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Beyond Agency and Structure: Methodological Considerations for Researching the Use of Restrictive Physical Intervention Against Children in Jail

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Abstract

Following the deaths in custody of Adam Rickwood and Gareth Myat following Restrictive Physical Intervention, and the UK government's refusal to ban these instruments, it is incumbent upon us to investigate how use of these techniques may be obviated. Conventional methodologies are founded on a binary opposition that sets agency over against structure. Lack of coherence in the expression of these concepts permits research methods based on them to be less than fully coherent in their foundations. A coherent methodological foundation will be advanced which alleviates these problems. This position presents human behaviour as the product of constrained will. This paper will advance an outline of a research strategy designed to investigate the processes leading to violent constraint of children jail.

Concern has arisen in the UK over the use of Restrictive Physical Intervention (RPI, also referred to as "pain compliance techniques") in Young Offender and Secure Training Institutions. This concern is attendant upon the deaths in custody in 2004 of Adam Rickwood and Gareth Myatt following or during the infliction by officers of RPI techniques, and the subsequent Carlile Report (Howard League for Penal Reform 2006) and Smallridge and Williamson's (2008) review of the use of RPIs in children's[i] jails. Despite criticism from the European Court of Human Rights (2004), the Appeal Court's ruling in July 2008 that these techniques are unlawful (Guardian 16th December 2008) and the above reports' condemnation of their use, the UK Government continues to support them[ii]. In this case, where the UK Government shows no sign of banning these instruments of control, it is necessary that we investigate means through which their use might be obviated. Sparks, Bottoms, and Hay's (1995) *Prisons and the Problem of Order* is taken by many to be the "current state of the art in British penological thinking" (Bosworth, 1999:3) on the social production of (dis)order and its constraint in prisons, however, there are certain problems with its methodological assumptions that make it less than effective in terms of identifying the processes that bring about the events that necessitate the use of RPIs or the constraint of practices that escalate situations to the point where the use of RPIs become necessary. The methodological position taken by Sparks and his colleagues is, by and large, to be found in Giddens' Structuration Theory (1979 & 1986). This perspective suggests that notions of human freedom and creativity can be encapsulated in the concept 'agency', and that this concept is set over against the concept 'structure' which constrains agency. It is further suggested agency and structure are mutually instantiated through the recursive practices of agents. I do not wish to explore the mutually constituting nature of these concepts, but I do wish to point out that there is a problem with the concept agency, and thus, by implication with the picture offered of its involvement with the structuring of social collectivities. If this is the case, then we might reasonably assume that these problems are present in Sparks, Bottoms and Hay's study, and indeed they are represented in the picture of negotiation of agency which Sparks *et al* take from Beetham (1991). The problem here is that if the

possession of agency is negotiable in what Giddens (1982) has called the "dialectic of control", then the successful negotiator must be in possession of agency in order to "win" the negotiation (in other words, not be constrained in the negotiation by the powerful with whom he is in negotiation). This, of course means, that *negotiation* of the possession of agency is unnecessary, since successful negotiation presupposes that the successful negotiator already be in possession of agency. The reason that agency presents this kind of problem will be explored below.

What I intend to do toward the end of this essay is to outline a data collection method that will reveal the processes that lead to the use of RPIs in child jails. To do this I will first lay out a new methodological foundation that takes care of the problems surrounding the concept 'agency', therefore I will begin by illuminating the problem of the concept agency as it pertains to the description of the structuring of social interaction and institutions. I will go on to outline a methodological foundation that takes human social behaviour to be the product of constrained will; I will consequently briefly describe a phenomenological account of Will that bears upon the work of Heidegger and Derrida. Clearly we can will for ourselves far more than we can achieve, which means that our will is constrained, and that means, in turn, that someone has the *power* to constrain us. I shall therefore outline a perspective of social structures that accounts for this power to constrain, that rests upon the work of Deleuze and Guattari, and of DeLanda. I shall go on to suggest that this power is exercised in social situations linguistically (in part) in terms – following Austin (1962) and Searle (1969) – of what words can *do*. I shall then briefly outline a data collection method that makes use of these insights concerning words and their capacities as they find expression in Conversation Analysis (Sacks 1995 & *passim*) to investigate the processes that lead to the use of violent restraint in our child jails.

The Problem of Agency

The concept agency is usually set over against the concept 'structure'. In this duality/dualism, agency represents an attempt to capture the freedom from determinism that writers have claimed is inherent in human behaviour. That is, it is claimed that we are free to act in ways that conceptions reifying structure do not permit. In some accounts agency merely equates to action, in others it is bound up with notions of free will. In either case, the conception is reliant upon completed actions as evidence of its existence – if one is taken to be unable to do a thing, one is taken not to have agency in that regard. This is not to say that this is untrue, to be sure, if agency is that concept that speaks of concerns regarding the failure of structures to constrain us, then should those structures constrain us we are not possessed of that quality which expresses our freedom from such constraint. However, a major problem with the concept agency arises not when we consider what it means to be constrained and therefore not in possession of it, but when we consider what it means to say that we *are* in possession of it.

For Giddens, agency equates to action (1986:55) and thus is a 'stream of … *causal* interventions of corporeal beings in the ongoing process of events-in-the-world' (ibid. My emphasis). We are possessed of agency when we act in a way that exhibits the capacity to have acted otherwise (ibid:56) either through positive intervention or through forbearance. In other words we have agency when we are not the subject of coercion or constraint. In sociological terms, the notions of coercion and constraint are elements of determination. This locution 'could have done otherwise' presents us with a serious problem. To suggest that someone could have done otherwise is to suggest that they could have *chosen* to do otherwise, that is, their choice was in no way coerced or constrained (determined) and thus, conventionally, the agent has free will.

The public, policy-makers, and, indeed a significant quantity of criminologists might feel that the criminal (for want of a better word) is perfectly free to choose between committing a crime or going peacefully to the ball game. However, it is far from

clear what we might be saying if, having chosen to commit a crime, we say that the criminal *could* have chosen to go to the ball game. The phrase "could have done otherwise" is problematic because it suggests free will means having the ability to choose without constraint or determination. When we think of constraint, the matter is moderately straightforward, I can think of many physical constraints upon my choice to commit a crime or go to the ball game – there may be no tickets left, or they may be too expensive; the house I was intending to burgle has an alarm or is occupied or has a high wall. However, when we speak of the absence of determination the matter is somewhat more difficult. If we say we are free to choose, I suspect what we really mean is that "to all intents and purposes" we *feel* free to choose. However, the requirement of the technical concept agency is that we exhibit free will in the technical sense – the commonsense usage won't do – technically, we must be free to choose in an environment where we *could have done otherwise*, that is the choices must be ours, and we must be free of *any* determination, or constraint, and that means *all* determination or constraint. This presents us with a problem, because if the choices are ours (agent causation[iii]) '[t]he cause of the volition is the man that willed it' (Reid 1969:88). That is, it didn't "just happen", I caused the choice – I determined it. If it had just happened, then, of course, my burgling the house would be inexplicable, and it would be unclear how I could speak of having chosen. However, if I choose to burgle the house it is also unclear how such a choice might be free, since it is I who *determines* it, and freedom must be free of all and any determination. Thus, the idea that we might be "free to choose" seems to show us that the locution "free will" is an oxymoron since choice is a kind of determination and freedom cannot in any way be determined. This has led several writers to believe that the notion of freedom in "free will" is incoherent (Strawson 1986), incompatible with things that we take to be true of this world (Peerboom 2001), or that we simply cannot speak in any meaningful way about free will or free choice (Nagel 1987). Indeed, agency, expressed in the above way looks more like a description of "power" than "free will", in that it appears merely to equate to capacity or "can". The problem lies with the concept agency's reliance on the notion of freedom.

If we remove the requirement for freedom and concentrate not on "*free* will" but merely upon "will", then we are able to situate people's motivations, their choices concerning their future selves, within the greater world of their pasts, presents and futures in a way which agency cannot do: we can locate human behaviour as an emergent property of constrained will. This problem of agency leaves us with the need for a different methodological foundation upon which to ground our decisions concerning methods of investigation. I now turn to the task of briefly outlining such a methodological position that takes human social behaviour as being the product of constrained will, and thus, I begin with an account of will.

Will[iv]

Following the above, we appear not to be able to talk about human motivation or people's choices if we rely on the concept agency. If we are entirely free to choose, then we cannot speak of having choice, because choosing is a form of determination and therefore not free. The locution "free choice" is seen to be an oxymoron. So, what we need to do is to get rid of the notion of freedom as a pre-requisite. If we do this then we have to situate our choices or the choices of others within their complex pasts, presents, and futures, and the concept that permits us to do this is the concept, "will". This is possible because we can speak of people having will without having to talk about freedom at all; we know that we can have will to do something and still not be free to do it, whereas we cannot have agency and be constrained from fulfilling it. So, what we might say in place of the idea that structure denies agency, is that human behaviour is a property emergent from constrained will. It is important to note, however, that whilst we can readily imagine that our will can be constrained after we have it, it can also be constrained before we have it, in that it is not possible for us simply to will anything for ourselves. What we will for ourselves must be limited by our imagination, and our imagination can be limited in many different ways. This is akin to what Foucault calls an '*historical a priori'.* (1970: xxiv)[v]

What I want to do is to talk about having will towards ourselves as being a part of the nature of Human Being. When we talk about *being* as a person we usually talk about being here: that is, we say that we are self present. We talk about being me – self identity: that is, we talk about being that person who is me. We talk about being human: that is, we say that I satisfy all the requirements (I am in possession of all the necessary predicates) of being human – when we do this, we also suggest that being means being complete. However, none of these ideas answers the question: What is Being? This is the question addressed by Heidegger in '*Being and Time*' (1996 [1926])

For Heidegger, being is unavoidably bound up with being in the world with others. The human world is characterised by 'care'. Care, for Heidegger is very similar to Levinas' 'responsibility' or Dostoevsky's 'guilt', we cannot avoid having it towards other people: it is an ineluctable part of what it is to be a human being. For Heidegger, humans are unique in their way of being in the world by virtue of their ability to comprehend, or enquire about the nature of that being. Thus humans are those beings which (following from Husserl 1976 [1913]) can represent to themselves their own being. This is the basis of 'reflexivity': we can imagine ourselves *as* ourselves. Because we can perceive ourselves in the world and we can represent to ourselves others like us, we can perceive what it is like to be someone else: we care about them says Heidegger, we are bound up with ('concernful' about 1996:154, 167, 311 & *passim*) their fate. Dasein, Heidegger's word for Human Being – 'Being *there*' – means being *in the world* with, and caring about others.

This capacity to represent ourselves to ourselves, and to represent others to ourselves means that we can perceive differences between ourselves and others, and it is these differences so perceived that give rise to authentic and inauthentic behaviour. Sometimes we perceive the differences between ourselves and others and we try to be like them: what Heidegger calls the 'they self'. This is inauthentic behaviour. When we realize that our lives are finite, that, as Heidegger puts it, we become aware of 'the possibility of the impossibility of every way of comporting oneself towards anything, of

every way of existing' (1996:307) we also come to realize that our lives are full of possibilities. This makes us choose to be unlike others: this is authentic behaviour. So Heidegger claims that our colonisation of the future involves having will towards ourselves as objects of the future and that our passage to that future has qualities of 'thrownness[vi]' or 'facticity' (we are determined by our pasts), and 'projection' (we choose and act upon our own future in an authentic way).

Will and Supplementation

The question arises, then, how we act upon our will towards ourselves to *become* this object of the future. Here I wish to appeal to the work of Derrida. Derrida's primary concerns are with the nature of communication, and it is therefore unsurprising that he is not frequently the first port of call for criminologists in their search for a solution to their problems. Nonetheless, Derrida's method of deconstruction, and his critique of authority based upon logocentrism, and notions of the completeness of self-presence, present criminologists with a critical tool of significant utility particularly in relation to the law, but indeed with regard to any topoi of authority or plenitude. It is the notion of self-presence as plenitude, bound up in conventional ways of thinking about being, with which I wish to take issue. Derrida takes on these issues of logocentrism and self-presence in a critique of '*Essay on the Origin of Languages*' of Rousseau (Derrida 1978). This particular turn is of significance to the current project in that it deals with Rousseau's notion of the supplement, and I wish to introduce the idea of *becoming* (as we find in Nietzsche, rather than being) being achieved by the adoption of supplements to our existing selves. For Rousseau, writing is a supplement to speech. Derrida, in an earlier section of '*Of Grammatology*'(1976) revealed the 'classical' distinction between pure and innocent nature, and the impure imposition of culture present in the work of Levi-Strauss[vii], where Strauss equates the imposition of culture with the deleterious effects of the imposition of writing over the pure nature of speech[viii]. 'Thus we are led back to Rousseau: the ideal profoundly underlying this philosophy of writing is therefore the image of a community immediately present to itself, without difference, a community

of speech where all the members are in earshot' (Derrida 1976 op. cit., 136). In Rousseau, however, writing is not merely violence, but necessary: it is a necessary supplement. The question arises therefore, what is this writing a supplement to? The answer that Rousseau provides is that it restores the presence of the writer. Derrida, however, maintains that this is a supplement fulfilling some *lack* in nature (Ibid., 146-7): the adoption of the supplement makes visible an original deficiency. '[T]here is *lack* in Nature and that *because of that very fact* something is *added* to it … the supplement comes *naturally* to put itself in Nature's place' (Ibid., 149). Thus writing is '*required*' by nature and thus must be considered as 'inscribed in the origin of language *as such*' (Smith 2005). What this means for our current discussion is that in the face of notions of the correlation between absence and alterity[ix], the failure of notions of presence founded in logocentrism, present us with the impossibility of completeness of self-presence. That is, presence itself depends upon supplementation. Thus, if, as Bergson (1992) points out, no two states are ever the same for humans, the self of the future must be achieved by adopting some kind of supplement to the existing self: the supplement fulfils a lack in nature – it is *required* to complete the self-presence of the future object. (I shall suggest that we *are* assemblages of all such supplements as we have adopted in the past.) Thus we have will towards ourselves as an object of the future, which object is conditioned by our phenomenological engagement in a world of others and we attempt to adopt supplements to our existing selves in order to become that object of the future. In this case it will be apparent that we cannot always fulfil that which we will for ourselves, and therefore, it must be true that someone has the power to constrain our adoption of supplements. It is thus necessary to examine how this power comes about. I shall suggest, in line with Deleuze and Guattari that power to do things emerges from processes of assemblage. It is thus appropriate that I outline what we mean when we use the term assemblage where social structures or collectivities are concerned.

Assemblage[x]

In the foregoing I have outlined what I take to be a serious problem with the concept agency and have suggested the adoption of the older concept 'will' as expressed in the phenomenological tradition, and suggested that we achieve such will by adopting supplements to our existing selves. I suggested earlier that rather than the methodological foundation that sets agency over against structure, we should view human social behaviour as being the outcome of constrained will. It is necessary, then, that I now look at the constraint side of the coin.

Totalities and Interiority

The persistent, dominant view of social structure that it is a whole – a totality – made up of parts. Those parts have been taken to be its various institutions and other collections of individuals, such as government, police, army, health service, educational institutions, civil service, unions, clubs, families, companies and so on. The society thus formed is a whole; it is the sum of all its parts, and each of those parts has certain properties which delimit their function in maintaining the whole. Thus, on this view, if we take away one of these elements, the society is no longer whole. Each element in this kind of picture of society exists in a reciprocal relationship with its neighbours that is dependent upon the *properties* of each element. These relationships so conceived are referred to as "relations of interiority" (DeLanda 2006:9). In this functionalist view, the elements of a society exist because they serve a function in sustaining that society as a stable whole. However, such a view prohibits any account of phenomena that are not reducible to those parts because the whole is *no more than* the sum of its parts. Why, you may ask, is this a problem? If we imagine our police as being constituted by the *properties* (aligned with functions) of the individual policemen, how do we conceive of roles or functions or properties, or indeed a functioning whole in the absence of one of them through sickness let's say? First, we might suggest that the police force is no longer whole. This would mean that it was no longer fully functional. However, we know

that the sick officer's colleagues will alter their properties (their function – what they do) to accommodate the absent officer. We would then have to say one of two things; either the policemen had been surplus to requirements – in other words he served no function and therefore was not a part of the functioning whole, or the force is not whole now: there is one policeman missing. Either this is the case or the force's function must have changed. What this means is that views that reduce structures merely to the sum of their parts – that view societies as totalities – can have no account of change. Clearly the world is not fixed and does change and thus we need an account that permits change. We might say that the societies are not in a state of being but in a process of becoming.

Assemblages and Exteriority

The dominant challenge to this view of societies comes from assemblage theory. What have been conceived of as wholes are here conceived of as *assemblages* of entities, the relationships between entities are held to be products of their *capacities* (what they *can* do) and the relationships are referred to as "relationships of exteriority" (DeLanda 2006:10). Whereas in the old view, the dominant metaphor invoked the various functions (properties) of the organs of the body and their relationship to other functions of other parts, Deleuze and Guattari (1988) conceive of assemblages of different species. Symbiotic relationships such as that between bees and plants are based upon the capacities of each. Whilst it is true that the relationship is functionally necessary to the well-being of plant and insect, it is merely contingently so: the bee and the plant have come to rely on one another's *capacities* through evolution, and at some point in the future this assemblage will cease to exist in its current form. We can see that our absent policeman's colleagues have the capacity to adapt and cover for his absence – the "whole" that had been taken to exist was historically contingent. This view deprives conventional organismic theories of their primary metaphor, the whole, immutable organism, since the organism's boundaries are arbitrary. This is because all organisms are defined by a process of classification and essentialism: much sociology

hitherto has been merely a naming of parts. For example, it is taken that the police force is made up of actors whose essence is that they are members of the police force; the phylum *chordata* consists only of creatures with backbones, not because backbones are the essence that makes these creatures what they are, but because only creatures with backbones have been included. This is called 'taxonomical essentialism'. Furthermore, the organism's constituents are historically contingent. The view of assemblages as co-evolutionary relationships of historical contingency means that assemblage is always a process: a becoming. Moreover, because elements can be removed as well as inserted into the assemblage, assemblages are always unbecomings too. These (dis)assembling processes are characterized by movements of intensification and homogenization, or of dissipation or heterogenization. These movements are respectively referred to as territorialization, and de-territorialization. Thus assemblages have qualities such as density, homogeneity, scale, or speed, for example.

People as Assemblages

Above, I suggested that the constituent parts of an assemblage may be assemblages themselves, and, when we consider institutions or other social structures as assemblages, then, humans themselves, as *their* internal elements, may be considered simultaneously as assemblages and elements of assemblages.

Human beings, however, have a particular way of being, so they have a particular way of being assemblages. It is taken by many (from Husserl 1976 [1913] *inter alia*) that humans have the *capacity* to engage with the world in a peculiar way in that, for them, there are two kinds of entity – objects and subjects: the latter representing to itself the former. As I have pointed out above, this gives humans the capacity to see *themselves* as objects; moreover, it gives them the capacity to see themselves as objects of the future. That is, they have the capacity to exercise will over their imagined becoming. One element of humans as assemblages then, is the capacity to see themselves and others as beings, and to see themselves and others as beings of the

past, but they can also see themselves and others as becomings. As I further pointed out above, in order to move from the complete beings – the infinitesimally temporal totality – of the present, it is axiomatic that they must adopt some currently un-possessed supplement to their existing selves to complete the being of the immediate future. This is because no two states for humans are ever identical, therefore something new, something *additional* must have been added to the being of the present to make the being of the new present. We are assemblages of all of these supplements[xi] and we might refer to our disposition to future additions or supplements as having will towards the assemblage that would be produced. We have the capacity to view ourselves as objects of the future. Thus we have will to complete ourselves[xii], and we do so by the constant adoption of new supplements to our existing assemblages. The problem in the social world, however, is that we are not free to choose to see ourselves in any way: merely in ways that we can imagine. Imagination, however, is not infinite; it is dependent upon our experience of others. Furthermore, we are not free to adopt any supplement that we choose from our imagination because there are processes at work that have the power to prohibit the adoption of certain supplements that we might choose. Nonetheless, we may summarize the nature of the human assemblage by saying that it is the product of constrained will, where each supplement adopted to satisfy our will, past present and future, is an element in that assemblage which is us.

People and Assemblages: When is a Culture?

Because as individuals we are assemblages of all the supplements that we have adopted to create new assemblages in our attempts to satisfy our will towards ourselves as assemblages of the future, and those supplements and the assemblages that we imagine them creating are drawn from our experience, the contiguity of our experiences provides the sense of coherence between each of our various perceptions of objects that must of necessity be otherwise entirely heterogenous. That is, the coherence of 'compossible'[xiii] objects which Husserl (1977 [1931]) explains through the 'transcendental subject', for example, rather than being transcendent is immanent in our

everyday association one with the other. It is formed in the continuous association of ideas through relations of temporality and topicality, their association or negation through conceptions of similarity or alterity, our constant association of cause with effect. This provides an assemblage capable of making our communal objects comprehensible to one another (as individuals) and coherent in relation to one another (as objects). This is what we speak of when we speak of a culture: cultures are those assemblages of people that permit the coherence of the representation to each other of objects or meanings. It is an emergent property of the *capacity* of the culture to do that – that is what the culture does, when the assemblage does this, it is a culture.

Some properties of institutions: Temporality, Density, Recursiveness, and Scale

Following from the above, all institutions are cultures and therefore all institutions act in ways that *tend* to homogenize meanings[xiv]. We have insisted above that assemblages have as one of their qualities, temporality. All assemblages – which all institutions are – are in the process of becoming and unbecoming, forming and dissolving, producing or destroying, appropriating or rejecting: often simultaneously. This temporality also means that assemblages or cultures have the property of durability or stickiness, or a quality of speed that equates to slowness. Assemblages have as another of their qualities density. This is a property that we might associate with homogeneity and, the more durable the assemblage the more dense or homogenous it is likely to become; the more dense an assemblage, the more dense it is *likely* to have the capacity to become.

There is one other quality of human assemblages that I should like to introduce, and that is the quality which I should call "practiced" or "recursive". The more ritualised (for example) a culture becomes, the more dense it is *likely* to have the capacity to become: the more a group of friends see each other, the more likely they are to have the capacity to see more of each other. Old university friendships have a tendency to

fade away as the extensions that join the assemblage together get stretched and less practiced. The reason is this, the less dense the assemblage gets, the less it is capable of homogenizing meanings. The less the assemblage is capable of homogenizing meanings, the less it is capable it *becomes* of homogenizing meanings. The less homogenous it is the less dense it is, and so on.

Institutions as assemblages also have, of course, the quality of scale. It is imperative that we note that they need not have any *particular* scale, they may possess any scale, but scale is a quality possessed by assemblages that is not to be ignored. That is, where two or more people interact to begin to homogenize or make comprehensible to one another (share) their meanings, we have a culture. We also have cultures that consist of many millions of people. Depending which group of meanings we wish to select, we can talk about a Chinese culture, for example, and this, of course involves a significant proportion of all living humans. In the realm of scales somewhere in between friends and humanity, we have assemblages of varying scales some of which we refer to as institutions. These institutions – the Home Office, the Fire Brigade, Richmond Borough Council, Prison Service, are relatively large, relatively dense, relatively slow, relatively recursive and not surprisingly, powerful. Larger, denser, more recursive assemblages have the tendency to possess the capacity to increase their power to territorialize: large assemblages *tend* to get larger, because they are more homogenous, and the more homogenous an assemblage is, the greater its capacity to homogenize meanings. We might say that the assemblage – institution, culture – has the *power* to homogenize meanings, and it is the assembling process from which this power emerges.

Assemblages, Institutions, and Power: Power Equates to Can

Having very briefly sketched some of the qualities of assemblages that involve people and characterized them as what we mean when we speak of cultures or institutions and their capacity to homogenize meaning, it is now incumbent upon me to show why this way of conceiving of institutions is useful in our study of the nature of the

use of RPIs in child jails. There is one other thing, however that we need to do first. Earlier I suggested that human conduct can be summarized by saying that it is the product of constrained will. If we accept that we have will, then we have to ask: What are the (social) mechanisms constraining that will? That is, if we have will and we cannot do everything that we will to do (have *free* will), someone or something has the *power* to stop us doing that thing. The concept 'power' has proven to be amongst the most slippery concepts in the whole of the social sciences, nonetheless, I shall attempt to show briefly, how this concept is illuminated when social collectivities are viewed in terms of their capacities rather than their properties: that is, as assemblages.

We have suggested that we can only know what an assemblage is when we know what it can do. What something can do is its capacity. Power is about what you *can do*. Assemblages are made of capacities; thus they are made of power in varying degrees, that is, "all reality is already a quantity of force" (Deleuze 1983:40). The point here is that power is emergent from assemblages. Deleuze and Guattari (1987:399) illustrate this notion of the emergence of power from processes of assemblage through the idea of the man-hammer. Neither the man nor the hammer has the capacity to knock in nails, but together this assemblage has this capacity. Thus we might suggest that power emerges from the assemblage. This shows how cultures can come to have capacities to affect the outcome of human will, when conceived of as assemblages: supplements adopted into assemblages have the *disposition* (always, but to varying degrees) that they can imbue *capacities* upon those assemblages; they bring their own capacities and in so doing new capacities *emerge*. Power, (capacity) we might say, is the property emergent from the *adoption* of extensions that imbues assemblages with the capacity to affect change. We must point out that this capacity is always in conflict (successful or otherwise) with the capacities of others – "[t]he essence of a force is its quantitative difference from other forces, and the quality of the force in question is constituted by this quantitative difference" (Deleuze 1983:50). When the prison officer joins the force he creates a new assemblage, from which process of assembling his power emerges.

Each day he goes to work he re-assembles that assemblage. That is why he still retains that power to constrain his charges when having a cup of tea at work, but loses it when he goes home to his family. Moreover, he has significant power because the assemblage which he is involved (the membership of which constitutes a supplement to his 'home self') in constituting is massive, dense, slow (old), practiced; it involves all the assemblages of the law, the prison service, the judiciary the government and the state: their histories and presents. Power emerges from the formation of assemblages in proportion to their scale *and* durability, and sometimes according to actual physical properties.

The Normalizing Power of Institutions and Assemblages

Originating at least in part in the phenomenological account of humans' experience of the world of others alluded to above, what has come to be known as 'Symbolic Interactionism' tells us how social groups bring about the homogenization of meanings. Following from our capacity to represent to ourselves both ourselves and others as objects, we become aware of differences and similarities between ourselves and others who are neither entirely similar nor entirely different. Crucially, because we can see similarities between ourselves and others, we can conceive of the way in which certain of our behaviours may be viewed by them. That is, we may wish to constitute ourselves in a particular way – we may wish to appear like a hip-hop star, for example – we can view ourselves as the object of the future created by the adoption of the supplements – behaviour, dress etc – that would effect this transformation. We can conceive of the reaction of others similar to ourselves and *we* may choose to alter our aspirations for ourselves – we may normalize ourselves, we may homogenize our behaviour with that of others (behave as territorializing assemblages) every bit as much as we may choose to be different (behave as de-territorializing assemblages). The expectation of what others are like and how they will behave is known as 'typification'; altering our behaviour to fit in with these typifications is known as 'behaving to the generalized other'. However, neither the typifications nor the behaviour of those typified

is fixed, they are negotiated in 'the situation' and what those typifications and behaviours are altered by the 'definition of the situation' – a situation is 'defined' as one in which certain meanings are agreed upon, meaning that certain behaviours become normal or acceptable. The greater the power to define the situation, the greater the power to affect certain kinds of behaviour. The more people who internalize those norms, the greater the scale and therefore power of that institutional assemblage to cause others to internalize those norms. Various qualities of assemblages are involved in complex ways, however, by and large, scale, density, slowness, practicedness, all contribute to domination of the definition of the situation. Behaviour to the generalized other promotes normalization and homogenization of meanings, styles, representations, and behaviours. Definition of the situation defines which meanings, styles, representations, and behaviours are acceptable, or normal and therefore, by extension, those which are unacceptable. The power to normalize is thus self-replicating, giving rise to the situation that the power to normalize increases the density of the assemblage increasing the power to normalize.

The culture, or sub culture of any group of inmates in a child jail is tiny in comparison to the assemblage formed by the prison officer and the prison service. The prison officer consequently has greater capacity to impose his definition of the situation. The following outline of a data collection method is designed to make visible the processes by which the officer controls the definition of the situation, sometimes in the face of the will to reject those meanings or rules on the part of the child in his charge.

Methodological Considerations for Researching the Use of Restrictive physical Intervention Against Children in Jail

Thus far this paper has advanced a view of the way in which social actors structure society – cultures, institutions – as a "contingent ongoing accomplishment of organized artful practices of everyday life", (Garfinkel 1967:11) in their attempts to achieve what they will for themselves as objects of the future. These attempts are constrained (*post hoc*, at least) by events that are bound up with the emergent sense

making processes of assemblages. This is the limit of the theoretical methodological foundation; if we are to answer the questions surrounding the use of RPI on children in jail what must follow is consideration of the empirical – we must return to the things themselves. What are the real world technologies that one actor brings to bear upon another that limit the achievement of the other's will towards himself? What practices enable the powerful to define the situation as one where another's adoption of supplements to their existing assemblage is deemed appropriate or otherwise? What kinds of things do prison officers do to define their situation? How might they do things differently in order to obviate the use of RPIs? In short, what "artful practices of everyday life" do officers bring to the daily accomplishment of their engagement with their charges that might result in resort to RPIs? Conventionally at this point, post-modern, or post-structural analyses wishing to turn to the actualities of social action would appeal to Lacanian psycho-semiotic analysis of flows of desire, or to Foucauldian discourse analysis. The problem that I see with this approach in this context is that such analyses are designed to reveal the content of discourses and the effect of that content's meaning. What I wish to suggest here is that we should address not merely the meaning of words but what is their pragmatic effect in social situations: what it is that words can do. Discourse analysis may reveal the content of discourses by which the powerful reproduce inequalities, but it does not show how this happens. Furthermore, what I shall propose bellow relies for its coherence on its association with the pragmatic and phenomenological account of 'will' that I gave above. I recognize that this position is entirely defeasable and would welcome the opportunity to respond to any criticism. What I shall suggest, however, is that answers to these questions are to be found through engagement with the insights of Conversation Analysts.

Speech Acts, Conversation Analysis: What talk can do.

Following from the work of Austin (1962) and Searle (1969) we are aware that words do not merely *mean* things, they can *do* things. That is, we might consider the *capacity* of words to do things rather than their *property* of having meaning. In *Speech*

Acts (1969), Searle separates two elements of speech, namely the "propositional content" of any locution, and its "illocutionary force", that is, what the locution is *about* and what the locution *does*. This follows from Austin's assertion in *How to do things with words* that locutions, or as he called them, "speech acts" can *do* things. Thus when the priest says, 'I pronounce you man and wife' he performs the act of *marrying* people or of *declaring* that he has married two people. When John says 'I shan't be late' he performs the act of *promising* to be home in time for dinner. When the prison officer says 'Get that poster off the bed!' he performs the act of *ordering* the trainee[xv] to alter a supplement which he has adopted in an attempt to achieve his will towards himself as that object of the future who has a poster on the end of his bed. Following from the above and from Sacks (1995 and *passim*) those practicing Conversation Analysis (CA), are of the belief that *all* social processes are instantiated in talk. It follows then, should this claim be true, that it is through the use of certain linguistic tools that our prison officers define the situation that restricts the becoming of the boys in our child jails: their words do the work of defining the situation, and thus of restricting or promoting the adoption of certain kinds of supplements (manifest as certain kinds of behaviour) to their existing selves.

Conversation analysis is further founded on the work of Garfinkel and the methodological programme Ethnomethodology, of which Lynch has said 'Ethnomethodology transforms the theoretical *problem* of order into a descriptive orientation to the quotidian *production* of social order … [in other words,] to document the diverse tacit …competences that are part of innumerable organizations of practice.' (2001) Conversation Analysis has gone some way to achieving this in the circumstance where we might believe that such 'quotidian *production* of social order' is achieved linguistically. That is, CA seeks to uncover the tacit reasoning procedures and sociolinguistic competencies underlying the production and interpretation of talk in organised sequences of interaction, in an attempt to unfold the ordering processes thus engendered, and therefore the structuring of societies through talk-in-interaction. What I

wish to suggest here is that an adaptation of the methods of CA will be revelatory of the way in which prison officers structure the self constitutive behaviour of trainees, and that it is when negotiations of what constitutes acceptable behaviour exhaust their linguistic possibilities, that the negotiation becomes physical and RPIs are one of the officers' legitimised techniques of physical "negotiation". My suggestion is that the adaptation of CA techniques, a suggested account of which follows, will show what these processes are.

Conversation analysts conventionally make use of microscopically detailed analyses of transcripts of real recordings. Such recordings are not generally obtainable in prisons. However, conversation analysts have provided us with a wealth of knowledge about different features of talk in interaction. Knowledge of such features should enable a suitably trained researcher to identify such features "live" during overt non-participatory observation. First, however, we should look at some of the features of talk-in-interaction that conversation analysts have identified.

Talk-in-interaction is said to be structured around the taking of turns and the control of that turn-taking. This means that the simplest form of talk-in-interaction is the adjacency pair, where one utterance is followed without any kind of disruption by another related reply taking its turn. However, not all talk-in-interaction is this simple and more complex forms have been identified such as preferred responses, next turn proof, overlapping talk, or repair (where conventional "rules" of turn taking are broken) for example. Each of these ways of altering the talk from the simple adjacency pair is taken to be evidence of something social being done by the locators. Following from these and other categories, Hosticka (1979) constructed several categories of talk that contributed to assertion of the power to define the situation in a lawyers' office. Hosticka's paper examined the distribution of the power to define the situation where there was significant inequality of power between the professionals and the clients[xvi]. The kind of linguistic tools for defining the situation that Hosticka identified were events such as the following:

1. Questions: The form of questions may be viewed in terms of their expected responses (preference).
2. Answers: Answers may correspond to expected responses or deviate from them. They may also avoid answering the question.
3. Changing the Topic: Subjects previously unintroduced either by way of questions, or explicitly or implicitly in answers to questions.
4. Continuation: Continuation of a previously introduced topic despite intervening exchange(s).
5. Return: Return to a topic introduced by the other party despite intervening exchange(s).
6. Leading Questions: Questions containing their own answers. (more specific than dimension 1)
7. Explanation: More or less complete discourses reifying or defining events, for example, in the speakers own terms – characterised more or less by an absence of interaction. (In the face of deference for example)
8. Imposition: More or less complete discourses reifying or defining events, for example, in the speaker's own terms, in such a way as to discourage negotiation of the topic. (Despite resistance, for example)
9. Instructions: *Possibly* neutral directions to specific acts.
10. Orders: Imposition of directions to specific acts. (In the face of resistance for example.)

In "normal" conversation, speech acts such as those listed above would encounter a "repair" response, in the situation where these dominating speech acts are used to define the situation, repair is rarely successful.

Hosticka recorded the interactions and counted the frequency of occurrence of each of the categories listed. What I propose as a method of data collection is that overt, non-participatory observation is undertaken by researcher(s) who are fully familiar with these talk forms and others identified by CA. The researcher should observe the

interactions between the officers and the boys in the institutions and record with as much detail as possible the locutionary and somatic aspects of these interactions. Because mechanical or electronic means of recording events are unlikely to be permitted by the institution, the researcher would have to do this manually as soon after the event as practically possible, ideally immediately. There is a long tradition in covert research of taking notes very quickly after events. However, researchers here would need to record as accurately as possible the specific detail of exchanges. The purpose of this would be to show, or illustrate the kind of talk events that were taking place, and document the kind of events that led to the use of RPIs and those that were efficacious in diffusing situations. It would then be possible to advise upon the future training of officers in techniques that would obviate the use of RPIs.

We take the view of DiCristina (1995) that no method of inquiry has justifiable privilege over another, and thus we would suggest that where the choice of method is concerned, the investigator must justify his methods on an individual basis and own them and take responsibility for them. Furthermore, it becomes incumbent upon the investigator to accept the limitations and benefits of the *kind* of data produced and thus the nature of the claims produced by his analysis. What is important here is that this method of investigation is not be designed to test any particular hypothesis, it is not designed to *prove* anything. Consequently the data gathered does not need the rigour that conversation analysts have brought to their work, and thus the method of writing up after the fact that I propose does not present problems of validity or reliability. The method is merely meant, as with Ethnomethodology, to be descriptive. Furthermore, the kind of rigour that conversation analysts bring to their work has been because they have been at pains to *identify* certain kinds of linguistic structures are at present in talk-in-interaction, not to show what these structures *are doing* in the specific situation. This study would focus on the outcome of the linguistic events themselves and thus needs only to be able to demonstrate that certain already identified features serve to structure social situations in certain ways. This does not require the detailed recording and

analysis of the observed talk. There is in addition a certain advantage to working this way in that the observer will also be able to observe certain kinds of somatic behaviour that conversation analysts ignore. Indeed, in their assertion that all social interaction takes place through talk, they deny the existence of – for want of a better term – body language. The proposed method will be able to identify the kinds of "body language" and its association with certain features of talk that officers employ in their efforts to define situations in the way that they will.

Some Examples

What follow are some examples of the kind of events that I expect this method to reveal. They are taken from observations that I have made in a Young Offender Institution and in a Magistrates' Court. The first two examples are presented as a contrast to one another to show how different linguistic structures to events can have differing outcomes. The first example was recorded by me (in the manner proposed above) at a Young Offender Institution in the UK; the second is a fictitious representation of a different outcome.

Example 1

1	Officer	What's that poster doing on the end of your bunk?
2	Trainee	But we're allowed posters in us pads.
3	Officer	You're allowed them on your canteen.
4	Trainee	That's not fair, they has them on their bunk in Premiership[xvii].
5	Officer	You're not on premiership.
6	Trainee	Yeah but it's not like … you know … we're doin any harm nor nuffink
7		an' anyway its only van Damme, it's not like its porno nor nuffin
8	Officer	Are you going to take that poster down or am I going to do it
9		[and give you some
10	Trainee[xviii]	[That's not fair

11 Give you some minus points?

12 That's not fair. They gets everything on Premiership, they gets

13 burn and shower-gells ((takes down poster)) and they gets to eat in their

14 Pads an' all that, just cos they lick screws – sorry, officers – arses

In this example, the officer is attempting to define the situation – required by the large assemblage of the specific Institution – as one where boys only have posters on their canteens. The boy is trying to adopt the supplement to his existing self that achieves his will towards himself as an object of the future that has a poster on the end of his bed. There are one or two immediate events of interest in this example. First it will be apparent that most of the talk follows simple, undamaged, adjacency pair sequence until line 9 when the trainee interrupts the officer. The officer immediately initiates repair with 'give you some minus points'. The officer's repair is accepted by the trainee by repeating his 'That's not fair'. The exchange results in the amicable removal of the poster. The following example is fictitious, but it illustrates what could have happened had the real officer started his talk with an order.

Thus:

Example 2

1. Officer: Harris, take that poster down.
2. Trainee: Fuck off.

The order – one of Hostika's ten linguistic tools of definition of the situation – in line one leaves the trainee with little possible verbal response that would constitute a reasonable adjacent pair, other than to acquiesce: "OK". In the circumstance where the boy is going to resist the officer's definition of the situation where he can *order* the boy to take down the poster, "Fuck off" is among a very limited repertoire of possible

responses. This negotiation may well be likely to result in a physical conclusion because the linguistic possibilities are so easily exhausted when an order is used.

Whilst the following example is not from a prison setting – it was recorded by me in a Magistrates court – it is a good illustration of the kind of thing that the proposed method will allow us to describe. It illustrates how damage to the sequence of adjacency pairs is very rapidly repaired and how, when the definition of the situation is challenged, the definition is rapidly re-established. The *dramatis personae* are as follows: P, Prosecuting Counsel; D, Defending Counsel: B, Bench (Magistrate); C, Clark to the Justices (the presiding crown official – procedural, legal advisor to the court). Prosecuting Counsel has nearly finished her summary when defending council stands and says

Example 3

1	D	If I	may madam
2	P	**<u>If I</u>**	**<u>may finish</u>**
3	C		Sit down Mr Proctor (D)
4	B	Continue Miss	Adams (P)
5	C		**<u>I::</u>** will read the rules

(3 seconds)

The first startling thing about this exchange is that it took a mere three seconds. The first event is that the Defence Counsel stands and starts to speak before the Prosecuting Counsel has finished (threatening the definition of the situation as one where the Prosecuting Counsel may speak until she's finished – this incidentally is a standard turn taking rule identified by CA). She then interrupts his interruption, initiating repair. However, she has broken another rule, and that is that she is not permitted to admonish other members of the court. Thus, another repair becomes necessary and the Clark to the Justices initiates the necessary repair by interrupting the Prosecution. The Magistrate then tells the Defence to sit down, however, this again upsets the definition

of the situation as one where the Clark is in charge of procedure, and so she interrupts the magistrate, and by her interruption establishes herself as the court's arbiter. This is a clear example of the powerful asserting their capacity to define the situation, and it is the contention of this paper that we would not be able to see it and describe it without the research method that I adumbrate above.

Conclusion

There is not really a conclusion to this paper: there is nothing to conclude. I hope, however, that I have shown sufficiently that if we take to be true of societies what I suggest above, then the method that I propose to enable us meaningfully to describe the processes of definition of the situation in children's jails will be effective. I hope that such an investigation would be effective in bringing its insights to bear on the training of officers in techniques that will reduce the use of RPIs without having to rely upon the political will or courage to ban such instruments.

Footnotes

[i] Whilst the use of the term "child" to refer to these young offenders may appear emotive, it is the term preferred by professionals in the Secure Estate.

[ii] apart from the technique which involves inflicting a chop to the bridge of the nose with the side of the officer's hand which has been banned.

[iii] See Chisholm 1976, O'Connor 2000, or Clarke 2003, for example.

[iv] For a detailed account of Will, see my 2009a.

[v] This does not refer to an *a priori* in the Kantian sense but to an epistemological field that constitutes the conditions of possibility of ideas.

[vi] Geworfenheit. 'The expression "thrownness" is meant to suggest the *facticity of its being delivered over*' (1996:174)

[vii] Particularly, 'Structural Anthropology'.

[viii] Derrida shows that Levi-Strauss' study is significantly flawed and guilty of ethnocentrism.

[ix] He who is not self-present with me is not me: he is 'other' than me. He who is not co-present with me is a stranger or is 'other' than 'us' (those who are co-present with me).

[x] See Deleuze and Guattari 1987:pp. 71, 88-91, 323-37, 399, 503-5 and De Landa (2006). A more detailed account of Assemblage Theory and its implications for Criminology can be found in my 2009b

[xi] Actor Network Theorists call these supplements extensions see Callon 1991, 1986a, & b, Callon & Latour 1981, Latour 1988 *inter alia.*

[xii] I have spoken about this "will to self consummation" and expanded upon it at length elsewhere Crewe 2009a

[xiii] For Husserl rather than representing to ourselves some real object or other, we actively constitute that object. However, we can only constitute objects that are meaningful to us, and we can only constitute those objects that are coherent – 'compossible'.

[xiv] We must, of course always remember that there are de-territorializing processes at work that can catastrophically disassemble the most (apparently) stable assemblage.

[xv] Boys in Young Offender Institutions and Secure Training Institutions are frequently referred to as trainees.

[xvi] Similar studies have been conducted in medical institutions studying the distribution of power to define the situation between doctors and patients (Kahne, and Schwartz, 1978;

Kleinman 1982; Levy, 1982) and at the Watergate hearings (Moloch and Boden 1985) amongst others.

[xvii] At the institution concerned the boys were graded according to privileges into "classes" named after the leagues of the English football league, i.e. Premiership, Championship and 1st Division.

[xviii] The symbol to the right indicates overlapping utterances

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