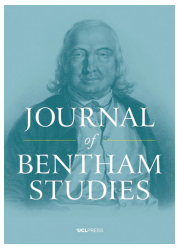

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Book review

Jeremy Bentham on Police: The unknown story and what it means for criminology, edited by Scott Jacques and Philip Schofield

John M. Moore[1,*]

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*Correspondence: jmmoore911@outlook.com
[1]Independent Researcher, UK

Book review: *Jeremy Bentham on Police: The unknown story and what it means for criminology*, edited by Scott Jacques and Philip Schofield

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John M. Moore

Jeremy Bentham on Police seeks to introduce criminologists to a volume of Bentham's works, *Preventive Police*, recently made available in preliminary form.[1] *Preventive Police* consists of Bentham's draft of two prospective Acts of Parliament – a 'Thames Police Bill' and a 'Bill for the establishment of a Board of Police' – and his notes explaining and justifying them. Bentham's involvement was at the invitation of Patrick Colquhoun, a leading London stipendiary magistrate who had utilised his political connections to facilitate, with sponsorship from the West India Committee,[2] the establishment of a Thames River police in 1798. The Thames Police Bill, which was successfully passed into law, transferred control of the river police, and their funding, to the state in 1800. At the same time as he was drafting these two bills, Bentham was promoting his Panopticon penitentiary scheme, securing parliamentary funding for the purchase of a site on Millbank in 1799.

The attempt to pass these two bills is an important moment in the history of English criminal justice. Despite parliament previously passing enabling legislation allowing local authorities to establish and fund

police forces, the Depredations on the Thames Act 1800 (as the Thames Police Bill became) established the first police force funded directly by the central state in Britain. The Board of Police Bill was very different, seeking to establish a regulatory model of preventative policing. Through a highly complex licensing system of retail businesses, it sought to snuff out any, and all, opportunities for disposing of stolen property. This model is consistent with Colquhoun's previous writings. The Bill was expanded by Bentham, with Colquhoun's blessing, to include the regular publishing of a *Police Gazette* and the annual publication of a *Calendar of Delinquency*. The Bill's failure and the subsequent passage of Peel's Metropolitan Police Bill in 1829 means that, rather than the regime of licensing envisaged by Colquhoun and Bentham, British policing emerged instead in the form of a uniformed police force, very similar to the Thames police.

Jeremy Bentham on Police is organised into three parts. The first consists of three introductory chapters; the second publishes extracts from Bentham's draft of, and comment on, the (failed) Board-of-Police Bill; and the final section consists of 16 comments by criminologists. In Part 1, Scott Jacques introduces the book, Philip Schofield introduces the Bentham Project and Michael Quinn introduces Bentham's writing on police. Schofield's chapter is an invaluable resource to anyone unfamiliar with the Bentham Project. Quinn's chapter is the book's most substantial contribution. It places the police writings in the wider context of Bentham's writings; in particular, he highlights how 'police' tends to refer to those state regulatory actions whose 'focus [was] on preventing evil as opposed to producing positive good' (p. 39), something that 'seems a long way from a modern definition' (p. 39). Quinn provides a good introduction to the police writings, stressing their lack of originality – this was not Bentham philosophising, but 'writing to order' (p. 36). Bentham was drafting Colquhoun's Bill, and Quinn is scrupulously fair in acknowledging his limited role. Where he attributes significant originality is in the provisions of the Bill relating to the proposed *Police Gazette* and *Calendar of Delinquency*. These are proposals that make no appearance in Colquhoun's writing prior to Bentham's draft. It is on these two proposals that Quinn's essay focuses, with other aspects, such as the Thames Police Bill, touched on only briefly.

The second part of the book consists of extracts from the Board-of-Police Bill and Bentham's supporting notes. Following on from Quinn's chapter, it is the sections of the Bill focusing on the *Calendar of Delinquency* and the *Gazette* which provide the majority of the extracts. The extracts

from the notes are again mainly those relating to the *Calendar* and *Gazette*. Selecting texts from a larger book is always challenging and can never be uncontentious. Given the central focus that *Jeremy Bentham on Police* gives to its claims that the two proposed publications represent Bentham's innovative contribution, the selection is understandable. However, it does mean that they do not really reflect the whole of the police writings, and I would urge readers to refer to the original preliminary version, available in open access, rather than rely on these extracts.[3]

The book's central claim that Bentham added originality to Colquhoun's policing project rests on the *Calendar* and *Gazette*. The *Calendar of Delinquency* was to be an annual statement of offences, both prosecuted and unprosecuted, as well as details of the outcomes of those that were prosecuted. In essence, this was proposing annual crime statistics. For Quinn, this proposal is 'a classic Benthamic demand' (p. 55) to base policy formation on evidence. Indeed, as he shows from his citations of Bentham's notes, this is the intention. However, I feel that the novelty of Bentham's approach is overstated. By the time he was writing, the use of statistics by moral entrepreneurs was not uncommon. Within criminal justice, John Howard's prison reform agenda was underpinned by his detailed statistical analysis and Colquhoun, Bentham's partner in this enterprise, had not only deployed statistics and cost/benefit analysis to persuade the West Indian Committee to fund his river police force, but also had previously drafted a detailed schedule of the cost of crime, some £2,100,000 per annum, in London.[4]

The *Gazette* was envisaged as a weekly publication, with an initial circulation of 100,000 copies, publicising intelligence to assist in 'the bringing of offenders to justice' (p. 91). As Quinn points out, this was not an original idea: John Fielding had advocated such a publication since the 1760s and had, with government funding, published, under various titles, a similar publication since 1773. What, Quinn argues, makes Bentham's idea novel is that his intention was that the *Gazette* go beyond just communicating information and develop a moralising influence. In a direct response to Quinn's claims, David Cox (pp. 155–60) highlights how Bentham, Colquhoun and, decades later, Robert Peel drew liberally on the ideas of Henry and John Fielding. He convincingly argues that the key concepts that underpin preventative policing predate the Bentham/Colquhoun writings. The moralising role of the *Gazette*, Cox argues, already existed in John Fielding's *Hue and Cry*. When it came to preventative policing, Cox's conclusion, that 'the Fieldings had got there first' (p. 159), is convincing.

Cox's contribution is one of the 16 comments by criminologists that make up the final part of the book. These largely fail to contribute to the book's objective. This is partly due to editorial decisions. The editors have chosen, despite some obvious links between papers, to list them alphabetically by author's name with, as the introduction concedes, 'no topical organisation' (p. 9). This leads to a very disjointed and unsatisfactory read. This is compounded by only a few of the contributions directly addressing the police writings, with others addressing Bentham's wider philosophical contributions around deterrence and utilitarianism. Many of the contributions are superficial and suggest only a passing familiarity with Bentham and his writings. In a footnote to his introduction, Jacques explains that he 'would have loved to see each commentator dig deep into Bentham's ideas on the police', but he chose not to require such engagement as 'fewer people would have agreed to write a comment; of those who agreed, fewer would have wound up submitting something; and of those who did, few would have actually followed the instructions' (p. 15). Such a light touch not only means the collection lacks coherence but, equally significantly, it impacts on its quality. For example, whereas Rossmo and Summers (p. 229) correctly point out that the Thames River Police had been established in 1798 by Patrick Colquhoun, Geltner refers to Bentham's 'imagined Thames constables' (p. 169). Surely a contributor can expect that such a basic factual error should be pointed out by an editor? In another contribution, Clarke claims that '[w]ithout Bentham's endorsement, Colquhoun's *Treatise* could easily be dismissed as the ramblings of an obscure London magistrate' (p. 151). This is not only unfair on Colquhoun, whose writings were admired by George III and key members of the government,[5] it also inflates Bentham's influence. As the introduction to *Preventative Police* states: '[f]earing that his open association with either Bill would scupper its chances of acceptance, Bentham insisted that Colquhoun kept his contribution secret.'[6]

A number of the contributors make claims about Bentham's foundational role in their particular school of criminology. Given the influence that Bentham and his disciples have had on Western thought since the nineteenth century, it would be surprising if links could not be made. However, these feel overstated and at best circumstantial. In particular, these authors fail to appreciate how many of the ideas they attribute exclusively to Bentham were in much wider circulation, both in Bentham's day and in the preceding century. Despite there being much more explicit links to contemporary criminological theory, for example the writings of Gary Becker, Richard Epstein and Richard Posner, who explicitly centre

their theoretical grounding on Bentham's political economy, these are not explored. Given that the pre-publication of *Preventive Police* was made available as a volume in Bentham's *Writings on Political Economy*, this absence is disappointing. Bentham, and indeed Colquhoun, saw their interventions in crime and punishment as grounded in political economy. In particular, the policing they were promoting on the Thames was a conscious attempt to replace the moral economy of those living and working on the river, based on customary rights, with a political economy based on the rights of property owners. Although Quinn signposts Bentham's 'readiness to cooperate with Colquhoun and the West Indian merchants in attempting to criminalize the practice of taking home spillage or spoiled goods' (p. 50), this is not explored by the criminologists. Nor does the significance to the history of policing of Bentham drafting the river police bill, created to protect the interests of the British slave industry, attract comment by the criminologists.

In his introduction, Jacques confesses to being 'a huge fan of Jeremy Bentham' (p. 3). But which Bentham? Much of the philosophical aspirations that Jacques identifies in the introduction are absent in his police writings. In his chapter, Quinn highlights how Bentham scholars have long recognised 'that the 1790s', the period in which he drafted these proposals and promoted his Panopticon, 'was a decade during which Bentham wrote some very unBenthamic things' (p. 65). The Bentham who here advocates for the *Gazette* as a government tool for deception, is at odds with much of his other writings which incorporated an uncompromising commitment to transparency. This, Quinn argues, is directly a result of fear. Britain was at war with revolutionary France, and Bentham, like many of his class, were fearful of the threat posed to the security of property by 'a radicalized majority' of non-property owners (p. 66). The links between Bentham's police writings and modern social control are highlighted by Gary Marx (pp. 193–206). Criminology tends to perceive policing purely at an institutional level, whereas, as Marx identifies, Bentham perceives it operating not only through government institutions, but also at both a situational level and, most significantly, through 'culture, communication and socialization' (p. 195). Particularly when *Preventive Police* is read alongside Colquhoun's writing, there is considerable evidence that the two men were working together to fabricate a new social order based around property rights and wage labour. Marx is correct to see Bentham as 'an early social engineer' (p. 202).

The extracts from *Preventive Police*, while limited, provide some interesting glimpses into the 'unBenthamic Bentham' of the 1790s. For

example, to assist the *Gazette* in tracking down desertions from the armed forces, he proposed that all men be tattooed with a unique reference when they enlist (p. 113). He praises the 1796 Seditious Meetings Act – outlawing political meetings of more than 50 people without advance approval of Magistrates – as 'a second *Magna Charta*' (p. 119). Nevertheless, the lack of a firm editorial hand and the overstating of Bentham's contribution to Colquhoun's policing project means *Jeremy Bentham on Police* ultimately fails to achieve its aims. There remains a need for criminologists to engage more with Bentham's influence on our subject, and to understand better how the foundations of the contemporary criminal justice system were imagined and built in the late eighteenth and early nineteenth centuries. Sadly, this book achieves neither.

Notes

1 Bentham, *Writings on Political Economy*.
2 This Committee represented the interests of the slave trade, Caribbean plantation owners and the merchants who imported the products of enslaved African labour into Britain. At this time, it was successfully coordinating opposition to attempts to abolish the slave trade.
3 Bentham, *Writings on Political Economy*.
4 Colquhoun, *A Treatise on the Police of the Metropolis*, pp. 42–4.
5 See, for example, the note the Home Secretary, the Duke of Portland, sent to Colquhoun in August 1796 passing on the King's 'high satisfaction with which his Majesty observes your unremitting and zealous attention to all objects which come within the scope of your official situation, and to the means of establishing a system of morality and good order in the Metropolis'. Cited in Iatros, *A Biographical Sketch of the Life and Writings of Patrick Colquhoun*.
6 Quinn, 'Editorial introduction', p. vii.

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