

The Annual Review of Interdisciplinary Justice Research

Volume 1, Fall 2010

Edited by
Steven Kohm and Michael Weinrath
The University of Winnipeg
Centre for Interdisciplinary Justice Studies (CIJS)
ISSN 1925-2420

**Critical Analysis of the Practice of Auricular
Acupuncture on Mentally Ill Inmates Viewed through
the Conceptual Lens of Governmentality**

Janna Young, Criminal Justice,
The University of Winnipeg

Abstract

Utilizing a Foucauldian analysis of “governmentality” as an analytical framework, the purpose of this paper is to “understand the historical conditions of existence upon which contemporary practices depend, particularly those that seem most puzzling and unsettling” (Garland, 2001, pg. 2). The case study used as an example of a contemporary crime control practice is the performance of auricular acupuncture on mentally ill inmates in correctional settings. It is argued here that this practice is indicative of a neo-liberal governmental rationality because of the responsabilization of the participating inmates and the construction of them as active agents of self-change. The approach taken to analyze and problematize this contemporary criminal justice practice employed in this paper parallels the approach used by Foucault; genealogy. By facilitating an understanding of the historical, political, and social forces that participated in the emergence and maintenance of present-day practices, a genealogical account uses crime control history to understand the present. In addition to contextualizing the emergence of the practice of auricular acupuncture in institutional settings, the practice is also problematized for aligning with the broader political ethos of neo-liberal rationalities of governance. Lastly, a critique of the approach and implications for broader conceptions of justice are also included. In sum, it is argued that the governmental rationalities and technologies of governance exemplified in the practice of auricular

acupuncture on mentally ill inmate populations represent a paradigm shift within substance of and justification for the governance of criminal justice.

Introduction

Utilizing a Foucauldian analysis of “governmentality” as an analytical framework, the purpose of this paper is to “understand the historical conditions of existence upon which contemporary practices depend, particularly those that seem most puzzling and unsettling” (Garland, 2001, pg. 2). The case study used as an example of a contemporary crime control practice is the performance of auricular acupuncture on mentally ill inmates in correctional settings. It is argued here that this practice is indicative of a neo-liberal governmental rationality. The approach taken to analyze and problematize a contemporary criminal justice practice employed in this paper parallels the approach used by Foucault; genealogy. By facilitating an understanding of the historical, political and social forces that participated in the emergence and maintenance of present-day practices, a genealogical account uses crime control history to understand the present. This paper then, critically analyzes the history of the present through the conceptual lens of a Foucauldian governmentality framework using auricular acupuncture as a contemporary case study of a neo-liberal criminal justice practice.

The first section of this paper overviews the concept of governmentality according to Foucault. Secondly, key aspects of neo-liberal rationalities of governance are outlined. Next, the social and historical factors that contributed to the emergence of neo-liberal trends in governance are outlined. The third section outlines the philosophy behind auricular acupuncture, and includes the critical analysis of auricular acupuncture in penal institutions for aligning with the political ethos of neo-liberal rationalities of governance, using a Foucauldian governmentality framework. The final two sections of the paper present some of limitations and problems with the governmentality literature, and offer an explanation of the potential repercus-

sions of neo-liberal crime control practices on broader issues of justice. In sum, it is argued that the governmental rationalities and technologies of governance exemplified in the practice of auricular acupuncture on mentally ill inmate populations represent a paradigm shift within substance of and justification for the governance of criminal justice.

Genealogy of Governmentality

The work conducted in the latter part of Michel Foucault's life related to 'matters of the state' can be traced along two trajectories: 'the microphysics of power' and 'governmentality' (Dean, 1994, pg. 152). For Foucault, the conception of power that is rooted in a juridical-political theory of sovereignty claims a type of political sovereignty and is irrevocably problematic. To counter a juridical-discursive conception of power, Foucault introduced what he termed the 'microphysics of power' which is to say that power exists on a micro-level (Lemke, 2002, pg 51). This was a polemical approach to Marx's conception of power being structured according to the dominant ideology and instead, Foucault contends a micro-dispersal notion of power wherein individuals control themselves. Power then, is conceptualized as the ability to guide, or to govern forms of self-government (Lemke, 2002). This effectively links Foucault's work on 'the microphysics of power' to his work on 'governmentality'.

According to Foucault government was "an activity that undertakes to conduct individuals throughout their lives by placing them under the authority of a guide responsible for what they do and for what happens to them" (Foucault 1997, pg. 68). Government then is characterized as the conduct of conduct, meaning the deliberate shaping of how individuals behave and act in accordance to a prescribed set of norms and ends (Dean, 1999). The study of governmentality therefore involves the study of the government of others and the government of one's self (Garland, 1999). This entails an analysis of the relationships between two complementary areas of governance: the technologies of domination and rule employed

by authorities to govern populations, and the technologies of the self utilized by individuals to work on themselves and shape their subjectivity (Garland, 1999; Lemke, 2002). In other words, government, according to Foucault, focuses on the both the practices of government and the practices of the self (Dean, 1999). In sum, Foucault referred to these analyses as the study of 'governmentality' (Garland, 1999).

Neo-Liberal Rationalities of Governance According to the Analytic of Governmentality

Rose and Miller (1992) adopt the concept of governmentality in their analysis of the configuration of social regulation in contemporary societies. They contend that governmental rationalities have shifted away from Keynesian, welfarist governance towards neo-liberal forms. As a consequence of this shifting socio-political climate, the dominant political ethos in Canada and other Western democracies is neo-liberalism. Divergent to the Welfare states of the 20th century, the political approach of neo-liberalism that arose in the mid-seventies, opposed the assumption made by welfarist rationalities that social and economic ills are to be addressed by the government. More specifically, neo-liberal governance rationalities stress the caveats of "the arrogance of government overreach and overload" (Rose and Miller, 1992, pg. 204). Therefore, rather than the social style of governance of welfarist governance strategies, neo-liberal rationalities of governance advocate for an individualized and market dependent style of governance (Rose and Miller, 1992).

Furthermore, neo-liberal rationalities of governance conceive of governance as specifically being achieved through self governance, that is, the governance of individuals through their personal choice (Rose, 1993). It is also assumed that the individual makes these choices using a rational decision making process. Personal autonomy becomes inextricably linked to the process of neo-liberal governance by constructing individuals as having the responsibility for making socially responsible choices. The conception of the offender has therefore changed

within neo-liberal rationalities of criminal governance as Rose (2000) states “The pervasive image of the perpetrator of crime is not one of the juridical subject of the rule of law, nor that of the social and psychological subject of criminology, but of the individual who has failed to accept his or her responsibilities as a subject of a moral community” (pg. 337).

Furthermore, by constructing individuals as having the self-responsibility to maximize individual well-being and the ability to make choices to actualize this, neo-liberal rationalities of governance clearly rely on individual freedom for governance (Seddon, 2007). It is through the manipulation and exploitation of this freedom, albeit generally constrained freedom, that individuals are acted upon (Rose, 1996). Governmentality then is characteristic of neo-liberal societies where power is decentralized and its members play an active role in the shaping of their own subjectivities and their own self-government. Overall, neo-liberal rationalities of governance construct the political subject as a free subject and are understood as having the self-responsibility to maximize one’s mental health and well-being; choice and autonomy; and, a level of individual freedom (Rose, O’Malley and Valverde, 2006).

Historical and Social Factors that Contributed to the Emergence of Neo-liberal Trends in Governance in Crime Control

In addition to the political shift from welfare to neo-liberal rationalities of governance, understanding the shifts in the climate of crime control and criminology that have occurred during the last three decades is incredibly pertinent to contextualizing the emergence of the practice of auricular acupuncture in penal institutions. Garland (2001) argues that since the 1970’s and the decrease in penal welfarism, crime control and criminal justice structures have experienced a movement away from the traditional assumptions that shaped their respective practices. An indicator of this change is the shift in penological discourses away from rehabilitation to a focus on risk and risk management (Garland, 2001). The governing of the

risk associated with an individual, rather than the individual is an integral component of this emerging individualized risk discourse. Criminological discourse and techniques of correction have also experienced a transformation in recent years. An indicator of the changes in criminological thought is the emergence of the criminologies of everyday life which is comprised of a number of alike theoretical frameworks (Garland, 1996). The adoption of these new criminologies of the everyday into governmental policy has resulted in a restructuring of governmental action and the creation of new governmental techniques aimed at the problem of crime. These governmental techniques of correction include both responsabilization strategies and enterprising prisoner schemes, both of which stress the responsibility of the offenders in engaging in their own self-help and improvement (Garland, 2001).

An additional factor that has contributed to the emergence of neo-liberal trends in the governance of crime control is the emergence of neo-liberal strategies of penality in Canadian prisons (Hannah-Moffat, 2000). Although Hannah-Moffat (2000) analyzed Canadian women's prisons to illustrate emerging neo-liberal strategies of penal governing, the practice of auricular acupuncture lends evidence to the existence of these practices in male prisons as well. It is clear that the broad shift in correctional policy aligns with the concurrent shift in governmental rationalities.

Analysis of Governmentality Framework to the Practice of Auricular Acupuncture on Mentally Ill Inmates

The analytic of governmentality can be used to critically analyze the practice of auricular acupuncture for the increase in mental health and well-being on mentally ill inmate populations. Garland (1997) argues that the purpose of governmentality is to analyze contemporary practices to illustrate how the means by which the exercise of power depends on both distinct ways of thinking (rationalities) and of acting (technologies). In the current socio-political context, neo-liberalism is the contemporary governmental rationality (O'Malley, Weir

and Shearing, 1997). As such, technologies of the self in penal settings, such as auricular acupuncture are mechanisms used to align personal conduct with the broader governmental rationality of neo-liberalism (Miller and Rose, 1990). However, before auricular acupuncture is critically analyzed using the governmentality framework, the theory of the practice must be outlined. Auricular acupuncture is situated within the broader Traditional Chinese Medicine paradigm, and is a practice wherein five sterile needles are placed in specific points in the ear. The focus of acupuncture is on the imbalance of the mind, body and spirit, which is thought of as being the root cause of mental illness symptoms such as anxiety and depression (Kuty, 2006). Overall, Traditional Chinese Medicine acupuncture emphasizes the capacity of the individual to heal from within (Kuty, 2006).

In the case of auricular acupuncture, the participation in and self-change from the auricular acupuncture program relies upon expertise in the form of knowledge regarding the effectiveness and proposed benefits of the treatment that is propagated to the inmate populations. This expertise shapes the participants' subjectivity to align with broader neo-liberal rationalities as the individual is responsabilized as an active participant in their own self-help and improvement of their own well-being. Auricular acupuncture then, is a technology used for creating a specific kind of self and the inmates make themselves governable through their participation in the acupuncture program. Furthermore, the practice of auricular acupuncture can be problematized criminologically for being a penal technology that aligns inmate conduct with the following aspects of neo-liberal governmental rationalities: individual responsabilization for well-being and self-help which presupposes the existence of inmate choice and autonomy, the governance of inmates through their freedom and the framing of inmates as rational decision makers.

Technologies of the self are defined as "ways in which human beings come to understand and act upon themselves within certain regimes of authority and knowledge, and by means

of certain techniques directed at self-improvement” (Rose, O’Malley and Valverde, 2006, pg. 90). It is clear from this definition that the participation in auricular acupuncture acts as a technology of the self, as through this participation the inmates act upon themselves and aim at self-improvement. Consequently, a form of self-regulation is embedded in the actions of the offender in which the offender is procured as responsible for the control of their individual well-being. The ability of the offender to choose to participate in the acupuncture and to obtain results from the program, illustrate how the offenders are effectively governed through their freedom. In this formulation of freedom, the individual is constructed as a choice maker rather than completely free-willed (O’Malley, 2004). Under this new governmental rationality paradigm, it is important to note that even the mentally ill are conceived of as choice-makers as this represents a marked departure from the construction of offenders according to earlier welfare models.

In accordance to neo-liberal rationalities of governance, the participating offender is also framed as a rational decision maker. The underlying assumption of rational choice theory is individuals engage in a cost-benefit analysis prior to engaging in a particular behavior (Garland, 2001). It is argued here that the overwhelming emphasis on risk and risk management and, on self-esteem and self-improvement that has emerged in the last three decades acts to tip the scale in favor of choosing participation in the auricular acupuncture programs rather than non-participation. The designation of inmate populations, especially mentally ill inmates as ‘risky populations’ has gained popularity recently in criminal justice practice (Fennel, 2006). Within this risk framework, groups of offenders deemed risky, such as mentally ill inmates, are constructed as failing to act consistent with legalistic or psychiatric models of subjectivity (Rose, 1992). The self-esteem movement has contributed to the emergence and maintenance of an ethos wherein self-help and self-responsibility are linked. The self-esteem movement surfaced during the 1980’s and had the mandate to create technologies of subjectivity to solve social problems by targeting the way in which we govern ourselves (Cruikshank, 1996). It is

clear then that within the discourse of self-esteem, the relevant type of governance is self-governance. Together, the emergence of an individualized risk management discourse linked to mental illness, and the self-esteem movement result in the rational choice being participating in the acupuncture programs and the offenders' choices are channeled into preferred way of acting.

Critiques of Governmentality

A governmentality approach to analyzing crime control practices has been critiqued for a number of limitations and problems. Garland (2001) argues that the conflation of the concepts of agency and freedom in the governmentality literature is problematic. According to Garland (2001) the notion of agency references the capacity of an individual for action, whereas freedom refers to the individual capacity to choose a course of action without external constraint. Neo-liberal techniques of government therefore are contingent upon individual agency while concomitantly shaping the constraints placed upon the agent's freedom of choice (Garland, 2001). In relation to auricular acupuncture on mentally ill inmates, in addition to the conflation of the concepts, the presupposition of individual agency is problematic. It is evident from this critique that agency and freedom are distinct concepts; however, in this case study it cannot be assumed that mentally ill inmates have the individual capacity or agency to make rational choices within a constrained set of options although they may have the requisite freedom. Given the potential for a reduced rational decision making capacity for mentally ill inmates, the alignment of choices made by an inmate with the broader governmental rationality of neo-liberalism may be mere happenstance rather than self-governance. Therefore, Garland's (2001) critique that the processes of choice and of internalizing a specific self-conception are under-developed processes in the governmentality literature is especially pertinent to the practice of auricular acupuncture on mentally ill inmates.

The governmentality literature is also criticized for framing offenders according to incompatible criminological discourses; the criminology of the self and the criminology of the other. Concurrently, the offender is paradoxically constructed as a rational and responsible decision-maker and as lacking the capacity for reasonable action due to mental illness (Garland, 2001). This is particularly problematic in the current case-study as the offending populations have been deemed mentally ill and therefore their mental state may negate any potential for rational decision making. Lastly, Garland (1999) critiques the neglect of non-instrumental rationalities of government as a limitation of a governmentality analysis as he argues that penal policy is often shaped by emotions and morals. In regards to the practice of auricular acupuncture, a potentially influential non-instrumental rationality of governance relating to the governance of mentally ill inmates may include emotionally driven demands from the populace regarding an improvement in services and programs offered to these inmate populations. The creation of an auricular acupuncture program then may be the consequence of political authorities responding to claims made by the emotional populace, and in turn results in the legitimation of their operations.

Neo-Liberal Criminal Justice Practices and Broader Issues of Justice

In relation to justice based implications of this neo-liberal crime control practice, it is important to note that the efficacy of auricular acupuncture relies upon both its potential to increase inmates' levels of health and well-being, and because it provides a method of governance commensurate with neoliberal political rationalities. It is argued here that auricular acupuncture is the operationalization of neo-liberal governance rationalities within corrections, primarily by responsabilizing the offender as an agent of self-change. In relation to broader issues of justice, this begs the question: is it problematic that in our current justice system, crime control practices are being employed that align with the political ethos rather than ones that have process considerations of the practice, such as

responsibilization strategies? Arguably, the neo-liberal criminal justice practice of auricular acupuncture supports an ends based consideration of justice as it is legitimized based on the outcomes achieved, such as a decrease in mental health symptoms and the production of governance at a distance, rather than the means used to complete said outcomes. .

This focus on the ends of the practice at the sacrifice of process based considerations has the potential to produce problematic implications on broader issues of justice. For example, the means of individual responsabilization for the end of crime control is contested for a number of reasons including: the potential of crime being conceptualized as an individual problem not a societal problem has to disempower rather than empower groups of individuals due to unequal access to resources; and, the fact that it is underlined by rational choice and free-will rather than recognizing the potential for mentally ill offenders to have limited abilities to exercise free choice. In addition, it has been argued that responsabilization strategies are “a DIY project in which individuals are compelled to be free; condemned to choose” (Kelly, 1998, pg. 2). This interpretation of neo-liberal responsabilization strategies, as well as those in the majority of the governmentality literature, is exclusively negative in its reading of these strategies. However, it is important to note that information gathered by a first-hand l evaluation of an auricular acupuncture program for mentally ill inmate populations suggests that positive lived experiences are held by inmates participating in these programs. Taking this into consideration, it is concluded that despite personal experience indicating that sacrificing means considerations to achieve laudable outcomes is not problematic in the opinion of the participating offenders, it remains important to consider the potential negative implications this version of justice may have on broader justice issues.

Conclusion

This paper argued that auricular acupuncture represents a governmental technology that seeks to govern inmates,

and through which they govern themselves. It was also argued that this contemporary criminal justice practice is informed by a neo-liberal governmental rationality which is evident in the increase in individual responsibility for wellbeing and health, a reliance upon governance through freedom, an emphasis on individualized risk and risk management discourses and the framing of the offender as a rational decision maker. Overall, by reflecting upon broader political, social and criminological trends, the governmental rationalities and technologies of governance exemplified in the practice of auricular acupuncture on mentally ill inmate populations represents a paradigm shift within the governance of criminal justice.

References

- Cruikshank, B. (1996). Revolutions Within: self-government and self-esteem. In Barry, A., Osborne, T. & Rose, N. (eds.), *Foucault and Political Reason: Liberalism, neo-liberalism and rationalities of government* (pg. 231-251). Chicago: The University of Chicago Press.
- Dean, M. (1994). *Critical and Effective Histories: Foucault's methods and historical sociology*. USA and Canada: Routledge Publishing
- Dean, M. (1999). *Governmentality: Power and Rule in Modern Society*. London: Sage Publishing
- Foucault, M. (1997). *Ethics: Subjectivity and Truth. Essential Works of Michel Foucault, 1954-1984*. Vol. 1. New York: New Press
- Garland, D. (1996). The Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society. *The British Journal of Criminology*, 36(4), 445-471
- Garland, D. (1997). 'Governmentality' and the problem of crime: Foucault, criminology, sociology. *Theoretical Criminology*, 1(2), 173-214
- Garland, D. (1999). 'Governmentality' and the Problem of Crime. In Smandych, R. (ed.), *Governable Places: Readings on*

- Governmentality and Crime Control* (pg. 15-43). England: Dartmouth Publishing Company Limited
- Garland, D. (2001). *The Culture of Crime Control: Crime and Social Order in Contemporary Society*. Oxford: Oxford University Press
- Hannah-Moffat, K. (2000). Prisons that Empower: Neo-liberal Governance in Canadian Women's Prisons. *British Journal of Criminology*, 40(3), 510-531
- Kelly, P. (1998). *Risk and the Regulation of Youth(ful) Identities in an Age of Manufactured Uncertainty*. Thesis for a Degree of Doctor of Philosophy. Deakin University.
- Kuty, J. (2006). *Combining Acupuncture and Psychotherapy as a Treatment for Depression*. Thesis for Masters of Arts in Counseling Psychology. Pacifica Graduate Institute.
- Lemke, T. (2002). Foucault, Governmentality, and Critique. *Rethinking Marxism*, 14(3), 49-64
- Miller, P. & Rose, N. (1990). Governing economic life. *Economy and Society*, 19(1), 1-31
- O'Malley, P. (2004). Neo-liberalism and Risk in Criminology. In Anthony, T. & Cunneen, C. (eds.) *The Critical Criminology Companion* (pg. 55-67). Federation Press
- O'Malley, P., Weir, L. & Shearing, C. (1997). Governmentality, criticism, politics. *Economy and Society*, 26(4), 501-517
- Rose, N. (1993). Government, authority and expertise in advanced liberalism. *Economy and Society*, 22(3), 283-300.
- Rose, N. (1996). Governing 'advanced' liberal democracies. In Barry, A., Osborne, T. & Rose, N. (eds.), *Foucault and Political Reason: Liberalism, neo-liberalism and rationalities of government* (pg. 37-64). Chicago: The University of Chicago Press
- Rose, N. (2000). Government and Control. *British Journal of Criminology*, 40(2), 321-339
- Rose, N. & Miller, P. (1992). Political Power Beyond the State: Problematics of Government. *British Journal of Sociology*, 43(2), 173-205
- Rose, N., O'Malley, P. & Valverde, M. (2006). Governmentality.

Annual Review of Law and Social Science, 2, 83-104

Seddon, T. (2007). Coerced drug treatment in the criminal justice system: Conceptual, ethical and criminological issues. *Criminology and Criminal Justice*, 7(3), 269-286