

Criminals and Personal Responsibility: A Cognitive View of Choice

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"Misery made me a fiend. Make me happy and I shall again be virtuous."

Mary Shelley, Frankenstein

"These children that come at you with knives, they are your children. You taught them...I am only what lives inside each and every one of you. My father is your system...I am only what you made me."

Charles Manson

In November 1970, four months into his trial on multiple murder charges, Charles Manson taunted the court by saying that he was nothing more than a product of society, an instrument of the system, a lump of clay molded by others and thus, not responsible for his actions (Justman, 1997). Despite the reality of his unhappy and abusive childhood, few people would be inclined to exonerate Manson for the heinous crimes he committed. However, due to the attempts to understand criminal behavior, the status of the criminal has shifted from offender to victim and it is society that stands trial. Social conditions such as bad neighborhoods, poor parenting, the media, education, drugs, and poverty are believed to be the causes of crime while the criminal is simply seen as the tool. The result of this is a lack of personal responsibility and lost opportunities for criminals to make choices in a new direction toward responsible lives.

Criminal law has two major goals: affirmation of the ethical absolutes of society and the reduction of the number of criminal acts within society. In order to accomplish these objectives, criminal law "casts out, condemns, and punishes the offender" (Sachar, 1963, p. 40). The philosophy underlying this approach considers each person to be operating on free will with the ability to choose between the paths of right and wrong. Our criminal code is founded on the idea of rational choices made by individuals free to do good or evil. In almost all criminal cases, the prosecution must prove that the accused "committed, intended to commit, and could have refrained from committing the criminal act" (Wilson & Herrnstein, 1985, p. 504). The recurrent theme for the concept of personal responsibility and for the appropriateness of punishment is that behavior is freely and intentionally engaged in.

For the purposes of the law (as well as the scope of this paper), behavior is considered "free" if not subject to excusing conditions such as legal insanity, duress, provocation, entrapment, mistake, and accident. In 1972, *U.S. v. Brawner*, a leading United States court reaffirmed the proposition that "our jurisprudence" while not oblivious to deterministic components, ultimately rests on a premise of freedom of will. (Monahan & Hood, 1976). The hypothesis proposed is that people, when faced with a choice, choose the preferred course of action, meaning that a person will do that thing the consequences of which are perceived by him or her to be preferable to the consequences of doing something

else. Simply stated, criminals choose to commit crimes. There is empirical evidence that choice is involved in criminal behavior. Studies have shown that in non-violent crimes, the situation plays a major role in the individual's decision of whether to act on the basis of the benefits to be gained, the probability of getting caught, and the costs involved if the criminal act is discovered (Kierulff, 1988).

Criminality has long been thought to be a symptom of deep-rooted psychological or sociological problems. Samenow (1984) states that this is a grave misconception that will ultimately damage society. Criminals behave how they do because they "think differently" than non-criminals (p. 23). White and Walters (1989) define criminals as "someone who exhibits objective, observable characteristics of a criminal lifestyle" (p. 257). This criminal lifestyle is composed of four distinct, yet interrelated, behavioral characteristics: irresponsibility, self-indulgence, interpersonal intrusiveness, and a pattern of social rule breaking. Irresponsibility reflects a generalized unwillingness on the part of the criminal to be accountable for his behavior. He neglects his social and moral obligations to others. Self-indulgence reveals the criminal's lack of self-restraint and constant pursuit of pleasure. Interpersonal intrusiveness is often seen in violent crimes. The criminal ignores the rights, feelings, and personal space of others with no regard for the consequences of his actions. Finally, social rule breaking reflects a blatant disregard for societal norms.

The criminals who fulfill these four characteristics are the lifestyle criminals that researchers have been trying to understand for so many years. Social scientists have focused on factors such as poverty, illiteracy, and drug abuse as root causes of criminal behavior. However, by focusing on the impact of poor environmental conditions, society has ignored the criminal himself. Personal choice is a factor that has been practically eliminated as a possible explanation of criminal behavior. White and Walters have coined the term "disresponsibility" to describe the intellectual process in which a person's actions are attributed to factors other than the person himself (1989). The concept of disresponsibility enables criminals to use the excuses society has provided for them and justify their lifelong patterns of violating others.

Samenow (1984) refers to these excuses and fundamental misunderstandings as "myths" that people hold about criminal behavior and believes they are preventing progress from being made in an attempt to control and remediate criminal behavior. Walters and White (1988) conducted a study in which they asked university-based criminal justice experts, adults taking a community college psychology course, and criminal offenders incarcerated in a maximum security federal prison to describe their views on the causes of criminality. Even among these divergent groups, there was a fair amount of agreement as to what causes criminal behavior. Sociological explanations were the most popular, especially ones concerning family and social class variables. The authors contend, however, that most of the causal explanations given are "factually

inaccurate and based more on conjecture and myth than fact and objective data" (p. 19).

Researchers have claimed a possible genetic basis for criminality and antisocial behavior. As of 1987, Walters and White state that the relationship between crime and genetic influence is too small to be of practical significance and that there is no evidence to support the viability of the genetic approach to criminal behavior. Research being done in genetic behavior is often misinterpreted and misreported to the public. A study conducted that examined possible links between criminality and neurotransmitters became the subject of an article in *Popular Mechanics* entitled "Criminal Genes" and another piece called "The Search for a Murder Gene" was published in *Time* (Parens, 2004). Hare and other researchers have claimed neurological differences in criminals. While brain-imaging studies and electroencephalograms have shown structural and functional differences in the criminal population, the direction of this relationship is not known. It is just as logical to postulate that criminal behavior leads to neuropsychological changes as it is to postulate that neuropsychological differences lead to criminal behavior.

There are years of research that have established a strong link between alcohol and drug use and crime. Walters and White (1988) question whether there is a causal connection between these two variables. In a review of the persistence reports of 516 maximum-security inmates at the United States Penitentiary, Leavenworth, the authors discovered that 37% of the sample started using drugs or alcohol before they began engaging in criminal behavior. On the other hand, 55% of the sample had at least one recorded arrest before they began using chemical substances. In addition to these findings, it should be noted that drug use also constitutes a choice made by the individual and is thus, not an excuse for criminal behavior.

Psychological trauma and internal conflict are popular explanations for criminal behavior. Walters and White (1988) cite studies with Vietnam veterans suffering from post-traumatic stress disorder that show the majority of veterans have never encountered major legal difficulties. The family of origin has long been looked at as the root cause of criminal behavior. Factors such as early separation from one's parents, poor attachment or bonding, parental rejection, inconsistent discipline, and the presence of an unstable home environment have all been implicated in the development of later delinquency and criminality. Numerous studies have shown that large percentages of criminals come from disrupted homes. However, other researchers have stated that the broken home is not as important as the turmoil and conflict within the home. Parental discipline and abuse have also been implicated as causes of criminality. Walters and White argue that most of the research done in this field has been done almost exclusively with delinquents and that the correlation between juvenile delinquency and adult criminality is not as strong as people think. They also cite studies finding 90% of the criminals to be the only member of the family with a

criminal record. Thus, if the parenting and socialization process were causes of criminal behavior, this would be evident in a significant number of siblings as well.

Negative peer pressure is frequently blamed for criminal behavior but criminals choose who they associate with and are more likely to choose associates who will get or have gotten into trouble with the law. The differential association theory of crime does not take this factor into account. Social class and poverty are often blamed for crime. However, data indicates that just as most poor people are not criminals, most criminals were not raised in impoverished home environments. The strain theory states that individuals turn to delinquency because they are unable to achieve their goals through legitimate channels of goal achievement. However, some individuals do not turn to delinquency because legitimate opportunities are unavailable. Rather, they turn to crime because it is seen as the most efficient means for goal achievement and personal satisfaction (Agnew, 1989). If criminals define criminal activity as positive, they are likely to pursue it and seek out situations in which criminal opportunities are available (Coleman, 1992). In Walters and White's study, only the experts in the sample endorsed the biopsychosocial model. The authors interpret this to mean that the biopsychosocial model is relevant as an intellectual model and has no testable, empirical status (1988).

Although criminals may be seen as victims of their upbringing, social surroundings, and heredity, they are not simply unwilling pawns of environment and genetics. Criminals exercise some degree of choice, they plan, they scheme, and they calculate risks. Heredity, drugs, psychological trauma, or social class and poverty do not cause crime. Criminals cause crime. Genetics and environment may limit our options but they do not determine our ultimate choices. Yochelson and Samenow suggest that a free will and individual responsibility position that focuses on changing the cognitive errors that are held to be the mainspring of criminal behavior (Kierulff, 1988). The process of disresponsibility is a conscious coping strategy that society uses as an attempt to find an answer to the problem of crime by laying responsibility on something other than the individual himself. Even if, speaking from the hard deterministic view, the criminal did not have a choice regarding the perpetration of the criminal act, he would be confronted with a choice by the psychotherapist or law enforcer that postulates that choice. By telling the criminal that he has a choice and is responsible for that choice, the criminal is placed in the position of having to consciously weigh the risks and benefits of taking a responsible path versus a criminal path. When we seek to blame the environment and genetics for criminal behavior, we take responsibility away from the criminal and thus, take away his choices. A lifestyle criminal chooses to commit crimes because he has developed a pattern of thinking which adds legitimacy to his irresponsible, self-indulgent, interpersonally intrusive, social rule breaking behavior (White & Walters, 1989). It is this pattern of thinking that needs to be focused on. It is time for people to take responsibility for their actions. It is only because we

believe that people are free to choose actions that we have such feelings as guilt, resentment, pride, and vengefulness. If we do not blame the criminal, the state cannot continue to punish without the risk of violating the demands of justice it claims to serve (Siegel, 1992). Did society create Charles Manson? Are criminals simply creatures of society's creation? If we adopt this attitude, then we abandon the idea of the self and that would be the greatest crime of all.

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