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Abstract: On Tuesday, April 5, 1994, in downtown Toronto, a 23-year-old woman named Georgina Leimonis was shot and killed in a café known as “Just Desserts.” The fear surrounding the incident was bound up from the beginning with concerns about a peculiar category of person—the “Jamaican criminal”—because the suspect sought by police in connection with the killing, and later convicted and imprisoned for it, had immigrated to Canada from Jamaica during his early childhood. This article discusses the construction of the Jamaican criminal in the English language press through the lens of Michael Foucault’s concept of critical ontology.

Résumé : Le mardi 5 avril 1994, au centre-ville de Toronto, une femme de 23 ans dénommée Georgina Leimonis a été tuée par coups de feu dans un café connu sous le nom de « Just Desserts ». Dès le départ, la peur entourant cet événement s’est greffée aux préoccupations visant une certaine catégorie de personne—le « criminel jamaïcain » —puisque l’individu soupçonné de ce meurtre, celui qui a été éventuellement condamné puis emprisonné, était un Jamaïcain ayant immigré au Canada alors qu’il était encore enfant. Cet article analyse la construction du « criminel jamaïcain » dans la presse de langue anglaise via le concept d’ontologie critique de Michel Foucault.

Keywords: Philosophy; Communication; Critical race theory; Racism; Law enforcement; Mass media; Crime reporting; Social construction

Introduction

On Tuesday, April 5, 1994, in downtown Toronto, a 23-year-old woman named Georgina Leimonis was shot and killed in a café known as “Just Desserts.” She had been talking with friends when three men, one of whom was armed with a shotgun, entered the café and demanded that customers hand over their wallets and purses. In the course of the robbery, the gun was fired, and Leimonis was severely wounded. She died in hospital a few hours later (Conroy, 1994; Hall & Stancu, 1994).
By Thursday of that week, a columnist in *The Globe and Mail* newspaper described the atmosphere in the aftermath of the incident: “If you live in Toronto, yesterday you talked about Georgina Leimonis. And possibly, if you live in any Canadian metropolitan area . . . you thought about the way you conduct your daily life, about the safety of familiar surroundings” (Valpy, 1994a, p. A2).

According to another report that was published the following day in the same paper, “debate swirled in Toronto over violent crime, its causes and implications” (Abbate & Hess, 1994, p. A1). Within three days of the killing, a columnist in *The Toronto Star* complained that the news media had “help[ed] the police whip the populace into a panic” (Zerbisias, 1994, p. A21). As late as April 14, nine days after the incident, a Globe columnist could still discern what he called “wild emotions raging through Ontario cities” because of what had happened (Sheppard, 1994, p. A25).

It is no exaggeration to say that in the early days of April 1994, many thousands of Toronto residents were in a state of intense and escalating anxiety as fears spread about violence, crime, and a perceived decline in the safety of Toronto’s streets. It was against the background of this anxiety that many Toronto residents began to discern the “phenomenon”—as some of them called it (Thorsell, 1994)—of “Jamaican crime” and the figure of the “Jamaican criminal.”

In this paper, I explore the “Jamaican criminal” as it emerged into public consciousness in the wake of the Just Desserts killing, using a mode of analysis that I call “critical ontology.” I borrow this phrase from Michel Foucault, who used it, once or twice, to describe his own approach (see Foucault, 1984). I see critical ontology as a promising alternative to the common practice of analyzing this incident, and others like it, as “moral panics,” and hence as irrational overreactions to alarming events. The critical ontology approach has a very different emphasis. It sees such incidents as backdrops for the social construction of worrisome categories of persons. What is crucial, according to critical ontology, is the emergence of a new label, at once overtly descriptive (because it picks out people fitting a certain description) and covertly prescriptive (because when we concede that the label applies to someone, we tacitly concede that certain kinds of responses to that person are in order).

My thesis is that a critical ontology of the constructed entity—the Jamaican criminal—is crucial because, as long as the Jamaican criminal is naïvely taken for granted as a discovered entity (named by the label, but not invented by the label’s co-ordinated deployment), the prescriptive or action-guiding implications of an ostensibly descriptive label like “Jamaican criminal” are effectively insulated from critical scrutiny. I make this argument in several steps. In the first part of this article, I look at the pros and cons of the “moral panic” approach to analyzing the construction of Jamaican criminality. Next, I outline the critical ontology approach, drawing extensively on Foucault’s conceptual framework. I go on to apply this framework to an analysis of the construction of the Jamaican criminal as a dangerous and problematic category of person in the wake of the Just Desserts killing. I then spell out the legal and political implications of the covert prescriptions built into this construct of the Jamaican criminal “entity.” After reflecting on the advantages that a critical-ontology approach offers to this kind
of analysis, I sum up the implications of my findings with respect to our understanding of the aftermath of the Just Desserts incident.

**The “moral panic” approach**

There is more than one way to develop a critical perspective on the invention of “dangerous” categories of persons, such as the Jamaican criminal, and a variety of possibilities—Durkheimian, Marxist, Weberian, and so on—are on offer to the researcher (see Jenkins, 1992). Perhaps the most pertinent of these approaches, in the present context, is that of Stanley Cohen, whose book *Folk Devils and Moral Panics* (1972) introduced the notion of “moral panics” to describe incidents precisely like the one under study in this paper. In Cohen’s words:

Societies appear to be subject, every now and then, to periods of moral panic. A condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians and other right thinking people; socially accredited experts pronounce their diagnoses and solutions, ways of coping are evolved. (Cohen, 1972, p. 9)

Obviously, the Jamaican-crime hysteria in Toronto in 1994 constituted a moral panic, in Cohen’s sense. This is certainly the view of Frances Henry & Carol Tator (2002), and it informs their detailed analysis of the Just Desserts incident, its aftermath as a media phenomenon, and the way it fed into debates about immigration and gun control.

While the case under consideration was a moral panic, it is not at all clear that Cohen’s framework is the best one for analyzing it critically. My main objection to this line of analysis is that it encourages us to think of the phenomenon under consideration—the panic that followed the tragic death of Georgina Leimonis and the intense concern surrounding the figure of the “Jamaican criminal”—as a fundamentally irrational process. It is a mode of analysis that highlights the social psychology of mass panic and fear, the exaggeration of threats, and the simplistic misperception of social reality. To be sure, these *did* occur in the wake of the Just Desserts killing. But to focus one-sidedly on these elements is to risk missing something centrally important. While the panic was irrational, in a psychological sense, the deployment of the “Jamaican criminal” label as a vehicle for advancing a controversial agenda while disarming potential critics of that agenda is nothing if not rational. For this reason, even though the case could be accurately depicted as an outburst of hysterical overreaction, it is actually better understood as a tactical manoeuvre in ongoing power struggles. This is the kind of “tactical intelligibility” that Foucault sought to lay bare in his historical studies of the social construction of worrisome “individualities,” demanding intensive surveillance and intrusive intervention, such as the “pervert,” the “delinquent,” and the “homicidal monomaniac.” It is precisely this line of thinking that I want to develop in relation to the “Jamaican criminal.”

**The “critical ontology” approach**

What is “critical ontology”? Ontology in general is the branch of philosophy that,
as Quine (1961) famously puts it, addresses the question of “what there is.” But critical ontology asks a specific question of “what there is”: It asks how it got there. Did we discover it, ready-made? Or did we invent it? And, if we did invent it, do we admit that we did so? Or do we—as the critical ontologist often suspects—conceal a political project behind the claim that some troubling entity has been discovered, insisting that it demands special kinds of attention: a battery of tests, constant monitoring, early intervention by experts and social workers, or special powers for law enforcement officials? This is the kind of critical inquiry into supposedly “discovered,” but arguably “constructed,” categories of person made familiar by several of Foucault’s major works, including Discipline & Punish (1979) and the first volume of the History of Sexuality (1980a).

In philosophical terms, disputes about the ontological status of such entities as the “pervert,” the “delinquent,” or the “Jamaican criminal” often hinge on the distinction between “realist” accounts of these entities and “nominalist” accounts of them (cf. Foucault, 1989; Hacking, 2002; Rajchman, 1985). The realist holds that when we assign a name to a group of entities, identifying them as entities of a certain kind, it is because we have discovered some property that they all possess. The word “pervert,” in this realist view, is like the word “rock,” in that our language here simply reflects categories that we find ready-made, as part of the way nature itself is divided up: the word marks a real category that we have discovered (hence “realism”), and the classification is grounded in pre-given properties of the entities so named. The nominalist, on the other hand, holds that our decision to label a set of people with the term “perverts” does not indicate that we have discovered something common to all those so labelled; it indicates only that we have adopted the practice of deploying the relevant label in certain ways and of co-ordinating our speech and action in light of this labelling practice. In so doing, says the nominalist, we have in effect invented a category of persons, as an element of our shared public discourse. The object—the pervert or the Jamaican criminal—is not the cause of our labelling practice, but the effect of it.

Recall, however, that what interests Foucault is not metaphysical reflection about the relation between language and reality. His nominalism is critical in its motivation and import. And the target of his critique is the credulity of his audience—our willingness to “buy into” an ontology that contains entities like the “pervert” or the “homicidal monomaniac.” His concern is not simply that these entities are constructs rather than discoveries, although he would certainly insist on that. His main worry is rather that these entities have been constructed in such a way that, by taking them at face value as discovered objects, we unwittingly take on a set of prescriptive implications that apparently necessitate acquiescence in what would otherwise be a controversial and contested political project.

I can illustrate this worry with a contemporary example: the terrorist. There can only be a “War on Terrorism” (of the now-familiar specifically pre-emptive sort) if there are in fact terrorists, fitting a certain description. Here is a very partial list of the traits that instances of this “necessary” entity must possess. First, these terrorists must be invisible to the naked eye in advance of their actual terrorist acts, yet nonetheless identifiable in advance as long as certain forms of surveillance are allowed to proceed. Second, they must be sufficiently competent at
concealing their plans, yet sufficiently threatening in their capacity to carry them out, that civil liberties traditionally limiting government surveillance can be dismissed as relics of a bygone era, namely, an era before the existence of a new kind of criminal, in light of which the old tools of law enforcement and national defence can now be seen to be inadequate. If our term, “terrorist,” is simply the word we use to describe entities like that, then it might seem as though a political project—the War on Terror—simply “falls out of” our admission—seemingly so unavoidable—that there are terrorists. The critical ontologist, however, will concede that people commit acts that we call terrorist acts, and that we rightly condemn and seek to prevent or punish these acts, but she will take a much more sceptical stance toward the claim that the prevailing understanding of the “terrorist” can be taken at face value as something we have discovered in the world. What the critical ontologist demands, instead, is a critical inquiry into how that label has been used to construct the “terrorist” object and how that process of construction has been informed by a context of political conflicts concerning the direction of foreign policy, the methods of law enforcement, and the scope of civil liberties. The discourse on terrorism since September 11, 2001, as Rothe and Muzzatti (2004) show, no doubt qualifies as a case of moral panic. But more importantly, in my view, it is also something else. It is a discourse that presupposes a particular ontology, in which the dangerous entity of the “terrorist” figures prominently and ominously as an entity that demands responses of a new and special kind. It is this notion, which at once incorporates and goes beyond the notion of moral panic, that I think the critical ontology approach pioneered by Foucault has to offer us in our efforts to understand the rise of the “Jamaican criminal.”

But how do we carry out this project of developing a critical ontology of an entity like the Jamaican criminal? In some of his later methodological reflections, Foucault proposes a conceptual framework for doing this kind of analysis. It revolves around three main concepts: problematization, programs, and practical systems. The point of elucidating these notions is not to propose a philosophy of history, or a systematic social theory; what Foucault offers us is, more modestly, a conceptual framework that might serve us “as a basis for analytical work” (Foucault, 1983, p. 209). And the analytical work that I want to pursue in this article revolves around a simple question: how could the figure of the “Jamaican criminal” have come to assume such prominence at a certain point in time, as a proposed object of knowledge and a target of preventive or pre-emptive intervention? What needs to be analyzed is the Jamaican criminal as a peculiar kind of entity: not simply a violator of the law to be pursued and apprehended by the police, but an object for “statistical” analysis (Smyth, 1994, p. A6), an “alien” threat to our “social fabric” (Valpy, 1994a, p. A2), and a “plague” (Smyth, 1994, p. A6) that needed to be “cured” (Valpy, 1994b, p. A2). In short: a special case of the familiar phenomenon of the “dangerous” criminal.1

Foucault’s approach, as a broadly “constructionist” mode of analysis, starts from the premise that social identities are instituted by virtue of being situated within ongoing economies of discourse and action, that is, systems of discursive and non-discursive practices. This holds for social identities in general, but also
for *criminal* identities in particular, such as that of the “Jamaican criminal.” Such identities, according to this view, are seen as the effects of systematically co-ordinated “practices of subjection” (Foucault, 1988, p. 50). Through these practices of subjection, definite labels and correlative roles are assigned to us, or assumed by us, or both. Insofar as we thereby come to be recognized as agents of a particular kind, this informs the discourse and action of ourselves toward others, of others toward ourselves, and of ourselves toward ourselves.

More specifically, networks of statements-about-agents on the one hand, and of actions-upon-agents on the other, together form what Foucault refers to as “practical systems” (1984, p. 48) of interlocking and interanimating alignments of discourse and action, knowledge, and power. If enough people (or enough of the right people) align what they do and say in accordance with a specific identification, then that identification becomes, in and through the regularity of those alignments, an effective reality. Foucault denies that alignments of discourse and action produce only illusion and ideology. Instead, he says, they “induce a whole series of effects in the real . . . . they crystallize into institutions, they inform individual behavior, they act as grids for the perception and evaluation of things” (Foucault, 1987, p. 110).

This concept of “practical systems” is closely related to another of Foucault’s concepts: the concept of “programs” (see Foucault, 1987). The coherence and “logic”—in short, the “rationality”—of practical systems of discourse and action depend upon the “program” that animates them. Foucault’s most famous example of a program is Jeremy Bentham’s “panopticon” program for the re-organization of the prison, which deployed “individualizing” forms of “bio-power,” in Foucault’s now-famous terms, in a systematic way, and served as a model that could be generalized to function in other contexts, as a “technology of power,” a reproducible mechanism for governing conduct. But one could point to countless others: for example, Lenin’s suggestions in *What Is to Be Done?* (Lenin, 1902) and elsewhere about how to organize a revolutionary party, or the *Poor Law Report of 1834* (Checkland & Checkland, 1974), for the redesign of poor relief in nineteenth-century Britain. In general, such programs are “sets of calculated, reasoned prescriptions in terms of which institutions are meant to be reorganized, spaces arranged, [and] behaviors regulated” (Foucault, 1987, p. 109).

But this very concept raises a crucial question: How do programs for thecoordination of discourse and action, relating to the identification of a worrisome category of persons, become acceptable to people at a given time, often to the point that they are taken for granted as self-evident necessities? Foucault attached a great deal of importance to this question. He claimed in a 1977 interview that in all of his books, “the target of analysis wasn’t ‘institutions,’ ‘theories,’ or ‘ideology,’ but *practices*”—that is, practical systems—and that all his books were written “with the aim of grasping the conditions that make these [practices or programmed practical systems] acceptable at a given moment” (Foucault, 1987, p. 102).

In the late 1970s, Foucault suggested that practice-coordinating programs become acceptable when they are more or less consciously embraced as a response to an “urgent need” (1980b, p. 195), for example, a need to control a
dangerous population. In the early 1980s, however, Foucault undertook what he referred to as a “theoretical and methodological reformulation” (1990, p. 8). The result was a new attempt to answer the old question of why, at a given time, a particular program is accepted. The new perspective gave a central role to the concept of “problematization.” In an interview from 1984, he remarked that, in retrospect, “the notion common to all the work that I have done since [Madness and Civilization] is that of problematization, though it must be said that I never isolated this notion sufficiently” (1988, p. 257).

Foucault plainly states that what is made into a problem in a given problematization is precisely a kind of agent, or an agent’s behavioural predispositions (see Foucault, 1998). Problematization, then, is specifically advanced to serve as an operative concept for the analysis of how social identities are constructed, although “construction” here must be taken in a sense broad enough to include not only the imposition of identities but also comparatively autonomous practices of self-fashioning. In any case, the problematization of a category of persons, as defined by Foucault, is “what [makes] possible the transformation of the difficulties and obstacles of a practice into a general problem for which one proposes diverse practical solutions” (1984, p. 389). In other words, problematizations single out categories of persons in such a way as to invite or provoke proposed programs for the problem-solving realignment of discourse and action in relation to them. As such, a problematization or, as he also sometimes says, a “form of problematization,” not only delineates the characteristics that define a worrisome kind of person, but also specifies the sorts of discourse and action that are appropriate to it (medical, scientific, therapeutic, or whatever they may be), and the opportunities and dangers that warrant our efforts to thematize it and to address it as a matter in need of our attention.

Foucault mentions that, for any one problematization of a human kind, several programs may be proposed. The task of the “historian of thought,” he claims, is not to correlate every program with its own corresponding problematization. Instead, the task is to find at the “root” of a series of apparently diverse programs one form of problematization that “defines the elements that will constitute what the different solutions attempt to respond to” (Foucault, 1984, p. 389). Hence, programs and the practical systems they inform are relatively, but not absolutely, autonomous in relation to the forms of problematization to which they respond. By way of summary: Foucault understands categories of dangerous or worrisome persons, notably criminal categories, to be the “object-effects” (1979, p. 305) of “practical systems” of discourse and action, which are organized according to widely accepted “programs” for the alignment of discursive and non-discursive practices in relation to a social identity, which is defined in its basic characteristics by a “form of problematization.”

So far, my aim has been to set out clearly a system of basic concepts for interpreting the dynamics of panics surrounding problematic identities, such as that of the Jamaican criminal. But, in analyzing an actual case of problematization, it is necessary to look more closely at the relation between programs and problematizations, and to recognize that it is not a one-way relation, in which the problematization unilaterally determines the kinds of programs that emerge in response to
it. For although programs are shaped and limited by the form of problematization that gives them their point, as suggested above, it is equally true that problematizations are understood by Foucault in terms of “a logic of opposing strategies,” notably opposing programs: “The forces operating in history are not controlled by destiny or regulative mechanisms, but respond to haphazard conflicts” (Foucault, 1984, p. 88).

In other words, there is a reciprocal relation between programs and problematizations. On the one hand, programs are responses to the problematization of a group of people bearing some worrisome social identity. On the other hand, however, the form taken by the problematization of that group is shaped by functional prerequisites for the pursuit of certain broadly political strategies that are embodied in programs for the realignment of practical systems of discourse and action in relation to that group of people. In that sense, the problematization is a response to the strategic exigencies of participants in social conflicts. Thus, in many cases, the emergence of a certain way of “problematizing” some entity will be intelligible primarily in terms of the need to define the “problematic” entity in a certain way, in order for certain kinds of (programmatic) solutions to be plausibly represented as appropriate. An analysis of this sort, Foucault suggests, necessitates “analyzing... the problematizations through which being [or rather the ‘being’ of a given kind of person] offers itself as having to be thought—and the practices on the basis of which these problematizations are formed” (Foucault, cited by Hubert Dreyfus, in Armstrong, 1992, p. 82). Here Foucault distinguishes two lines of the inquiry: first, one seeks “to examine the forms [of problematization] themselves”; second, one seeks “to analyze their formation out of practices and the modifications undergone by the latter” (Foucault, 1990, p. 12). Such an approach to critically analyzing criminal-category panics would not only analyze the problematization of the criminal identity in question, but also relate this both to the strategies that gave rise to it and the programming of practical systems that it served to instigate.

The problematization of the Jamaican criminal in Toronto, 1994

I turn now to the first of these two issues: the analytical issue, concerning how the Jamaican criminal, as a criminal kind, was problematized in the context of the panic sparked by the tragic event that unfolded at Just Desserts that April day in 1994. Drawing on my own selective reading of newspaper reports, op-ed columns, and editorials that appeared in the Canadian press in and around the time of the incident, I piece together an account of how the mainstream media organized Jamaican crime as a problem. In assembling and assessing this discursive corpus, I pay special attention to the press’s framing of the basic distinguishing traits held to be characteristic of the Jamaican criminal, the specific dangers seen to be posed by Jamaican criminals such that they warranted attention, and the types of knowledge and/or intervention that the existence of this particular “criminal kind” necessitated and/or called upon. Below, I list and briefly characterize the six essential elements that emerged from my reading as constitutive of the “Jamaican criminal” and, by extension, the crimes that this particular “criminal kind” commits:
1. **Jamaican criminals are psychologically aberrant.** Thus, we are informed that “Jamaican-Canadian youth . . . appear not to share the self-interests of the broad community,” and seem “to be outside the consensus on behavioral values” (Valpy, 1994b, p. A2). The standard Jamaican crime, moreover, is a “completely nonsensical, gratuitously violent, societally pathological shooting” (Valpy, 1994a, p. A2).

2. **Jamaican criminals are indiscriminately threatening.** The single most common characterization of Jamaican crime is that it is specifically “random” crime. Thus, the Just Desserts killing is contrasted with a number of contemporary murders in Chinatown, because the latter “killings were either gang-related or for revenge, not random incidents” (Abbate, Macleod, & Philp, 1994, p. A1). A typical victim is said to have been a “random choice” (Valpy, 1994a, p. A2). A *Toronto Star* editorial assures us that “random violence is on the increase,” and that “it poses an increasing danger to shopowners and, sometimes, their customers” (“Curb drugs, guns to cut down violence,” 1994, p. A22). Random violence is framed as violence that could affect anyone and not only those engaged in high-risk behaviour, such as drug-dealing or associating with criminals. This point is driven home again and again. The police chief took the Just Desserts killing as a sign that “you cannot sit in a restaurant and enjoy yourself without being murdered by thugs” (quoted in Hall & Stancu, 1994, p. A1). Another officer, Sergeant Pat Tallon, said that when it comes to random crime, “wherever you have people gathered with money in their pockets, they are liable to get knocked off” (quoted in Mascoll, 1994, p. A6).

3. **Jamaican criminals are foreign to “our” community.** The racism and xenophobia surrounding the coverage of the case could hardly be more apparent, as some commentators pointed out at the time (DiManno, 1994a, DiManno, 1994b; Makin, 1994). But class, too, was a factor (Hall, 1994; Walkom, 1994). The spectre of poor Black men attacking a White woman in an affluent neighbourhood touched a raw nerve for many people, including many newspaper columnists. The resulting anxiety is expressed in the representation of Jamaican criminals as something foreign, threatening to invade. Thus, not only was Jamaican crime referred to as “imported crime” (by police union president Art Lymer, quoted in Smyth, 1994, p. A6), but the Just Desserts killing was taken to mean that “the barbarians are inside the gates” and that we had “been brought face to face with alien slaughter” (Valpy, 1994a, p. A2). In general, there are three different ways of characterizing Jamaican crime as alien: that it belongs in Jamaica, but not in Canada; that it belongs in major cities in the U.S.A., but not in Toronto; and that it belongs in “dangerous” Toronto neighbourhoods like Regent Park, but not in the affluent Annex neighbourhood where Georgina Leimonis was killed (see the analysis of these themes offered at the time by Thomas Walkom, 1994).
4. Jamaican criminals are “pathological.” Thus, Jamaican crime is called a “social dysfunction” (Valpy, 1994b), an “unusual pathology” (Thorsell, 1994), a “plague” (Art Lymer, quoted in Smyth, 1994), and something which needs to be “cured” (Valpy, 1994b).

5. Jamaican criminals are properly objects of scientific research. Thus, one finds numerous commentators invoking a rhetoric of scientific objectivity: Jamaican crime is not just a problem but an “empirical problem” (Valpy, 1994b, p. A2); we need not just information about or understanding of race and crime but something called “ethnic data in relation to crime” (Thorsell, 1994, p. D6); it is claimed that “a case can be made for gathering as much data as possible” (“Color classification for crime statistics,” 1994, p. B2) on the topic; it is said that we need to put crime in the city “under a microscope” (Smyth, 1994, p. A6), and so on. Remarks like these do not express demands made by scientists, but rather a recurring demand for the intervention of scientists.

6. Jamaican criminals are knowable, but often unknown because of censorship. Thus, one writer complains about “the media’s complicity in muffling the truth” (Thorsell, 1994, p. D6) about Jamaican crime; another claims that “although the statistics are banned, everybody knows the tale they tell” (Barber, 1994, p. A3); even the Bishop at Georgina Leimonis’ funeral angrily insisted that police be given “the tools and rules [they need] to do a decent job,” including being allowed to collect “statistics to see what is really going on in this country” (Bishop Sotirios Athanasoulas, quoted in Wilkes & Small, 1994, p. A6).

To sum up, then, the Jamaican criminal is psychologically aberrant, indiscriminately threatening, foreign to “our” community, pathological, knowable by science, but unnecessarily concealed by censorship. This problematization—this construction as a problematic kind, necessitating both better knowledge and more extensive governance—effectively institutes the Jamaican criminal as an entity and as a focus of intense concern, eliciting programmatic proposals for problem-solving re-organizations of how to speak and act toward the entity in question. I now turn to the second line of inquiry proposed by Foucault: the genealogical reconstruction of the strategic situation out of which the problematization of the Jamaican criminal emerged.

**Two models of crime and criminal-law enforcement**

To elucidate the “tactical intelligibility,” as Foucault would put it, of the problematization of the Jamaican criminal is to analyze that problematization in terms of imperatives arising out of conflictual strategic interaction. I attempt to do this here by relating the events of that time to a longstanding antagonism between adherents of two different models of crime. The first of these two models—call it the “act-centred” model—would have us interpret crime in terms of *offences*, that is, as violations of the criminal law, and hence as *acts* committed, to which a response is appropriate. The response is criminal-law enforcement in a broad sense: the investigation, apprehension, conviction, and punishment of the offender. The second model of crime—the “agent-centred” model—would have us interpret crime in
terms of *criminals*: the focus here is not on violations of the criminal law per se, but on essentially pathological figures who are *prone* to commit criminal offences, and whose actual crimes are not so much what qualifies them as criminals, but rather are seen as the manifestation of their antecedent standing as criminally predisposed agents. Whereas the act-centred model of crime is backward-looking—focusing attention on crimes as actions that have already occurred; regarding the appropriate response as similarly retrospective in that the legal system (law enforcement, corrections, et cetera) is only brought in after the fact, and only there to apprehend and punish the individuals responsible for the acts—the agent-centred model of crime is forward-looking. Here, crime is first and foremost a prospect, indeed a danger: In response, we must maintain a constant vigilance and assume a proactive, anticipatory stance. The latter model regards law enforcement as fundamentally pre-emptive; keeping an eye on suspicious figures, anticipating threats and defending the public from dangers of which most potential victims are not even sufficiently aware, much less adequately protected.

From the point of view of “critical ontology,” these models differ not only in terms of their practical implications for the legal system and techniques of law enforcement, such as racial profiling and selective surveillance of identifiable (e.g., racial) groups; they also differ in that they presuppose two very different ontologies, or accounts of “what there is.” The pertinent ontological question, abstractly expressed, is this: Is one a criminal just because one has done one of the many things that we count as “crimes”? Or, on the contrary, does one only commit crimes because one is (already) a criminal, that is, a person predisposed to commit crimes? The nominalist takes the first view, and the realist takes the second. The agent-centred model of crime is committed, implicitly, to a realist ontology of “criminality”: there is something called criminality—presumably a predisposition of some kind—of which actual criminal acts are symptomatic. The nominalist critical ontologist, on the other hand, aims to make this kind of “realist” stance with regard to identity labels more and more difficult to maintain, pointing to how such labelling functions in strategic interaction and showing the stance itself up as a means through which conflict participants gain tactical advantages.

From this perspective, the agent-centred model of crime and criminal-law enforcement confronts a significant obstacle that does not similarly trouble the act-centred model. The obstacle is this: the agent-centred model draws on an interpretation of crime that is antithetical to leading features and fundamental principles of the liberal legal order. In particular, at the heart of the agent-centred model is the thought that the rationale for the engagement of law enforcement and the deployment of correctional measures rests on an account of the kind of person the criminal is—namely, a danger to the public. In this sense, it is ultimately beside the point whether or not the agent has actually performed a criminal act. Such acts may serve as indicators of dangerousness, but they are not the crucial motivator for the intervention of criminal-law enforcement. After all, what justifies the intervention of the police and then the correctional system, here, is not guilt—that is, responsibility for a criminal act performed—but rather, a predisposition to commit crimes, of which actual crimes are mere symptoms. In response
to an early advocate of the agent-centred model, Lady Barbara Wootton, legal theorist David Richards writes that the agent-centred model of crime assumes that:

People are dangerous without having yet acted dangerously. This implication, once drawn out, reveals Lady Wootton’s proposal for the morally dubious thing it is. It would subject people to deprivations of liberty for mere temperament or ‘dangerous’ inclination. Such a proposal is no less revolting if the inquisitors are the priests of science than it was when the priests served religious orthodoxy. (Richards, 1977, p. 215)

In part, Richards is relying on a crucial theme in liberal theories of the rule of law, according to which the \textit{actus reus} (‘guilty act’) requirement for criminal liability rules out any use of the criminal law, or the powers associated with criminal-law enforcement (including detention, surveillance, searches, and so on), to interfere with the lawful freedom of any citizen. In particular, what the \textit{actus reus} principle in liberal legal systems prohibits is any practice of legal regulation or policing in which

persons are viewed as culpable, not for anything they may personally have done or failed to do but because they are a certain kind of person standing in certain objective relationships to other persons. The subject of culpability [in such practices] is not the individual, but the group of which the individual is a member. These ideas, of long antiquity and continuing durability, are decisively rejected as valid bases for punishment. (Richards, 1977, pp. 200-201)

Richards rightly notes the “continuing durability” of the agent-centred model of crime—criminality as a trait, often manifested in criminal acts, rather than as a label to be applied in the event of criminal acts. But, though it endures, it endures at the margins, as a kind of insistent demand to liberate the practice of policing from the constraints of a liberal legal order that is not up to the task of protecting citizens from dangerous criminals. To borrow a phrase that Marx and Engels used in reference to the class struggle, there is between these two models of crime a “now hidden, now open fight” (Marx & Engels, 1848, p. 34). What links moral panics surrounding “dangerous criminals” to the agent-centred model of crime is precisely that these panics bring this fight, this antagonism, out into the open, presenting an opportunity to frame the problem of crime in terms of dangerous categories of criminals that call for programs better suited to protecting the public from a set of ominous threats that liberal legality only exacerbates by imposing arbitrary constraints on the means available to law enforcement.

This situation—the clash between liberal legality and the agent-centred model of crime—played a crucial role in shaping the “complex strategical situation” (Foucault, 1980a, p. 93) out of which the problematization of the Jamaican criminal arose. In particular, there were two things that partisans of the agent-centred model needed to establish in order to legitimize programmatic proposals based on the model’s conception of crime, and both of these are ruled out by the core principles of liberal law: first, that there are criminals, who exist as such independently of and antecedently to their actual crimes and whose inherent char-
acteristics help to explain these crimes when they occur; and second, that because our legal system and law enforcement practices are solely reactive, rather than proactive, we lack an adequate capacity to protect ourselves from the danger posed by many of these criminals, so we are in that sense unnecessarily and unacceptably vulnerable. Only if these claims could be made to seem plausible could agent-centred programs overcome the obstacle of a legal and law enforcement regime founded on principles quite antithetical to their project—above all, the principle that the system may only operate in a backward-looking way, investigating crimes that have already occurred and punishing only individuals responsible for these acts. It is easy to see that the “form of problematization” that defined the Jamaican criminal was all-too-well suited to overcoming this obstacle, in the sense that—by constructing the Jamaican criminal as an entity that demanded a certain sort of response—it concealed the pre-emptive policing agenda of the agent-centred model of crime behind the seemingly innocuous observation that, obviously, there are Jamaican criminals. The Jamaican criminal in Toronto in 1994 was problematized as, above all, an entity with distinctive traits that needed to be further studied, on the one hand, and more intensively, aggressively, and proactively policed on the other. The manner in which the Jamaican criminal was constructed thus implied a whole series of things about what “the problem” was, and hence made particular demands on any proposed “solutions.” The description of the Jamaican criminal suggested that a type of person, psychologically unlike any of “us,” had entered “our” communities, threatening each of “us,” without distinction, with the possibility of unexpected violent death. Accordingly, it suggested that particular types of intervention should be deemed appropriate in response to the Jamaican criminal, notably of two broad kinds: on the one hand, scientific investigation, to identify the nature and extent of the Jamaican criminality in our society; on the other, a tacitly postulated para-medical mode of proactive and pre-emptive law enforcement, analogous to the activity of a doctor who conducts exploratory surgery, always ready to remove any cancer that threatens to spread.

The form in which Jamaican criminality was problematized, according to this account, implies three things. First, that since Jamaican criminals are a threat to “us” all, “we” urgently need to be protected from “them”. Second, that since Jamaican criminality is akin to a disease or pathology, the appropriate way to “cure” it must be analogous to that of the medical doctor and thus proactive rather than just reactive. And third, that since Jamaican criminals are both knowable and worth knowing about, we should do what is necessary to find out about them.

These imperatives seem, more or less, to follow from the problematization of Jamaican criminals that was inherited in 1994 and reactivated by the prevailing hysteria of that time. For as my research into the press coverage of the Jamaican criminal also revealed, the figure of the Jamaican criminal was not new to Toronto in April of 1994. Two years earlier, in the summer of 1992, The Globe and Mail had published a series of articles entitled “Crime Story: The Jamaica Connection” (Appleby, 1992a, 1992b, 1992c). Its author, Timothy Appleby, and many of his sources (especially Toronto police officers), spoke freely about “Jamaican crime” and “Jamaican criminals” and claimed that a “criminal subculture” in Jamaica had
been “exported” to “the streets of Metro Toronto, and to a much lesser extent . . . [to those of] Montreal” (Appleby, 1992b, p. A1). Moreover, Appleby cited as an authoritative source Toronto police officer Detective Dave MacLeod, who claimed that “if you were to compare the Jamaicans to other people in the West Indies, there is a pattern: Jamaicans tend to be more aggressive and more violent” (1992b, p. A1). Appleby even seems to have attached some credibility to Detective McLeod’s theory that these traits are due to the ancestors of present-day Jamaicans having been “offloaded in Jamaica [from slave ships] because they were rebellious on the trip and it was the first opportunity to offload them” (Appleby, 1992b, p. A1). Finally, Jamaican crime, in these 1992 articles, is taken to be confined to violent crime, so that the picture that emerges from the 1992 articles is indeed similar to the one we find in 1994. It is also clear that the 1992 discussion was part of a much wider and more longstanding tendency to criminalize racialized “minorities” in general, and Jamaican Canadians in particular, in the media: a criminalization that results in discriminatory treatment at the personal level (as documented in Wortley, Hagan, & Macmillan 1997; see also Makin, 1994), and that is reflected in research conducted over many years and across several disciplines (Mirchandani & Chan, 2002).

But what was apparently new to Toronto in 1994, and which proved to be the key factor co-ordinating the re-institution of the identity of the Jamaican criminal, was the introduction of a specific program for re-orienting our discursive and non-discursive conduct in relation to its problematic individuality. This program was widely embraced for a time, although it only ever partially took hold outside of the police department, and from the beginning drew criticism from some commentators (DiManno, 1994b) and citizens (Makin, 1994). In any case, it was an explicit attempt to respond to the imperatives inherent in the way in which the Jamaican criminal was constructed.

The program had two elements. Its first aspect urged citizens to pressure politicians to remove obstacles to proactive/pre-emptive policing “to get at ethnic trouble makers” (“Color classification for crime statistics,” 1994, p. B2). This point was perhaps given its most remarkable formulation by the Bishop at Georgina Leimonis’ funeral, when he posed the rhetorical question of whether “we really give the police, in order to serve and protect, the tools and rules to do a decent job?” (Wilkes & Small, 1994, p. A6). The second aspect of the program urged social scientists and journalists to defy efforts to “censor” and “ban” research and reporting on Jamaican criminals and to disseminate as much information as possible about the Jamaican criminal, in order to assist efforts to address the issue.5 The most emphatic articulation of this aspect of the program was probably William Thorsell’s column in The Globe and Mail, entitled “Shying away from reporting on race is understandable but wrong,” in which he argued that, “in not reporting on the unusual pathology of [Jamaicans in Canada], we [in the news media] are failing in our duty to inform society of significant social facts” (Thorsell, 1994, p. D6; see also Valpy, 1994b). Thorsell closed his column with an exhortation: “On with the job” (Thorsell, 1994, p. A6).

Interestingly, the two aspects of this program correspond to the two key demands put forward in a public demonstration organized at the time by a group

**Why critical ontology?**

What is gained by thinking about the construction of categories of criminals like the Jamaican criminal, in their capacity as objects of knowledge and targets of power, in terms of tactically motivated ontologies and hence in terms of problematization?

The primary advantage of this kind of “historical nominalist” analysis is that it brings the prescriptive or action-guiding implications of ostensibly descriptive kind-labelling out into the open, where these implications can be subjected to critical scrutiny. Such scrutiny is unlikely to occur as long as these entities are naïvely taken for granted as discovered objects (“the mugger,” as distinct from people who commit the act of mugging; “the Jamaican criminal,” as distinct from people of Jamaican ancestry who commit criminal acts), rather than as norm-laden labels that play a crucial role in constituting criminal identities as objects of supposedly epistemic discourses and targets of investigative or correctional interventions. Accordingly, the ontologization of Jamaican criminals (that is, their construction as politico-epistemic entities) serves as both a consolidation of a programmatic political project, fostering certain kinds of race/crime research and unleashing police powers that would otherwise be reined in by the constraints of liberal legality, and as a screen that conceals that program’s political character, encouraging an uncritical acceptance of the “obvious” imperatives that the very “nature” of the Jamaican criminal seems to impose on the systems of criminal law, policing, and corrections.

In many ways, this Foucault-derived approach to critical ontology is a continuation of a larger tradition of critical social analysis going back to the German idealists, the Young Hegelians, Marx, and the Frankfurt School. What all of these “critical” philosophers shared was a commitment to a theoretical practice of de-reification—that is, the reinterpretation of exterior objectivity as an achievement of subjective activity—or, more broadly, the re-description of “givens” as constructs. The point of such a de-reifying reinterpretation, of course, is to expose supposedly natural realities as products of human activity and hence as transformable by human activity. Likewise, Foucault’s historical nominalist practice of “critical ontology” is designed to reveal “the contemporary limits of the necessary” (Foucault, 1984, p. 43)—that is, to show that many of the practices and labels that we use to organize our affairs today are contingent products of a history of conflict and tactical manoeuvring, and that there is nothing to prevent ongoing contestation and transformation of these contingencies.

**Concluding thoughts**

To conclude: the new prominence, in April of 1994, of the “Jamaican criminal” as an effectively instituted identity was a function of the reactivation of an
already-operative problematization of “Jamaican crime” in Toronto, which in turn
drew on entrenched ideologies of racialized conceptions of crime. This reactiva-
tion was expressed in a program that became the focus for the “reevaluation,” on
the part of many thousands of Toronto residents, of “the way they conduct[ed]
their daily [lives]” (Valpy, 1994, p. A2). This program was, if only briefly, the
motivating and co-ordinating impulse behind the efforts of countless people to
realign their discourse and action into practical systems aimed at responding to
the problematic individuality of the Jamaican criminal.

It is clear, then, that the origin of the panicky public concern about Jamaican
crime in Toronto in April of 1994 is not to be sought in some kind of discovery.
It was not a case of discovering, but of constructing the problem. Far from the
Jamaican criminal being an entity that, under the right set of circumstances, could
be discovered and recognized as a problem, it was rather only the prior problemat-
zation of the Jamaican criminal—its construction as a problematic identity, to be
talked about and acted upon—that made possible the realignment of the discourse
and action of thousands of people in relation to a tiny number of actions on the
part of a tiny number of people, such that the latter actions could become the pre-
text for the specification of a peculiar and worrisome individuality and the ration-
ale for an intensification of police powers to deploy profiling, surveillance, and
other forms of anticipatory policing, in spite of a legal order founded upon a
rejection of such measures.

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Notes
1. On the genealogy (historical ontology) of the “dangerous individual” as a mode of subjectivity
arising out of the psychiatrization of crime, see “The Dangerous Individual” (Foucault, 1988).
See also the parallel discussion in Discipline & Punish: “[O]ne sees penal discourse and psychi-
atrie discourse crossing each other’s frontiers; and there, at the point of junction, is formed the
notion of the ‘dangerous’ individual, which makes it possible to draw up a network of causality
in terms of an entire biography and to present a verdict of punishment-correction” (Foucault,
1979, p. 252).

2. On the idea of “alignments” of power and knowledge, see Joseph Rouse (2005),
“Power/Knowledge.” Rouse there draws on Thomas Wartenberg’s analysis of power in terms of
“social alignments” (cf. Wartenberg, 1990). A similar idea is effectively elaborated and applied,
from a very different theoretical perspective, by Marilyn Frye, in The Politics of Reality (1993),
especially chapters 1 and 2.

3. See Discipline & Punish: “It would be wrong to say that the soul is an illusion, or an ideological
effect. On the contrary, it exists, it has a reality, it is produced permanently around, on, within
the body by the functioning of a power that is exercised on those punished—and, in a more general
way, on those one supervises, trains and corrects, over madmen, children at home and at school,
the colonized, over those who are stuck at a machine and supervised for the rest of their lives.
This is the historical reality of this soul . . .” (Foucault, 1979, p. 29).

4. My sample is drawn from the two Toronto newspapers conventionally regarded as the most “re-
putable”: The Globe and Mail and The Toronto Star.
5. It is worth pointing out, however, that the insistence on collecting statistical information about race and crime is by no means always framed in terms of an agent-centred model of crime, nor is it always coupled with an agenda of expanding police powers to profile racially. For some subtle and wide-ranging considerations for and against such data collection, making specific reference to the contemporary Canadian context, see Julian V. Roberts (2002), David Tanovich (2006), and Scot Wortley (1999).

References


