



Making space for criminalistics: Hans Gross and *fin-de-siècle* CSI

Ian Burney, Neil Pemberton

Centre for the History of Science, Technology and Medicine, University of Manchester, Manchester M13 9PL, UK

ARTICLE INFO

Article history:
Available online 1 October 2012

Keywords:
Forensic science
Crime scene investigation
Trace evidence
Hans Gross
Criminalistics
Criminology

ABSTRACT

This article explores the articulation of a novel forensic object—the ‘crime scene’—and its corresponding expert—the investigating officer. Through a detailed engagement with the work of the late nineteenth-century Austrian jurist and criminalist Hans Gross, it analyses the dynamic and reflexive nature of this model of ‘CSI’, emphasising the material, physical, psychological and instrumental means through which the crime scene as a delineated space, and its investigator as a disciplined agent operating within it, jointly came into being. It has a further, historiographic, aim: to move away from the commonplace emphasis in histories of forensics on *fin-de-siècle* criminology and toward its comparatively under-explored contemporary, criminalistics. In so doing, it opens up new ways of thinking about the crime scene as a defining feature of our present-day forensic culture that recognise its historical contingency and the complex processes at work in its creation and development.

© 2012 Published by Elsevier Ltd.

When citing this paper, please use the full journal title *Studies in History and Philosophy of Biological and Biomedical Sciences*

This article has two aims. One is historical: to explore the late-nineteenth century roots of what has become a defining feature of our present-day forensic culture—the crime scene as a distinct domain of investigation and analysis. We will do this through a detailed engagement with one historical actor, the Austrian jurist and magistrate Hans Gross, and one of his books, *Handbuch für untersuchungsrichter als system der kriminalistik* (1893, translated as *Criminal Investigation: A Practical Handbook* in 1906). The other, with which we begin, is historiographical: to use this account of ‘Grossian’ crime scene investigation to show the value of shifting attention away from the much studied case of *fin-de-siècle* criminology and onto its comparatively underexplored contemporary, criminalistics.

1. Separating criminology and criminalistics

In recent decades historians such as Neil Davie, Mary Gibson, Robert Nye, Daniel Pick and Richard Wetzell have provided sophisticated accounts of the disciplinary formation of criminology and

its core object of concern, the criminal body. Criminology, in these accounts, was shaped by modes of thinking drawn from evolutionary biology, anthropology and anthropometrics, interlaced with degenerationist anxieties and fears of national decline, of which the Italian criminologist Lombroso has been taken as its emblematic practitioner.¹ This scholarly interest in the congruity between criminology and culture, between ideas about the criminal body and those about the body social, though productive and important, has nonetheless come at a price. It has marginalised a contemporaneous forensic enterprise that, arguably, has greater relevance to the historical path that forensics followed over the next century—namely, the scientific investigation of the circumstances of a specific crime and the identification of a specific culprit as an end in itself (*criminalistics*), rather than mapping these as data points within one of the innumerable taxonomic subdivisions of contemporary criminology.²

Separating criminalistics from criminology, of course, does not deny the existence of historical and conceptual convergences between the two, but rather seeks out the fertile space that opens

E-mail addresses: ian.burney@manchester.ac.uk (I. Burney), neil.pemberton@manchester.ac.uk (N. Pemberton)

¹ Davie (2005), Gibson (2002), Nye (1984), Pick (1989), Wetzell (2000).

² This is a point made by Claire Valier and, more recently, Daniel Mark Vyleta, who criticise the historiographical framing of criminology as a scholarly discipline for its over-emphasis on the mind, body, and milieu (social, environmental) of criminals as a way of identifying them, rather than the development of scientific methods of investigating individual instances of crime. Valier (1998), Vyleta (2006).

up once separation is achieved. Allan Sekula's incisive analysis of the scientific, technical and administrative underpinnings of late nineteenth-century attempts to capture criminal identity provides a glimpse of what this approach might yield. Sekula shows that while the Parisian police bureaucrat Alphonse Bertillon and the English statistician and founder of eugenics Francis Galton worked within a shared cultural moment—and thereby engaged with a common set of questions (the control of criminality via mastery of the criminal body) and tools with which to achieve this (e.g. the camera and the calliper)—they nonetheless 'constitute two methodological poles of the positivist attempts to define and regulate social deviance.'³ For Galton, the holy grail was unlocking the secrets of race, inheritance and degeneration via the measurement and statistical analysis of bodily characteristics; for Bertillon, it was the use of these characteristics to link an individual body to a record of an individual malefactor already entered into the police files. Galton's search led to the composite photograph, Bertillon's to the *portrait parlé*.

Simon Cole's excellent history of criminal identification extends this point by showing how both Bertillon's anthropometric system and its ultimately more successful rival, fingerprinting, were conceptually and technically positioned at the cusp of the criminological/criminalistic divide. Bertillon (son of an eminent demographer, anthropologist and Quetelet disciple; police clerk in the eye of France's recidivist storm) devised his system to solve the problem of individual identity, but did so in answer to an agenda set in large part by criminological concerns, and with reference to objects (e.g. ears, tattoos) and tools (again, calliper and camera) that were of shared currency. Little wonder that Lombroso welcomed Bertillon as a fellow traveller. Fingerprinting was an equally hybrid product: in its modern incarnation it emerged from within an imperial judicial apparatus focused on containing native 'criminal castes'. For many of its most influential early proponents fingerprints linked to this project by serving not as marks of individual differentiation but as markers of racial, ethnic and characterological groupings. The fact that this latter version of fingerprinting is now largely forgotten is, for Cole, the outcome of a concerted effort on the part of subsequent fingerprint examiners, who were seeking to establish themselves as experts worthy of trust, to disassociate themselves from speculative over-reaching: 'By turning the fingerprint into an empty signifier—a sign devoid of information about a body's race, ethnicity, heredity, character, or criminal propensity—fingerprint examiners made fingerprint identification seem less value-laden, more factual.'⁴

The 'selective amnesia'⁵ that enabled fingerprinting, by erasing its criminological twin, to emerge as a straightforward tool of criminalistics, also operates in the other direction: that is, the interpretive allure of the (ultimately dead-end) problematic of 'criminal types' has worked against an appreciation of the range of contemporaneously developing criminalistic practices that extended beyond those associated with the problem of individuation. Breaking this latter historiographical stranglehold offers a new perspective on the history of forensics.

Our choice of historical case study to accomplish this might appear an unlikely one, as Gross and his *Handbook* have gone largely unnoticed by historians. By contrast, practitioner accounts of the rise of forensic science in general, and of scientific approaches to

criminal investigation and policing in particular, routinely pay tribute to its status as a formative text. Its publication was a 'watershed event' according to a recent assessment, 'the first comprehensive textbook to systematically cover the integrated philosophy and practice of scientific criminal investigation, forensic analysis, and crime reconstruction. Its philosophies have not been diminished by the passage of time and should be required study for any student of these subjects.'⁶

Celebratory assessments in the practitioner literature come as no surprise, for they respond to the elements of the Grossian regime that have become routinised in contemporary crime scene investigation (hereinafter CSI): the identification and preservation of trace evidence, the avoidance of scene contamination, chains of custody, and the interface between the field and the laboratory, amongst many others. In our analysis we will attend to facets of this recognisably 'modern' Gross. But we will also give detailed consideration to a key feature of his handbook that does not so easily map onto present-day expectations: the multilayered, synoptic role assigned to the investigative enterprise's central character: its eponymous *untersuchungsrichter* (Examining Magistrate, or, following the English translations, Investigating Officer). To be sure, this can in part be explained by reference to organisational differences of forensic culture: Gross' Investigating Officer (hereinafter IO), a judicial official charged with overseeing, co-ordinating, and personally conducting investigations into criminal cases, does not have an equivalent in the Anglo-American world of CSI. This difference in function for our present purposes is of marginal interest. However, it does engender the feature of Gross' text that is a core concern: its provision of a detailed, and strikingly self-reflexive, account of the physical, physiological and psychological considerations that underpin—and equally threaten to undermine—even the most ostensibly simple act of crime scene perception.

Attention to the way in which Gross constitutes his IO as a reliable observer and manager of hidden crime scene traces is crucial to our dual objective of historicising the crime scene and thereby enabling criminalistics to emerge from the under shadow of criminology. We should here acknowledge that this involves a degree of selective attention. Like Bertillon and Galton, historically and historiographically, Gross occupies a hybrid position between criminology and criminalistics. His allegiances to the former are formidable: as professor of criminal law at the Universities of Czernowitz (1897–1902), Prague (1902–1905) and Graz (1905–1915), he was deeply engaged in contemporary debates on criminality as an anthropological and psychological phenomenon.⁷ In 1898 he published his influential *Criminal Psychology*, which despite its systematic critique of Lombroso's empirical failings and its championing of psychologically-driven research into perception and memory as an alternative to the dominance of criminal anthropology, still worked within a broadly degenerationist framework.⁸ In the same year he founded the journal *Archiv für Kriminalanthropologie und Kriminalistik* (*Archives for Criminal Anthropology and Criminalistics*), which over the course of his nearly twenty years as editor in chief developed an international reputation as an outlet for advanced research in the field.

As the title of his journal suggests, however, there is different side to Gross: not the author of *Criminal Psychology* but of *Criminal Investigation*, published five years earlier.⁹ The genealogy of this book is linked to his work as a professional crime fighter that

³ Sekula (1986), p. 19. "Criminology", in his succinct phrasing, 'hunted "the" criminal body. Criminalistics hunted "this" or "that" criminal body.' (p. 18).

⁴ Cole (2001), p. 100.

⁵ *Ibid.*

⁶ Chisum and Turvey (2011), pp. 30, 32.

⁷ For biographical details, see Bachhiesl (2010), Becker (2004), Grassberger (1956).

⁸ Gross, 1911 (1898 orig.). For a critical assessment of Gross' historiographic treatment as a Lombrosian acolyte, see Vyleta (2006).

⁹ As Becker points out, however, the German term '*Kriminalistik*' refers to the broad field of professions engaged in matters of criminal law, and thus has a more generic usage than the one we are adopting for its English counterpart. Becker (2001), p. 199.

Download English Version:

<https://daneshyari.com/en/article/7552850>

Download Persian Version:

<https://daneshyari.com/article/7552850>

[Daneshyari.com](https://daneshyari.com)