches every part of body**
 - ▶ inscriptions produce bodily constraints
 - ▶ responding to structural impositions , rules, regulation- governmentality, person implements and enacts governing forces
- ▶ **in everyday *bodily* practices of self-control social order is ‘lived’;**
(Foucault 1979)
 - ▶ human subject capacity to *respond installs* social and political constraints
 - ▶ *enables* specific conventions to reach all bodily activities; compliant to norms and order
- ▶ **what are the effects of governance for how we live?**
 - ▶ too much governance (meta data as surveillance; reports, rule and regulations to produce social order and manage risk) and too little?
 - ▶ social order as ‘getting tough’ on crime; mandatory detention and sharp increase in imprisonment of marginalised youth

“spaces of exclusion” (Foucault 1979)

12

for example,

Historical; “working houses for the poor” in Britain (Bauman 2000);

Contemporary; prisons; “housing” of the poor (Loic Waquant)

- Zygmunt Bauman; penalise poverty, lack of opportunity and displacement; i.e., homeless city dwellers; “longrashes”; youth
- becomes “an alternative to employment” (Bauman 2000)
- interplay of social disorder-noncompliant and imposition of order through time and space; regulations, rules, conformity (Foucault)
- “excluded; “unfit to be free agents”; denied freedom of movement and capacity to choose



The Lancet Medical Journal, July 1865

Governmentality

13

- ▶ new mode of governing societies; intersection of 'governing' and 'mentality'
- ▶ how 'we' come to conceptualise phenomena and events in society and human agency
- ▶ within criminology often associated with an emphasis on rationality
 - ▶ specifically, economic rationality that looks at crime as predictable and therefore manageable
 - ▶ crime managed through data; statistical analyses and experts
 - ▶ central focus on risk and risk management;
 - ▶ role of police as collectors of data- information- to enact security – prevent crime;
 - ▶ Governments NSA (Snowden) as population control
 - ▶ Criminal Justice System (CJS); "imagining" that "things" are governable (Pat O'Malley, 57)
- ▶ desire to know and control everything fails due largely to unimaginable growing complexities; beyond disciplining

2014–15 and 2015–16

14

Australian Bureau of Statistics

- **“Victoria offenders decreased by 3,163 offenders (or 4%)**
- **Offenders increased in:**
 - **New South Wales (by 3,905 offenders or 3%)**
 - **South Australia (by 2,254 offenders or 5%)**
 - **Western Australia (by 1,322 or 3%)**
 - **Northern Territory (by 279 offenders or 2%)**
 - **Queensland (by 245 offenders or 0.2%)**
 - **Australian Capital Territory (by 125 offenders or 5%)**
 - **Tasmania (by 49 offenders or 0.5%)**
- **New South Wales, Queensland and Victoria accounted for the majority of offenders proceeded against by police in 2015–16:**
 - **New South Wales 30% (128,397 offenders)**
 - **Queensland 24% (100,539 offenders)**
 - **Victoria 18% (77,770 offenders)”**

“new criminologists”; Left Realism Walklate (2014)

15

begins with New Left in England; critical of penalising and “correctional” mentality

(see Muncie 1998, Taylor, Walton and Young, 1974)

- **move away from idea that crime was objective; an identifiable pathological or due to problematic socialisation processes**
- **criminology moves beyond Marxism**
 - **rearticulate the role of agency within society; agency of institutions i.e., the police (their role;) and state agencies (i.e., prisons, correctional facilities, and CJS)**
 - **to varying degrees concerned with agency of the offender; causal relations; needs of working poor must be taken into account**
- **how disorder must be reformed from within institutions; CJS**
 - ***progressive* reform must be struggled for**
 - **not all crime springs from cause i.e., need; the reality of crime and how this may occur, causes, are to be considered**

New Right Criminology - Law and Order Politics

16

1980s-1990s; (re)articulate classical theory

➤ **central focus on:**

- a) agency of the offender and as such focus upon '*just deserts*'**
- b) punishment of offender as preventative; deterrent**

key aim;

- **society must 'discipline' wayward individuals: control theory**
- **social; lack of appropriate socialisation leads to crime**
- **can operate in law and order debates; "get tough" rhetoric; social policies**
 - **Victoria government parole changes in 2014 (see statement in LMS).**
- **August. 2016: Victorian Ombudsman Deborah Glass; "short term headline-grabbing" government policies on crime expensive and does not reduce crime or reoffending**
- **contributes to petty offenders becoming 'hardened' criminals**

Social Policies and Prison populations

17

- **US.1989 areas of urban decay and “War on Drugs” majority of prisoners are black between ages of 19 -35** (Loic Waquant)
- **“punitive management of urban inequality and marginality”**
- **“carceral system” not due to desire for increased effective management of deviance and crime but as a *threefold social response* to;**
 - a) **rise of precariat and underemployment**
 - b) **social policy retreats; little assistance to vulnerable persons and groups**
 - c) **“crisis of the ghetto as an instrument of control and confinement of a stigmatised population [...seen] as unassimilable to the national body”** (Waquant)

state as agent has choice and as such choices to promote and generate anxiety and fears (Bauman 2000)

18
relates to technologies part of contemporary society governing
modes; surveillance, and statistical calculations

- “getting tough on crime”;
 - surveillance as reasserting social order or a “specific kind of order”; rarely “catching corporate crime” (Bauman 2000)
 - capturing risk; preventative and idea of managing uncertainty
 - increasing prison populations as mode of *prevention*; ‘site of exclusion’; no longer to create useful body, rather negate threat
- “making communities safe”

Governmentality; Risk and Surveillance

19 **“risk”** a central technology for governing modern societies (e.g. CJS; parole board, psychiatric assessments, case-management)

- ▶ **individual particularities are overlooked and begin to measure only some indicators** (as ‘risk factors’); who is an offender – who reoffends *not causes* (O’Malley and Bauman 2000)
 - ▶ **normalise, produce and manage expectations around safety, order, fear and the reality of who is *at risk* and who offends** (Walklate 2014)
 - ▶ **can neither fully contain, nor determine future offending;**
 - ▶ **i.e., punishment as preventative; data collections as fully predictive**
- ▶ **acts around the construction of a social problem;**
- ▶ **“getting tough” policies as moral panics; “exaggeration and distortion” prediction and symbolization” ; “folk devils”**
- ▶ **overlooks ‘crimes of the powerful’** i.e., GFC; Panama Papers and so on

“Black Deaths in Custody” Report, 2016; 25 years on



20

- 1983 WA. John Pat; 30 yrs., later 2013 apology
- 1987-1991: 339 recommendations;
1; decriminalise minor offences never implemented
- increases in incarceration and police custody since the royal commission
- 1991: 14% of prisoners to 27% in 2016
- 2013–14 WA: First Nations’ Australians youth 78.3% of detained youth
- due in part to mandatory detention; “three strikes and your out”;
- WA 2014: ‘3 strikes’ extended to Home Burglary and Other Offences Bill 2014
 - how order created socially imposes constraints on some people over others
 - impacts for CJS; judges bound to a specific sentencing regime
- since the recommendations were handed down there has been around 400 black deaths in custody

➤ **Sociological Theory of Foucault (and Bauman)**

21 considers how individuals are disciplined to act in particular ways; to conform and self regulate

- **power as multiple not top down**
- **within criminology often associated with an emphasis on rationality;**
- **how crime is managed through statistical analyses, experts and forms of surveillance**
- **a focus on risk and risk management has arisen within the Criminal Justice System; main role of police as collectors of data- information- to enact security – prevent crime**
 - **in particular an economic rationality that looks at crime as predictable and therefore manageable**

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