

Crime and Social Control as Fields of Qualitative Research in the Social Sciences

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Abstract: Crime and social control are fields of qualitative research in the social sciences, where behavior is not inherently deviant or criminal, but rather, deviance is a matter of interpretation and judgment. "Crime" is constructed and negotiated in social discourses and processes of social interaction in and with institutions of social control. Therefore only qualitative inquiries of "crime" make sense. This paper reports examples of qualitative studies (from ethnography, hermeneutical sociology of knowledge, ethnomethodology/conversation analysis, discourse analysis and narrative analysis) especially of deviant subcultures, reporting conflicts to the police, police inquiries and interrogations and criminal court procedures.

Table of Contents

- [1. Introduction](#)
- [2. Deviance and Everyday Life](#)
- [3. The Constitution of Crime in the Criminal Procedure](#)
 - [3.1 Police and reports](#)
 - [3.2 Public prosecution, court and execution of punishment](#)

[References](#)

[Author](#)

[Citation](#)

1. Introduction

As indicated in the title, this contribution is more concerned with the qualitative inquiry of specific objects and phenomena than with the qualitative research of an outlined discipline. Crime and the societal ways of dealing with deviance are phenomena that are studied by very different sciences: especially by sociology (of law and crime), psychology (of law), law, political science and cultural studies. Even though criminology is seen as an independent branch of knowledge in German-speaking countries—in comparison to the practice in many other European (especially English-speaking countries)—it is nevertheless nearly without an exception institutionalized as a subsidiary subject to law (criminal law) or sociology ("sociology of deviance and social control" or "sociology of social problems") and no genuine subject. [1]

If "crime" (deviance in the sense of criminal law) was to be fixed as a phenomenon to be analyzed by criminology, then science would depend on the definitions of criminal law and its procedures. The actions and phenomena that are categorized as "crime" have nothing in common except that they transgress valid criminal law. On one hand, "theft, murder, rape, fraud, prostitution, smuggle of weapons, falsification of documents, traveling without a ticket, consuming of drugs" etc. are connected with very different forms of interactions or "deeds".

Deviance, on the other hand, is not a quality of behavior but a matter of interpretation and judgment. There is a high variability in relation to the general contents of these evaluations and with regard to the application of an abstract norm to a concrete action. German criminologists, for example, would have to look at abortions as a criminal offense while Chinese criminologists would have to evaluate them as conform behavior¹. Seemingly identical ways of actions, the "k.o.-hit" with a fist for example, are interpreted according to the situational and social context, one time as a bodily harm the other time as a sport. [2]

Since "crime" is a matter of judgment, it is necessary that analysis is concerned with the interpretations and definitions of situations and actions. This analysis is not possible with quantitative methods. The inquiry of "crime" is inseparably tied to the analysis of social control through (mainly) criminal law and its institutionalized practices (police, public prosecution, court, prison etc.) of segmentation, typifying, classification and judgment. "Crime" is constituted through the definitions of situations that are negotiated between different parties (offender, victim, witness, policeman, judge etc.) in processes of social interaction. These definitions determine if an incident is noticed, if it is registered as a case, and if the case is classified as "criminal" on its way through the criminal justice institutions. Files, data and statistics of officially registered offenses do not represent the "reality of deviance". Instead, they are specific constructions of crime and documents/records of the judgmental and classification work done by the institutions of the criminal justice system. These aspects of "crime" are therefore adequately inquired only with the implementation of qualitative methods. On the whole, this perspective implies the transformation of criminology into sociology of criminal law. [3]

The following presentation of particular examples of qualitative criminological research (from different disciplines) is structured to uncover the different informal and formal processes of interpretation and interaction that constitute "crime". [4]

2. Deviance and Everyday Life

Studies that employ participant observation of deviant behavior or the biographical method in the research of (life-) stories of criminals, methods which are aimed at the reconstruction of the perspective from within the "Lebenswelt" of marginal social groups are seen as "criminological classics", for example the famous studies of the "Chicago School" (WHYTE 1955), JACKSON's study of thieves (1972), GERDES and WOLLFERSDORFF-EHLERT on consumers of drugs (1974) and POLSKY's work on cardsharps (1967). For recent ethnographic studies and works that are reconstructing the "Sinnwelt", see ADLER and ADLER (1998), BOURGOIS (1995), MAHER (1998), MURPHY and ROSENBAUM (1999) on drug dealers, TERTILT's study of a contemporary street gang (1996) and

1 In the Federal Republic of Germany, only a few independent university and non-university criminological research institutions (for example the Max-Planck-Institut für ausländisches und internationales Strafrecht, Kriminologisches Forschungsinstitut Niedersachsen e.V.) exist, but in education, the only independent course of study is institutionalized in the "Aufbaustudium Kriminologie" at the Universität Hamburg (four terms postgraduate program with a "Diplom") (JUNG 1990).

BOHNSACK et al. 1995 on hooligans. The (sub-) cultural studies of the "Center for Contemporary Cultural Studies (CCCS)" (summary in: BROMLEY, GÖTTLICH, & WINTER 1999) are also read in criminology, as well as GIRTLEER's ethnographic studies of different subcultures, for example smugglers (1992). CREMER-SCHÄFER (1995) studies autobiographies of offenders. [5]

Qualitative studies of crime are particularly important because they can show that what seems deviant can be rather normal and common. In criminological research the problem of moral judgment regarding the inquired field of action is a special one because these actions are genuinely defined by the label of deviance. Qualitative studies aim at understanding without condemnation of deviant phenomena. The studies contrast the "official" viewpoint of criminal law with the perspective from within and show unquestioned focusing on certain problems (for example see STEINERT & MORAWETZ-KARATZMAN 1993 on violence) or stigmatization. A problem with these studies is that they tend to look at "the bottom of society" and therefore concentrate on one specific form of "deviance". Inquiries in the "crimes of the powerful", like PILGRAM's interview-study with business persons in the field of organized crime, are rare. [6]

In order to understand "crime" as a social phenomenon, it is central that the reconstructions of everyday life (of "crimes of violence" for example) show how closely "deviant" patterns of behavior and the everyday-reproduction of social structures are tied together (for example "doing gender", "doing class", MEUSER 1999). Moreover, qualitative analyses of crime representations in the mass media underline the relevance of cultural patterns of interpretation for everyday and institutional constructions of "crime" (e.g. HALL et. al. 1978, ALTHOFF 1998; see STEHR 1998 on everyday moralizing with contemporary legends). [7]

3. The Constitution of Crime in the Criminal Procedure

3.1 Police and reports

Analyses of the processes of interaction and interpretation, through which social conflicts are transformed into criminal law cases and brought into the criminal justice system, show the existence of different realities of "crime" and their selective discovery procedures and registration. For example, the stories that HANAK et. al. (1989) collected show that by no means is every experienced incident which is in principle relevant to criminal law interpreted as "crime" and reported, but is instead dealt with in everyday life in very different ways. Studies on police-work are concentrated on everyday-theories of suspicion (see SKOLNICK 1966, FEEST & BLANKENBURG 1992, GIRTLEER 1980 on police patrolling) and on the "power of definition" of the police in the negotiations about the interpretation of the incident in question; DONK and SCHRÖER (1999) and REICHERTZ (1991) study police investigations and interrogations by hermeneutical methods in the context of sociology of knowledge, WATSON (1983, 1990) and WOWK (1984) do ethnomethodological studies on police interrogations. [8]

Irrespective of the theoretical perspective taken, these studies in general show the tremendous communicative work that has to be done in numerous interactions in order to transform a socially unspecific incident into a "case" that is relevant to criminal law. By no means is the police, as a kind of "interface" between criminal justice system and society, merely translating everyday incidents into the vocabulary of criminal law, nor is the police applying criminal law to "reality", rather reality is continuously being created. Studies relying on the labeling approach of "critical criminology" (AJK 1974) aim to answer "how" these construction processes develop, moreover they analyze their systematic selectivity and function in terms of the social status of the suspects, the "second code" (McNAUGHTON-SMITH 1975) of police rules in applying criminal law. [9]

3.2 Public prosecution, court and execution of punishment

The question about the "hidden grammar" of criminal law is also relevant in respect to the discretion of prosecutorial and judicial decisions. In recent years court studies seem to be declining. Therefore CICOUREL's (1968) study on American juvenile justice and studies on German juvenile justice by SOEFFNER and others (REICHERTZ 1984), which show a very asymmetrical relation of power between judges and the accused, are still important. More recent ethnomethodological-conversation analytical studies on (English, American, Dutch, German) criminal court procedures (see reviews in LÖSCHPER 1999, HESTER & EGLIN 1992)—for example on plea bargaining (MAYNARD 1984), on negotiations and defense strategies in court (KOMTER 1998, DREW 1990), and on negotiations of credibility (WOLFF & MÜLLER 1997)—sum up to an ethnomethodological sociology of (criminal) law (TRAVERS 1993). These analyses of the "in situ" production of order and construction of reality are continued and advanced by (social psychological, linguistic and law) studies that conceive criminal law and criminal court procedures as discourses or as narrations (see review in LÖSCHPER 1999, HOFFMANN 1989). They show how social structures in criminal court procedures are created and reproduced through discursive practices or narrative patterns. [10]

Participant observations and ethnographic studies of the public prosecution and the interaction between defense lawyer and client are still missing. The "subculture" of a youth prison is inquired by KERSTEN and WOLLFERSDORFF-EHLERT (1980). [11]

The relatively small number of qualitative studies compared to quantitative analyses of "crime" and social control could be explained by qualitative studies' serious problems of access, not only in respect to subcultures but particularly in respect to situations and places where domination is exercised. Evidence of selective criminalization, of stigmatization, and of an asymmetrical relation of power in criminal court procedures contradict the image and the criminal justice system's claim that equality before the law does exist. The criminal justice system does not seem to be pleased with this kind of reproach and refuses autonomous criminology to work towards technocratic goals in the criminal law system or in policy practice. Evidence for this can be found in reports of qualitative

researchers on restrictions and reprisals (MATHIESEN 1989, JUPP 1989, 157ff.). It should by now be obvious that without qualitative research on "crime", social control criminology or sociology of criminal law is senseless. [12]

References

- Adler, Patricia A. & Adler, Peter (1998). Großdealer und -schmuggler in Kalifornien. Karrieren zwischen Abweichung und Konformität. In Bettina Paul & Henning Schmidt-Semisch (Eds.), *Drogendealer. Ansichten eines verrufenen Gewerbes* (pp.148-166). Freiburg i.Br.: Lambertus.
- Arbeitskreis Junger Kriminologen—AJK (Ed.) (1974). *Kritische Kriminologie*. München: Juventa.
- Althoff, Martina (1998). *Die soziale Konstruktion von Fremdenfeindlichkeit*. Opladen und Wiesbaden: Westdeutscher Verlag.
- [Bohnsack, Ralf](#); Loos, Peter; Städtler, Klaus; Schäffer, Burkhard & Wild, Bodo (1995). *Die Suche nach Gemeinsamkeit und die Gewalt der Gruppe. Hooligans, Musikgruppen und andere Jugendlichen*. Opladen: Leske & Budrich 1995.
- Bourgois, Philippe (1995). *In Search of Respect: Selling Crack in El Barrio*. New York u. Cambridge: Cambridge University Press.
- Bromley, Roger; Göttlich, Udo & Winter, Carsten (Eds.) (1995). *Cultural Studies. Grundlagentexte zur Einführung*. Lüneburg: zu Klampen.
- Brusten, Manfred & Malinowski, Peter (1975). Die Vernehmungsmethoden der Polizei und ihre Funktion für die gesellschaftliche Verteilung des Etiketts "kriminell". In Manfred Brusten & Jürgen Hohmeier (Eds.), *Stigmatisierung. Zur Produktion gesellschaftlicher Randgruppen* (pp.57-112). Neuwied und Darmstadt: Luchterhand.
- Cicourel, Aaron V. (1968). *The Social Organization of Juvenile Justice*. New York: Wiley.
- Cremer-Schäfer, Helga (1985). *Biographie und Interaktion*. München: Profil.
- Donk, Ute & Schröer, Norbert (1999). Kommunikationsprobleme in Vernehmungen mit ausländischen Beschuldigten. *Monatsschrift für Kriminologie und Strafrechtsreform*, Sonderheft 1999, 73-81.
- Drew, Paul (1990). Strategies of the Contest between Lawyer and Witness in Cross-Examination. In Judith N. Levi & Anne G. Walker (Eds.), *Language in the Judicial Process* (pp.39-64). New York: Plenum Press.
- Feest, Johannes & Blankenburg, Erhard (1972). *Die Definitionsmacht der Polizei*. Düsseldorf: Bertelsmann.
- Gerdas, Klaus & Wolffersdorff-Ehlert, Christian von (1974). *Drogenszene. Suche nach Gegenwart*. Stuttgart: Enke.
- [Girtler, Roland](#) (1980). *Polizei-Alltag. Strategien, Ziele und Strukturen polizeilichen Handelns*. Opladen: Westdeutscher Verlag.
- Girtler, Roland (1992). *Schmuggler—von Grenzen und ihren Überwindern*. Linz: Veritas.
- Hall, Stuart; Critcher, Chas; Jefferson, Tony; Clarke, John & Roberts, Brian (1978). *Policing the Crisis. Mugging, the State, and Law and Order*. Houndmills u. London: Macmillan.
- Hanak, Gerhard; Stehr, Johannes & Steinert, Heinz (1989). *Ärgernisse und Lebenskatastrophen. Über den alltäglichen Umgang mit Kriminalität*. Bielefeld: AJZ-Verlag.
- Hester, Stephen & Eglin, Peter (1992). *A Sociology of Crime*. London u. New York: Routledge.
- Hoffmann, Ludger (1989). *Rechtsdiskurse. Untersuchungen zur Kommunikation in Gerichtsverfahren*. Tübingen: Gunter Narr Verlag.
- Jackson, B. (1972). *Outside the Law. A Thief's Primer*. New Brunswick: Transaction Books.
- Jung, Heike (1990). L'enseignement de la Criminologie en RFA. In Antonio Beristain & José L. de la Cuesta (Eds.), *La enseñanza universitaria de la Criminología en el mundo de hoy* (pp.217-230). San Sebastian.
- Jupp, Victor (1989). *Methods of Criminological Research*. London u.a.: Unwin Hyman.
- Kersten, Joachim & Wolffersdorff-Ehlert, Christian von (1980). *Jugendstrafe. Innenansichten aus dem Knast*. Frankfurt/M: Fischer.

- Komter, Martha L. (1998). *Dilemmas in the Courtroom: A Study of Trials of Violent Crime in the Netherlands*. Mahwah, NJ: Earlbaum.
- Löschper, Gabriele (1999). *Bausteine für eine psychologische Theorie richterlichen Urteilens*. Baden-Baden: Nomos.
- Maher, L. (1998). *Sexed Work. Gender, Race and Resistance in a Brooklyn Drug Market*. New York u. Oxford: Claredon Press.
- Mathiesen, Thomas (1989). On Dangerous Research. The Fate of a Study of the Police in Norway. In Peter-Alexis Albrecht & Otto Backes (Eds.), *Crime Prevention and Intervention. Legal and Ethical Problems* (pp.273-286). Berlin u. New York: de Gruyter.
- Maynard, Douglas W. (1984). *Inside Plea Bargaining. The Language of Negotiation*. New York u. London: Plenum Press.
- McNaughton-Smith, Peter (1975). Der zweite Code. Auf dem Wege zu einer (oder hinweg von einer) empirisch begründeten Theorie über Verbrechen und Kriminalität. In Klaus Lüderssen & Fritz Sack (Eds.), *Seminar: Abweichendes Verhalten II. Die gesellschaftliche Reaktion auf Kriminalität 1* (pp.197-212). Frankfurt/M: Suhrkamp (Original 1968).
- Meuser, Michael (1999). Gewalt, hegemoniale Männlichkeit und "doing masculinity". In [Gabi Löschper](#) & Gerlinda Smaus (Eds.), *Das Patriarchat und die Kriminologie, 7. Beiheft des Kriminologischen Journals* (pp.49-65). Weinheim: Juventa.
- Murphy, Sheigla & Rosenbaum, Marsha (1999). *Pregnant Women on Drugs: Combating Stereotypes and Stigma*. New Brunswick: Rutgers University Press.
- Pilgram, Arno (in Vorb.). Polizei und Unternehmer über "Organisierte Kriminalität" in Rußland—De/ Konstruktion im Vergleich. Unveröff. Manuskript 1998, erscheint in Martina Althoff, Helga Cremer-Schäfer, Gabi Löschper, Herbert Reinke & Gerlinda Smaus (Eds.), *Integration und Ausschluß*. Baden-Baden: Nomos.
- Polsky, Ned (1967). *Hustlers, Beats, and Others*. Chicago: Aldine.
- [Reichertz, Jo](#) (Ed.) (1984). *Sozialwissenschaftliche Analysen jugendgerichtlicher Interaktion*. Tübingen: Stauffenberg.
- Reichertz, Jo (1991). *Aufklärungsarbeit. Kriminalpolizisten und Feldforscher bei der Arbeit*. Stuttgart: Enke.
- Schröder, Norbert (1992). *Der Kampf um Dominanz. Hermeneutische Fallanalyse einer polizeilichen Beschuldigtenvernehmung*. Berlin u. New York: de Gruyter.
- Skolnick, Jerome H. (1966). *Justice without Trial*. New York: Wiley.
- Stehr, Johannes (1998). *Sagenhafter Alltag. Über die private Aneignung herrschender Moral*. Frankfurt/M u. New York: Campus.
- Steinert, Heinz & Karazman-Morawetz, Inge (1993). Gewalterfahrungen Jugendlicher. In Hans-Uwe Otto & Roland Merten (Eds.), *Rechtsradikale Gewalt im vereinten Deutschland. Jugend im gesellschaftlichen Umbruch* (pp.147-156). Opladen: Leske & Budrich.
- Tertilt, Hermann (1996). *Turkish Power Boys. Ethnographie einer Jugendbande*. Frankfurt/M: Suhrkamp.
- Travers, Max (1993). *Putting Sociology Back into the Sociology of Law. Journal of Law and Society* 20 (4), 438-451.
- Watson, D. Rodney (1983). The Presentation of Victim and Motive in Discourse: The Case of Police Interrogations and Interviews. *Victimology: An International Journal* 8 (1-2), 31-52.
- Watson, D. Rodney (1990). Some Features of the Elicitation of Confessions in Murder Interrogations. In George Psathas (Ed.), *Interaction Competence, Studies in Ethnomethodology and Conversation Analysis 1* (pp.263-295). Washington D.C.
- Wolff, Stephan & Müller, Hermann (1997). *Kompetente Skepsis*. Wiesbaden: Westdeutscher Verlag.
- Wowk, Maria T. (1984). Blame Allocation, Sex and Gender in a Murder Interrogation. *Women's Studies International Forum* 7 (1), 75-82.
- Whyte, William F. (1993). *Street Corner Society: The Social Structure of an Italian Slum*. Chicago: University of Chicago Press (Original 1943).

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