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**Understandings of Habitual Criminality in England from 1770 to 1870**

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Abstract

This thesis explores the nature and role of a discourse of recidivism in England from 1770 to 1870. Using evidence from a wide range of printed, governmental, and manuscript sources, it posits that the existing scholarly focus on mid-nineteenth century legislation and sensationalist print culture provides an incomplete picture of the content, function, and dissemination of this discourse. It challenges the notion that attitudes towards recidivism were homogenous, sensationalist, and almost exclusively related to penal developments in the mid-nineteenth century. It posits instead that recidivism was understood and discussed in a variety of ways from the late eighteenth century onwards. Moreover, it emphasises variety and continuity in attitudes towards criminality which directly impacted upon discourses of recidivism. This variety was central to another key finding of this thesis that discourses of recidivism functioned as vehicles for a number of social and penal arguments. Thus attitudes towards recidivism expressed in this range of sources both replicated and were influenced by the purpose of documents or the experiences of the authors. The first two chapters of this thesis explore attitudes towards recidivism in familiar spheres; print and national penal policy. However, they focus on a broader time period and range of sources, highlighting continuity and diversity in eighteenth and nineteenth-century discourses of recidivism. The final chapter takes the form of a local case study on Birmingham. Moving away from a London-centric world of high government and the national press provides an important point of comparison between ‘expert’ commentary disseminated in the national public sphere, and the realities and discussion of offending, correction and penal reform within a local context. In seeking to better understand contemporary attitudes towards recidivism, the inclusion of a case study alongside an exploration of national discourse not only facilitates an examination of its nature and content, but also an assessment of the origins, development and role of such discourse within the criminal justice system at both local and national levels. Exploring these different contexts allows us to assess the pervasiveness and role of discourses of recidivism at key moments of penal change. It will shed light on how perceptions of recidivism were developed and used in different contexts.

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# List of Abbreviations

*Note to the reader: All quotes are replicated as in the original*

*Note to the reader: The page numbers in references to Parliamentary papers refer to the original pagination of the document, rather than the database image numbers*

B.L. British Library

B.P.P., HC British Parliamentary Papers, House of Commons (followed by year of publication, and volume number)

ECCO Eighteenth-Century Collections Online

Ed. Editor (plural eds)

f. Folio(s)

*Ibid.* Ibidem

MS Manuscript

OED Oxford English Dictionary

p. Page (plural pp.)

TNA The National Archives

vol. Volume (plural vols)

# Figures

1. ‘The Patent Antigarotte Collar’, *Punch Magazine*, 27 September 1856, p. 128… 51
2. *Punch Magazine*, 27 December 1856, p. 251… 52
3. *Punch Magazine*, 11 January 1868… 53
4. *Punch Magazine*, 26 October 1872… 53

# Introduction

The trajectory of, and impetus behind, developments in penal policy from 1770 to 1870 cannot be fully realised without an understanding of the perceptions of the period’s most prolific offenders, a group whose role is imperfectly understood. Contemporary understandings of ‘habitual’ criminality were a major influence on penal reform, and the endemic criticism and debate surrounding it. Concerns about habitual offending have been seen to have come to a head in the 1869 Habitual Criminals Act, through which recidivists were conceived as a distinctive aggregate penal problem.[[1]](#footnote-1) This thesis seeks to uncover the nature anddevelopment of a discourse of habitual offending and the stereotypes used to disseminate it. It will explore the emergence of a powerful idea of a ‘criminal class’ (perhaps the most evocative and recognisable phrase denoting recidivism) composed of repeat offenders which was seen to necessitate specific legislation in the 1860s. The ultimate goal of this research is to identify common strands in official and public understandings of crime, and to trace the development of ideas, expressed through terminology such as the ‘criminal class’, which feature so prominently in both contemporary and historiographical commentary. The phraseology of recidivism will be considered in relation to fluctuations in public debate about penal policy and criminality, as part of broader discourses about crime and punishment, a complex and frustrated world in constant flux. It is the nature of this debate, rather than policy itself that will be explored through a varied and ever-changing body of print.

Accepted understandings: recidivist discourse

The tropes frequently used to denote habitual offending such as the ‘criminal classes’ were not one and the same. Rather, they can be linked by the ways in which contemporaries conceived of, and feared crime. Recidivism is currently defined as ‘the action of relapsing into crime, or reoffending, esp. [sic] habitually’.[[2]](#footnote-2) It can be suggestive about both the ineffectiveness of various modes of punishment and the propensity of an individual to commit crime. Recidivism, or habitual offending, is an action, whereas the ‘criminal class’ is just one example of phrases used to categorise, and thus understand or pass comment on reoffending, something which can be hard to comprehend. Habitual offending implies some form of criminal career or disengagement with acceptable modes of employment and lifestyle. This socio-economic aspect was particularly problematic in times of social anxiety caused for example by nineteenth-century urbanisation and industrialisation, and led to an equation of social class and criminal status. Awareness of and discussion about recidivism also inspired reflection on the judicial system in that it was seen to represent a failure to realise a punitive purpose, be it deterrent or rehabilitative. Thus, criminal stereotyping reflected changing assumptions about crime as a problem, and changing expectations of the judicial system and other modes of social control.

The phrases ‘hardened’, ‘criminal class’, ‘dangerous classes’, ‘residuum’, and ‘habitual offender’ (to name but a few) all speak to the notion of recidivism in varying yet similar ways. For example, ‘hardened’ suggests a lifestyle acquired through action, whereas ‘residuum’ suggests an innate criminal capacity resulting from one’s social status. Accumulative stereotypes such as ‘hardened’ utilised in the eighteenth century gave way to terminology suggestive of an aggregate degenerate criminal population. The adoption of particular terms has been tentatively linked to different historical moments, for example by Victor Bailey (to be explored in more detail later).[[3]](#footnote-3) In view of clarity, however, the terms habitual offending and recidivism will be used in general discussion throughout this text, with the phrase ‘criminal stereotyping’ to explain the whole phenomenon. This terminology will be unpacked in the thesis and studied in conjunction with relevant contexts and meanings.

Current understanding of representations of recidivism in the nineteenth century, with particular focus on the ‘criminal class’, is based on a number of widely accepted factors including, but not limited to, legislation. The first of these, and perhaps the least disputed, is the significance of the implementation of legislation aimed at habitual offending (and offenders) amidst fears about recidivism and the ineffectiveness of parole. The 1869 Habitual Criminals Act mandated the creation of a register of criminals, whilst the 1871 Prevention of Crimes Act mandated the physical identification and surveillance of habitual offenders.[[4]](#footnote-4) We can view these legislative developments, as George Pavlich has described them, as ‘fixing’ criminal identity ‘through absolute images’.[[5]](#footnote-5) The second accepted notion is that throughout the nineteenth century habitual offending and the concept of a ‘criminal class’ were extremely common, and often urgent, topics of discussion for legislators, social commentators and the media alike, informing public perceptions and legislative developments, albeit in varied ways. It can be reasonably assumed that these discussions were dominated by the middle-to-upper classes due to their literacy and social power, although the reception and representation of issues across a broader spectrum of society is an issue requiring greater attention. Concerns about an ‘incorrigible’ cohort of habitual offenders increasingly gained prevalence and weight in penal (and socio-cultural) discussion.[[6]](#footnote-6) In this vein, it is widely acknowledged that nineteenth-century tussles with habitual offending contributed to the development of positivism and criminology as a social science.[[7]](#footnote-7)

The accepted chronology of a recognisable discourse of recidivism begins in the 1820s and 30s, when contemporaries negotiated social relationships amidst anxiety linked to industrialisation, urbanisation and the reform movement. The 1853 Penal Servitude Act legislated for the end of transportation and the introduction of the penal license system, exacerbating anxiety about crime and the problems of penal policy which often seemed insurmountable to contemporaries; eighteenth and nineteenth-century legislators were self-consciously attempting to navigate a sea of penal options in the context of the decline and eventual removal of a traditional mode of punishment which exiled offenders from the country.[[8]](#footnote-8) Criminals would now complete terms of penal servitude, often in Britain, with the possibility of early release under license conditions, bringing them literally and figuratively closer to home. [[9]](#footnote-9)The 1863 Carnarvon Committee made recommendations for greater severity and uniformity in English prisons, responding to concerns resulting from the legislative efforts of 1853 and a wave of violent street robberies attributed to these offenders on parole. The late 1860s saw the removal of what were effectively the last remaining recognisable aspects of the traditional penal system: transportation and public execution.[[10]](#footnote-10) Occurring concurrently with these developments, the ‘slippery slope’ understanding of crime (the theory that everyone was deemed capable of committing sin and crime, and that essentially one bad deed led to another), declined alongside a burgeoning perception of crime as a result of the moral and psychological degeneration of a certain section of society. The decline in this particular understanding of crime began in the eighteenth century but is frequently presented as having come to a decisive moment in the 1850s and 60s, a chronology which needs revision. The interplay of continuations in attitudes towards criminality, as well as the longer chronology of penal debate highlights that, whilst the 1850s and 60s were indeed significant, we need to explore a longer chronology. Linking discourse, policy developments and printed representations surrounding these moments has only opened up further questions.

The state of the field:

Whilst this narrative of the discourse of habitual offending is a common feature of crime and penal historiography, it is often insufficiently developed, with varying degrees of focus and engagement on the part of historians and criminologists alike. The body of literature on habitual offending is a diverse one, encompassing many strands. We need to synthesise these historiographical strands and investigate (with greater depth and explicit purpose) the development of well-known recidivist stereotypes, and indeed alternative discourses, outside of the usual mid-century context. It is perhaps reflective of the field of crime history in general that habitual offending is seen as one of many possible and necessary factors to be considered in scholarship on nineteenth-century crime, but less so in eighteenth-century scholarship. Yet even in the nineteenth century, habitual offending is often treated as an afterthought or as a taken-for-granted feature in penal debate and reform, for example identified as one of many forces inspiring contemporary discussion about the possibilities of punishment, rehabilitation and severity. In this sense habitual offending often constitutes simply an aspect of historiographical and criminological works, rather than a sole focus. This limits our understanding in that it implies that contemporary perceptions of habitual offending (and perhaps more importantly, habitual offenders) were constant and static, an established ontological entity that was known, without considering the genesis of these perceptions. This also underplays the significance of the role of understandings of criminality in penal policy and practice and the impact of a variety of different types of discourse. Moreover, interest in what was a popular area of research in the 1980s and 90s has somewhat waned, and has not received a full re-evaluation in light of more recent historiographical developments.

In their introduction to *Serious Offenders* (2010),Barry Godfrey, David Cox and Stephen Farrall state that the study of the criminal classes was a ‘dead concept’ in academic research, given that analysis of both literary and institutional records has shown the idea of the criminal class to be ‘fallacious’.[[11]](#footnote-11) This statement encapsulates the questions and problems evident in much of the literature.It is certainly fair to question the notion that a criminal class existed from a statistical, socio-economic point of view. This does not, however, negate the study of the field, but rather begs the question as to what the ‘criminal class’ was actually thought to be, and more pertinently how a concept based on unreliable statistics and linked to media-driven anxiety came to be so influential. The term ‘fallacious’ clearly emphasises the need to shift from exploring the existence of a criminal class, to exploring perceptions of it, and other similar groups. We therefore need to consider the way in which the subject has been tackled in the past, exploring how these very different approaches can be of use, but also identifying the limitations they place on a full exploration of reoffending and criminal stereotypes. The following overview of literature will test the existing research, analysing the historiographical interpretations of the criminal classes and habitual criminality, and laying out a more suitable approach.

Indeed, the claim that the criminal class is a ‘fallacious’ concept arguably renders it a more fruitful avenue of research. It allows the scholar to unpick the multifarious ways in which social problems and anxieties were explained and engineered by both public and official discourse. What is thus required is an analysis of the construction of this concept, the purpose and nature of this construction being the focus. This thesis will argue that ‘fallacious’ is perhaps the wrong term and that ‘constructed’ may be more pertinent and telling; the physical and statistical reality of the criminal class may be questionable, but recidivists as a tangible and threatening group still existed within both public and official discourse and psyche, impacting upon the judicial and legislative process at multiple levels seen most explicitly in the anti-recidivist legislation of the 1850s and 60s.

To gain a clearer picture of this complex historiographical body, the secondary literature on habitual offending can be categorised in a way which reflects historiographical trends. This introduction will explore four historiographical movements: a political and legislative focus; class-based social history; a cultural approach exploring public perceptions and the creation of identities and values; and more recent work on media representations and the role this played in public perceptions. With the exception of legislative approaches, these categories hint at similar conclusions with differing degrees of awareness of the implications of these conclusions. In light of this, a pre- and post- cultural history divide may be discerned.

The first two of these categories are ultimately unsatisfactory given that they do not take into account public understandings of crime and criminality, or indeed the ways in which public understandings were created and moulded. The final two sections (scholarship making use of a cultural approach, and scholarship focussed on media representations) do indeed deal with public understandings and perceptions, but generally within the context of mid nineteenth century moral panics. The final two sections of the introduction will attempt to address this chronological limitation by bringing in a range of work regarding eighteenth-century criminal representations.

Legislative approaches:

Whilst the publication dates of some of the works explored in this section are relatively late, we can place literature with a legislative focus within a more traditional, political framework which seeks to set out and explain policy development, often in a teleological manner. A consideration of the ways in which historians (and criminologists) have linked criminal stereotyping to legislative developments is necessary, yet rather insufficient in enhancing our understanding of the questions posed by this thesis. A focus on legislation aimed at tackling habitual offending in the 1860s is a traditional and somewhat outdated approach, but one which admittedly has constant relevance. Regardless of the perceived significance of a piece of legislation, one runs the risk of exaggerating its importance. What this approach does provide is detailed and authoritative information explaining the development and immediate causality of key pieces of legislation, rendering it invaluable to other researchers. Scholarship with a legislative focus takes one of two approaches; placing habitual offending legislation within the wider context of penal reform, or using criminal stereotyping (particularly that of habitual offenders) to explain key acts, or shifts in policy.

Volume 5 of Leon Radzinowicz’s ‘triumphalist’ series *A History of English Criminal Law and it’s Administration from 1750* co-edited with Roger Hood (volume one being published in 1948, and volume five in 1986) charts the development of the modern English legal system by focussing on its expanding aims and capabilities over the course of the nineteenth century, paying particular attention to the categorisation and control of habitual offenders.[[12]](#footnote-12) As part of his broader project, Radzinowicz explored the ideas and forces behind legislation and penal discussion, particularly the ways in which the nascent schools of positivism and criminology intersected with rehabilitative aims.[[13]](#footnote-13) Thus he used the concept of the criminal class, its creation and its development to explain the broad trajectory of English penal policy.[[14]](#footnote-14) Radzinowicz characterised the Habitual Criminals Act as a tightening of control and supervision of the criminal classes, in tandem with an increased enforcement of the terms of the Vagrancy Act. It was, in his terms, a ‘heavy package of repressive measures’.[[15]](#footnote-15) Radzinowicz explored in detail the support and criticism for, and successes and failures of the Act, attributing fluctuating discussion to social commentators and reformers, not just legislators. He suggested a degree of consensus, explaining that there was little resistance to these measures beyond a small ‘anti-constitutional’ lobby.[[16]](#footnote-16) Indeed, he suggested a kind of ‘us versus them’ consensus, describing the newly defined criminal class as ‘a separate and foreign social species... that decent citizens had nothing to fear from a jurisprudence tailored for, and applicable only to, this element.’[[17]](#footnote-17)

Similarly, Michael Melling focused on the genesis of legislation, in particular the Habitual Criminals Act and its progress through parliament.[[18]](#footnote-18) He posited that three factors influenced the problematisation of habitual offending: ‘the failure of the ticket-of-leave system, the cessation of transportation and the presence of a large criminal class’.[[19]](#footnote-19) He saw these three factors as encompassing public concerns, and that this social anxiety ‘demanded’ a legislative solution.[[20]](#footnote-20) This is a rather simplistic approach assuming a neat relationship between an undefined ‘public’ opinion and parliamentary response. Melling made use of letters from readers printed in newspapers, but did not consider the nature, context, intent or reception of these sources. He was concerned almost exclusively with the legislative development and response to this particular act, with the sections of the article entitled ‘genesis’, ‘metamorphosis’, ‘life’ and ‘death’.[[21]](#footnote-21) Whilst he assessed the level and direction of criticism and support for the legislation both in and out of parliament, he did not consider the genesis or broader implications of such public opinion.

One key area of policy change that habitual offending and criminal stereotyping have been linked to is that of an increasingly severe approach to punishment taken in the 1850s and 60s. Literature focuses on a sea-change in policy which encompassed the ascendancy of a desire for more severity in punishment, the fall of the rehabilitative ideal, and increasingly strict control of convicts. Backlash against the criminal classes has been seen as part of a tightening of control, utilising the concept and anxieties surrounding it to increase severity in the 1860s and 1870s. For example, in 1980 Jennifer Davis saw legislative developments such as the Penal Servitude Act and Prisons Act (1865), the Habitual Criminals Act (1869), and the Prevention of Crimes Act (1871) as direct results of a series of moral panics regarding recidivism and the ‘dangerous’ classes, notably the garrotting panics of 1856 and 1862 regarding violent thefts thought to have been committed by an influx of habitual criminals.[[22]](#footnote-22) Whilst Davis made use of the cultural and social concept of moral panics, she did so purely to explain legislative change and did not explore the complex relationship between public, official, and media understandings. Outlining this approach, she stated ‘…the outcome of a moral panic is often a change in the way control agencies function and/or a redefinition of what constitutes deviance in society...’[[23]](#footnote-23) In his article ‘Public Opinion and Law Enforcement’, Peter Bartrip saw anxiety around habitual offending as a key ‘pressure on policy makers or as a justification for decisions already made.’[[24]](#footnote-24) In aiming to unpick the traditional emphasis upon ‘isolating and evaluating the relative importance of ideas, movements and events on the reform process’, Bartrip intended to examine ‘the extent to which law enforcement derives from the wishes of the community.’[[25]](#footnote-25) He concluded that whilst a ‘groundswell of opinion’ in its various guises (namely newspaper reporting and parliamentary debate) stimulated legislative change, specifically regarding tickets-of-leave, this did not amount to public opinion.[[26]](#footnote-26) He argued ‘It is hard to determine what public opinion actually was beyond the sentiments expressed in Parliament or the pages of newspapers’, noting the centrality but ‘restricted’ nature of public opinion.[[27]](#footnote-27) In 1990, Gatrell linked contemporary understandings of habitual offending and criminal stereotypes to the development of a legislative (but also socio-cultural) policeman state.[[28]](#footnote-28) The criminal class has also been explored in terms of its impact on nascent probation legislation, for example by Barbara Weinberger.[[29]](#footnote-29)

We might also fit criminological scholarship into this section, in that it aims to unpick the relationship between perceptions of criminality and penal apparatus. One such example is *Serious Offenders* by Godfrey, Cox and Farrall.[[30]](#footnote-30) The book traces ‘the advent of new measures and institutions that the Victorians developed to punish and regulate habitual criminals once the option of transporting them to the colonies was removed in the 1850s.’[[31]](#footnote-31) The authors used official discussion and experiences of the judicial process as their evidence. Essentially, they viewed nineteenth-century research on habitual offending as part of the genesis of British criminology, exploring eighteenth and early nineteenth-century writings as a precursor to the development of an influential school of criminology. Similarly, Pavlich’s article for the *Journal of Theoretical and Philosophical Criminology* emphasised the policy implications of his research, exploring the ways in which criminal stereotypes (in this case, the criminal class) were created, in order to remove such prejudice from the judicial process today. In light of his research he argued that emphasis on the ‘criminal accusation’ should replace the ‘individual criminal’, rendering the judicial process more objective.[[32]](#footnote-32)

This section has highlighted prominent examples of literature which directly link public understandings of recidivism to broader penal development or specific legislative acts. It is possible to tell a coherent story about the development of legislation, but this implies both a teleological progression (in which public opinion generates legal action), and neglects to consider the plethora of voices and criticisms in the penal debate which are arguably just as significant as the legislation itself. The limitation of a legislative focus is that it is too narrowly focused to explain how and why discursive ideas, not just parliamentary bills, developed. David Lemming’s identification (in the context of the eighteenth century) of ‘apparently reciprocal relations between opinion, judicial decision-making and legislation’ is one which would greatly improve previous scholarship with a legislative focus.[[33]](#footnote-33) This suggests that the criminal justice system is about more than legislation. In light of this, the correlation between discourse and legislation in this existing body of literature is insufficient in two ways; firstly, it presumes that ideas lead directly or indiscriminately to legislation, and secondly it fails to recognise that ideas have an importance beyond legislation. Peter King is influential here, stating that in the functioning and development of the criminal justice system, ‘It was the informal practices, and not infrequently the decisive reforms, adopted by court judges, juries, local magistrates and other local decision makers that played the most important role’.[[34]](#footnote-34) This highlights the fact that reforms often took place at the local level, informed by local concerns. Thus, work on legislation recognises the importance of public opinion, but it treats it as monolithic, and fails to analyse it in sufficient depth. Legislation tells us little if explored on its own. Public attitudes are key and legislation thus needs to be explored in its cultural context.

Social history:

Literature exploring theinterplay between social relationships and the criminal class can be split into two; some scholars explored the criminal class as a social reality, utilising judicial (and social) statistics, whilst others focus on its existence as a facet of class conflict. The statistical approach will be explored first, followed later in this introduction by scholarship that assesses social relationships.

Crime and punishment statistics have traditionally been used by historians to assess the actuality of offending in a number of ways, including by counting offending rates, offending frequency, offender characteristics and geography. Evidence (or, data) about previous convictions is one of the main sources utilised by historians in assessing patterns of habitual offending.[[35]](#footnote-35) Scholarship taking this statistical approach can be linked to the mid-nineteenth-century focus on class, discussed in the second half of this section, using statistics as a way to explore the experiences and realities of the working class. Statistics of criminal prosecutions have also been used to assess the reality of professional, organised, criminal groups versus the committal of casual crime in order to alleviate hardship.

A key piece by Gatrell and Hadden, published in 1972, made use of annual statistical returns of criminal behaviour beginning in 1805.[[36]](#footnote-36) These authors were not specifically concerned with the criminal classes, but assessed the nature and reality of this supposed aggregate as part of the broader statistical picture of nineteenth-century criminality. Their aim was not to ascribe crime to the criminal classes, but to explore the existence and role of such a group in contributing to levels of crime. They posited that ‘a similar examination of the relationship between criminal activity and socio-economic conditions may help us to measure the depth and extent of contemporary social tensions and unrest.’[[37]](#footnote-37) It is suggested that criminal statistics can provide a breakdown of crime rates (increase, decrease), recidivism rates, and offender characteristics to name a few. All of these factors would, on paper, be useful tools in exploring instances of reoffending and the nature and development of a ‘criminal class’. Indeed, it is important to note that Gatrell and Hadden’s research first pointed out the existence of these statistics. What is perhaps most interesting is not what data we can glean from contemporary criminal record keeping, but the very fact that such information was collected in the first place.

The utility of these statistics in observing patterns and responses, however, has been debated. There is a long-standing realisation that criminal statistics were not the objective evidence they appeared to be.[[38]](#footnote-38) Statistics from the period demonstrate very specific facets of criminality, namely only crimes that were prosecuted, and only acts that contemporaries deemed countable. Thus this leaves us with a biased set of figures and a ‘dark figure’ of crime. For example, in 1980 (eight years after the publication of his statistical piece) Gatrell recognised that ‘… the tendency nowadays is to see even large aggregations of data as reflecting mainly what ruling groups thought was happening.’[[39]](#footnote-39) For Gatrell this did not negate the study of criminal statistics, but rather necessitated that extra care to be taken alongside other methodologies.[[40]](#footnote-40) Sindall described criminal statistics as a ‘notoriously poor measure of actual criminal events’.[[41]](#footnote-41) Writing in 1967 (and anticipating much later historiographical developments), J. J. Tobias criticised his contemporaries’ focus on statistics and instead sought to explain criminal experiences and stereotypes through oral and documentary evidence.[[42]](#footnote-42) In fact, Beier argued that the systematic recording of habitual offenders only from the 1870s onwards shows that the size of a ‘criminal class’ of ‘hardened’ offenders was not all that significant.[[43]](#footnote-43)

The limitations of statistical approaches suggest that the existence of a criminal class should be explored in other ways.[[44]](#footnote-44) If the socio-economic or statistical evidence for the existence of the criminal class (or at least the pursuit of this) has been discredited, then it is evident that we need to explore criminal stereotyping as a broader issue beyond the social. Others have taken what is arguably a much more useful approach, exploring *contemporary* debate and scepticism of criminal statistics, emphasising the fact that such ‘empirical information’ has been formulated and manipulated for a number of purposes.[[45]](#footnote-45) Walliss argues for an exploration of ‘the ways in which the statistics both influenced public opinion on the nature and extent of crime, and reflected the activities of the justice system.’[[46]](#footnote-46)

More recent literature has focussed on the creation and interpretation of statistics in a given historical period, and on the role of statistics in nascent government processes. Chris Williams explored what he termed ‘large-scale surveillance projects’, and the way in which the central government created and manipulated empirical information in order to present itself as ‘bureaucratically competent, predictable, and reliable.’[[47]](#footnote-47) He argued that knowledge served as a ‘springboard’ for dealing with criminal communities.[[48]](#footnote-48) Whilst Williams did not focus specifically on the nature or reality of the criminal classes, he explored the use of empirical information in surveillance techniques, which of course featured this group. Works in a similar vein have explored the way in which empirical information (namely, statistics) was used by nineteenth-century governments in state-building projects, a trend seen as part of the growing goals and capabilities of the state.[[49]](#footnote-49)

The objectivity and breadth of Victorian criminal statistics is not the most important issue when exploring ideas about habitual offending and criminal stereotyping.This debate is perhaps more of a concern for those seeking to understand crime and punishment patterns and rates, and the socio-economic causes of crime. But even here, the evidence is insufficient. If the categories and the interpretations were manipulated by commentators and officials, surely a better way of assessing the criminal class would be to explore *how* and *why* contemporariescreated and used crime statistics in promoting legislation and informing perceptions (both their own and those of others). In this respect, criminal statistics provide important evidence.

The ‘criminal class’ as an entity has also been famously invoked in discussions of Victorian class relations. An influential strand of this literature on recidivism and the criminal class, relates these tropes to class as an economic and social and category. Social historians argued that social conditions created a criminal class, either as a reality or by proxy as a facet of hierarchical conflict and social control. This school of thought was strongly influenced by the Marxist tradition in which socio-economic relations (notably the rise of capitalism) were seen as driving agents of history. Economic developments in the nineteenth century dominated historical writing from the 1960s to the 1980s, and can be viewed as part of the social history movement’s aim to shift the focus of historical research away from elite politics and explore the lives of ‘ordinary’ people in relation to power relations and hierarchies. As such, social relationships were seen as becoming polarised by class, and crime and criminality were explored in these terms. Historians who took this approach located the criminal class at the very bottom of the class structure itself, or the ‘lowest of the low’. They explored the criminal class as a derogatory, quasi-anthropological concept (anthropological in that it was seen as an observable social phenomenon), whereby the nineteenth-century effort to study and understand the labouring classes was simply part of an ever increasing effort to control the working population. They point to the entrenchment of class relationships and a fluctuating economic situation as the driving force behind stereotyping and categorisation, the inevitable outcome of a class society.

Whilst this may be considered a somewhat outdated (and indeed determinist) approach, class played an important role in scholarship well into the 1990s. In the introduction to *Crime and the Law* (published in 1980) it is stated that the collection is part of a shift away from a stringently Marxist approach, examining the continuity of capitalist structures rather than the impact of conflict and change.[[50]](#footnote-50) Nevertheless, Gatrell stated in 1990 that anxiety about, and legislation against, habitual offenders and concurrently the criminal classes was:

Part of a mounting disciplinary assault on those mainly proletarian classes who were assumed to threaten dominant and newly articulated definitions of order: those reluctant to enter a disciplined labour force, for example, or those who were excluded from, or who dissented from, the consensual society which the political nation was beginning to try to construct.[[51]](#footnote-51)

He argued that the history of crime encompassed ‘the history of how better-off people disciplined their inferiors...’, attributing a developing public consciousness of criminality to class conflict and anxiety about social change.[[52]](#footnote-52) Indeed, he goes so far as to state that in reality anxieties had little to do with the actuality of crime, but instead reflected fears about the ‘stability of social hierarchy’.[[53]](#footnote-53) Identifying an earlier period of upheaval than most, Gatrell describes the association in contemporary consciousness between poverty, idleness, and criminality as ‘axiomatic’ by 1839.[[54]](#footnote-54) However, assumptions are evident in these quotes about the existence of the criminal class. Gatrell introduces cultural construction in the form of projected anxieties without considering the genesis of this. This argument about social control raises cultural issues necessitating an exploration of language and values.

Victor Bailey, writing in 1993, was also concerned with the criminal classes as a facet of class politics, arguing that stereotyping and legislation against recidivism was part of ‘… the wider political project of establishing and reinforcing the moral boundaries between different sections of the vast body of the working population.’[[55]](#footnote-55) He did not suggest that the criminal class was a real socio-economic subset of society determined by economic conditioning, but rather that it was a category created and utilised by the ruling classes. He traced language used to criminalise the urban poor back to the 1820s in official literature, highlighting the social upheaval brought about by migration to cities and challenging economic conditions and thus locating criminality in real socio-economic conditions.[[56]](#footnote-56) For Bailey, class difference was both a concept and a reality. In this sense discussion and anxiety about recidivism and its related stereotypes can be seen as a civic issue in distinguishing who deserved to participate in the moral-political world. In her 1990 study of socio-economic divides in local areas, Barbara Weinberger argued that the ‘criminal class’ replaced ‘a more open acknowledgment of class conflict.’[[57]](#footnote-57) She suggests that criminal stereotyping and categorisation, particularly the term ‘residuum’, were used to stigmatise and ostracise certain types of people from certain areas.[[58]](#footnote-58)

The relationship between economic class and the ‘criminal class’ has been updated by explorations into the construction of identity. In 2013, Rob Breton suggested that the working classes were also engaged in the creation of this concept. He sees the idea of the criminal class as juxtaposed to working class self-perceptions of respectability, rather than simply socio-economic status, created both within and outside their own social strata.[[59]](#footnote-59) There has also been a rediscovery of the ‘deserving and undeserving poor’ motif, exploring self-representations and self-imposed divisions of the working class, for example by Lynn McKay’s *Respectability and the London Poor*.[[60]](#footnote-60)

As mentioned, to varying extents the works discussed in this section speak to cultural concerns. ‘Class’ has been taken by some to assume cultural dimensions attached to basic economic relationships. Scholarship focussed on socio-economic conditions and class relationships also posits that deviant behaviour was defined by elites encompassing their own mores and fears.This work was built on assumptions about the unequal distribution of power but was also concerned with the cultural, rather than social manifestations of this. Despite inhabiting the mental world of social history, this approach assesses control through discourse. This approach to class conflict has most famously been invoked by Foucault and Ignatieff who posit that prison reform and related discourse was both a method and result of social control.[[61]](#footnote-61) They argue that imprisonment aided in the creation of a criminal class, and that institutionalisation served a political and social purpose. Ignatieff saw prison reform and its related discourse as a way to exclude (or reform) certain social groups. It should be noted however that he later revised his own argument, questioning the validity of the notion of uniform penal practice and admitting that social control may be an oversimplification, or too static an approach.[[62]](#footnote-62) Foucault saw the concept of the criminal class as a powerful tool in the state’s project of control, surveillance and institutionalisation.[[63]](#footnote-63) Similarly, in *A Just Measure of Pain*, Ignatieff explored criminal stereotyping and subsequent legislative measures as a response to the socio-economic upheaval of nineteenth-century industrialisation.[[64]](#footnote-64) This sociological approach proved heavily influential in the field of cultural history, to be explored in the next section. Whilst such approaches are undoubtedly influential, they are aligned strongly with specific theory and thus manipulate historical fact and evidence in order to fit a certain paradigm. They are pertinent issues and forces to consider, but the questions posed by this kind of approach differ from the goals of this thesis. What this theoretical approach does inspire, however, is a consideration of contemporary attitudes and understandings, bridging the gap to a cultural approach.

Cultural history:

The field of cultural history is as influential in the ‘social control’ argument as is traditional social history. We can define cultural history as the study of historical change (or continuity) through an exploration of ideas, values and language. The field developed in response to concerns about the narrow focus of social history. The new cultural approach required a consideration of how values were constructed and disseminated. Whilst the argument for social control is insufficient, developments heralded by cultural history are pertinent to the questions posed by this thesis. In this section, work in a cultural vein will be assessed in order to firstly understand the offshoots of the social control argument (for example, that values can be embedded in cultural output and social structures) and secondly to think about structuring agents in society beyond socio-economic reality. In assessing the current state of the field of cultural history, this section will make some suggestions as to where this thesis might take existing knowledge further. In this sense, the approach will be to conceive of the social as having a wider definition and longer trajectory beyond nineteenth-century class relations. Monod argues for the reintegration of socioeconomic and cultural approaches. He states that the ‘rhetoric of identity’ does not fully explain ‘… the formation of social linkages and communities…’ and that experience is not as subjective as some cultural historians might suggest.[[65]](#footnote-65)

In *Reconstructing the Criminal*, Wiener argued that, for Victorian social observers, ‘… social reality, being human, *was* moral, *was* sensational in its nature.’[[66]](#footnote-66) This encapsulates a body of secondary literature which explores understandings of habitual offending and criminal stereotypes as culturally constructed, at the intersection of official policy and debate, socio-cultural mores and values, and media-driven perceptions of crime and criminality. Wiener emphasises the centrality of cultural mores and distinctions in nineteenth-century understandings of criminality, arguing that subjectivity and concepts of the self-played a key role in the discussion of crime and indeed legislation. This counteracts the misleading notion that habitual offending and its related stereotypes were an empirical entity (as we have seen), an approach that has a tendency to neglect the significance of public representation and discussion and the creation and manipulation of knowledge and understanding. It is in light of this that a significant portion of this thesis focusses on print and the public sphere.

However, whilst the make-up and dissemination of the concept of the ‘criminal classes’ in the 1850s and 60s is thoroughly researched and accepted by cultural historians, little attempt has been made to consider the origins and *development* of conceptual understandings of habitual offending (for example, the origins of terms criminal classes, dangerous classes etc.). Indeed, as Rowbotham states, recidivism was not a familiar concept until the late nineteenth century. This thesis seeks to explore the way in which the late eighteenth and early nineteenth-century public understood and expressed such issues.[[67]](#footnote-67) One of the tasks of this thesis is thus to explain how such discourse evolved prior to the existence of a recognisable vocabulary for it.Period-specific terminology (for example, the ‘criminal classes’, the ‘dangerous classes’, the ‘residuum’) used by different authors masks similarities and continuities and falsely suggests that particular moments of discourse were fundamentally different. The fact that similar terminology has been identified by historians throughout the period suggests that tracing the development of such ideas is imperative. For example, in ‘The Fabrication of Deviance’ Bailey linked different terminology to specific political and social contexts.[[68]](#footnote-68) In this sense, the phrase ‘dangerous classes’ was linked to social unrest at Peterloo in 1819 and grass roots political reform movements of the time.[[69]](#footnote-69) He argued that the meaning of terminology shifted when the working class ceased to be a threat after the reform movements of the 1830s. Bailey provided a thought-provoking exploration of the different kinds of terminology used in eighteenth and nineteenth-century criminal stereotyping, but it is necessary to explore the linguistic use and impact of such terms, not just the impact of political and socio-economic context on language and values.

The ‘discovery’ of a ‘criminal class’, presented in the historiography as the defining moment in the history of habitual offending, has been posited as taking place in the 1850s and 60s.[[70]](#footnote-70) This mid-nineteenth-century focus presents the criminal classes as a section of the working class poor, conceived of by contemporaries as degenerate and lacking morals. However, the construction of binary class relationships which focus on industrial labour was very much a nineteenth-century development and this focus on economic relationships arguably removes our ability to trace the idea of ‘degenerate’ criminal classes back to its origins in the eighteenth century. By focussing on the ‘discovery’ of the criminal classes the traditional historiographical narrative neglects the development of different attitudes towards recidivism, and instead narrows the focus on late Victorian and Edwardian understandings. If we broaden our focus to include the wider use of language, the longer term development of such discourse from the eighteenth century becomes key. This entails a consideration of print as a space for discourse. The history of print has a much longer trajectory, its significance first being felt with the loosening of licencing of restrictions in the late seventeenth century.

There is, however, often an unintended awareness of the impact of abstract socio-cultural factors (such as mores, values, and the role of print) in much of the aforementioned literature published in the 1980s and 90s, the difference perhaps being a lack of aim to produce such work. In the introduction to *Crime and the Law*, published in 1980, for example, the authors state that it is necessary ‘today’ for the historian to ‘…measure the sensationalism of contemporary newspapers and the melodrama of contemporary novels and pamphlets against the actual practice of the courts and the police.’[[71]](#footnote-71) In 1993, Bailey perceptively described the language used in criminal stereotyping as ‘encoded’ with ‘… a set of values which verified the tenets of political economy…’[[72]](#footnote-72)

Building on this work, a significant body of literature exists which explores eighteenth-century understandings of crime, most notably burgeoning middle class anxieties about the frequency of property crime which was portrayed as a threat to their propertied social standing. Of course, it is important to distinguish whether this was thought to be a case of recidivism, as opposed to opportunistic crime, but analysis of the development of such anxieties and the resultant polarisation and stereotyping is helpful in exploring the questions of this thesis. In this vein, Lemmings alluded to concerns about social upheaval created by urban migration, and the perceived ‘intoxication’ of the poor by prospects of wealth and material culture.[[73]](#footnote-73) In the eyes of eighteenth-century commentators, this signified a break-down of hierarchy and a degeneration of moral standards. Lemmings used Henry Fielding as an example, who argued that a hierarchical social and moral order was being destroyed by the ‘corrupting’ influences of wealth and urban migration.[[74]](#footnote-74) We should be aware however, that Fielding had a precociously class-based view of society for the time. Whilst these middle class fears relating to consumption and fluctuation were very much an eighteenth-century concern, different in content to those of the nineteenth century, we can discern a similarity to nineteenth-century fears of subversion and degeneration. Social and moral degeneration created an environment in which crime became attractive, readily and repeatedly committed.

In addition to exploring the basis of eighteenth-century anxieties about crime, historians have also identified different concepts of criminality. The dominant attitude has been characterised as the ‘everyman’ notion based on the belief in a universal propensity (or a vulnerability) to sin and commit offences, as seen in printed representations of crime (most fully in Ordinary’s Accounts, and pamphlets and ballads providing sensational and entertaining accounts of criminal exploits). For example, in *Tyburn’s Martyrs*, Andrea McKenzie unpicks eighteenth-century understandings of crime (particularly an individual’s propensity to offend, or the ‘everyman’ understanding of crime), using popular materials created at and around executions.[[75]](#footnote-75) She provides a thorough explanation of the eighteenth-century ‘slippery slope’ and ‘everyman’ mentality which meant that crime was understood as a result of bad moral choices; it was ‘… an age in which all men and women were sinners and hypocrites.’[[76]](#footnote-76) Everyone had the propensity to commit crime after a moral lapse, and certain behaviours or actions only served to increase this danger leading to repeated and more serious offending. Not only did the idea of a universal (im)morality avoid the creation of divisive stereotypes, but it allowed criminals to use such factors to exculpate themselves.[[77]](#footnote-77) This approach to criminality is particularly significant when assessing attitudes towards recidivism as it illustrates a markedly different way of thinking about morality, habit, and the causes of crime and its recommittal. Eighteenth-century perceptions of habitual criminals are thus of ‘old offenders’, or ‘notorious and incorrigible’ offenders, terms which create an impression of an accumulation of past offences.[[78]](#footnote-78)

This notion of an accumulation, or piling on of sin and misdeeds is a stark contrast to accepted nineteenth-century perceptions of an innate capacity for criminality. The ‘everyman’ notion of the propensity to commit crime illustrates what may be seen as a less divisive or judgemental approach to criminality. McKenzie identifies a way of conceptualising criminality which is integral to attitudes towards recidivism and argues for its eventual decline, rooted in what she sees as changing cultural and religious values and reflected and bolstered by changes in print culture and penal practices (notably the declining popularity of ‘criminal lives’ print material and the privatisation of punishment). Research for this thesis, however, has identified continuity of this way of thinking into the nineteenth century. This sheds important light on attitudes towards recidivism, making a powerful argument for extending analysis of criminal stereotyping and related discourse backwards, and indeed re-considering the idea that nineteenth-century attitudes towards recidivism were homogenous. McKenzie’s approach in exploring attitudes towards criminality through cultural means shows us firstly the utility of such a method, and secondly how important it is to return to the eighteenth century. Her identification of eighteenth-century attitudes towards criminality provides a space for recidivism in this earlier period. It paves the way in showing not only how older arguments were significant and more longer-lasting than previously imagined, but how we might begin to trace the development of ‘newer’ (i.e. nineteenth-century) attitudes in the late eighteenth century. Providing a window into eighteenth-century attitudes towards criminality, McKenzie’s work shows us that, despite less prevalent and explicit discourses of recidivism in the eighteenth century, we can still access this discourse in different ways.

Existing scholarship posits that, in the late eighteenth century, understandings of criminality shifted from a basis in wilful action linked to sin and moral choice, to a symptom of socio-economic environment and moral and mental weakness, sometimes reaching the extremes of a hereditary disorder. As McKenzie states, from the 1740s and 50s onwards ‘there [did] appear to be a gradual shift from an older, universalist conception of crime to one more concerned with, or at least more apt to cite, environmental and class-specific causes of criminality.’[[79]](#footnote-79) Criminals, particularly habitual ones, came to be seen in the nineteenth century as abnormal, even abhorrent, as opposed to lapsed members of a shared moral community. We also know that shifting understandings of the character of the offender played a central role in the criminal justice procedure, something which is especially well documented in works on judicial discretion and eighteenth-century penal code. ‘Character’ earlier in the period involved the morality of one’s past actions and relationships, whilst in the nineteenth century assumed broader links to the respectability (or lack thereof) of one’s socio-economic class and status.

The mental (and physical) space around the event of execution that McKenzie depicts is entirely different from the representations and public experiences of crime in the nineteenth century. This begs the question as to whether understandings were linked to the *mode* of representation; were eighteenth-century concepts of universal morality the result of a physical and visual equality in experiencing crime and punishment, in that they took place in the public eye? McKenzie emphasises crossover and continuity in shifts relating to perceptions of execution, as well as the spectacle of the event itself. She also points to changing religious understanding being the reason as to why the everyman concept declined in the nineteenth century. Her approach provides a strong base from which to proceed. The cornerstone of nineteenth-century understandings and conceptions of habitual offending appears to be the issue of penal policy, and the need to justify a given policy amidst criticism and debate from multiple angles. A very different penal culture existed which was cognizant of, and driven by, the increased range of penal options available. Moreover, the nineteenth century saw shifts in social structures and values. It would be fruitful to test some of McKenzie’s ideas and the issues they throw up within these new contexts. In addition, it is important to consider the impact of genre type in this discourse, something which McKenzie introduces through her in depth analysis of the ways in which particular genre types necessitated particular narratives of criminality. We will see in the next section that media representations and changes in genre have been a more recent focus providing new avenues.

The historiography of print culture:

A more recent historiographical trend regarding the printed representation of crime and criminality, and the effect this had on public perception and policy, has shed new light on the topic of habitual offending. This includes the field of media history, but also a shift by historians to an engagement with print culture. Indeed, an interest or engagement with the fairly abstract notion of culture necessitates a better understanding of print. This includes its forms, genres, and the way these affected its content. Historians of crime have utilised a number of genres, of which newspapers are the most common. Although habitual offending and criminal stereotyping have previously been considered in terms of media-generated ‘moral panics’ (regarding a perceived short term increase in crime, the inherent violence of the offences and offenders, and the introduction of probationary schemes) in the scholarship of the 1980s and 1990s, a newer body of historiography, particularly regarding newspaper representations, has provided an enhanced understanding of the function of eighteenth and nineteenth-century print culture and its relationship to penal policy. Recent years have seen an increased focus on newspapers, highlighting a longer trajectory of concern about crime and a wider set of attitudes.[[80]](#footnote-80) Casey states that ‘… crime news increases the fear of crime…’, and King outlines the commercial nature and entertainment value of newspapers in dictating what is printed and thus how the public might perceive of crime.[[81]](#footnote-81) This literature conceives of criminal stereotyping as a product of the media and discussions surrounding it, rendering it insufficient to maintain a focus on the 1850s and 60s. As this section will argue, scholarship on print culture has shown the eighteenth-century public sphere to be highly functioning and influential. It is now well-documented that from the very early eighteenth century, print was a driving factor in the increased scope of public discourse in general, and particularly influential in the construction of understandings of crime, and the fuelling of anxieties.[[82]](#footnote-82)

Moral panics pertain to habitual offending in that they combine fears to create threatening images of endemic crime committed by offenders beyond help or rehabilitation. Indeed, incorrigible criminality is often a deep-seated fear in any society. The idea was most famously explored in 1972 by Stanley Cohen, who wrote about the perceived threat of youth culture to normative social order at the time.[[83]](#footnote-83) Numerous historians have utilised the concept of ‘moral panic’ and media-created anxiety in relation to understandings of habitual offending and criminal stereotyping, paying particular focus to the ‘garrotting panics’ of 1856 and 1862.[[84]](#footnote-84) Whilst habitual offending is a factor, historians tend to get bogged down by the actuality and development of this particular series of offences (violent robberies) or crime wave, rather than the currents which informed attitudes and heightened fears about crime in the longer term. In addition, as highlighted by Lemmings and Walker, there are limitations to the paradigm of the moral panic in that it is not a blanket term, but functions differently in different chronological contexts and has a long history.[[85]](#footnote-85) Sindall concentrates on explaining and understanding the garrotting panics. He argued in 1987 that they were sparked by an increase in *reports* of street violence, rather than actual number of offences committed, highlighting the power of the press.[[86]](#footnote-86)

There are, of course, limitations with this approach, which utilises particular mid-century moral panics to explore wider perceptions. Not least, it suggests that the development of criminal stereotypes and changing understandings of crime were static, one-off moments, with particular causality and effect, rather than part of developing discourse in line with developments in print culture and modes of public discussion. Related to this, another potential problem with histories of crime in the media and public sphere is that historians focus on either the legislative impact or the reality of claims in relation to, for example, statistical ‘crime waves’ (Davis being a prime example, focussing on the impact of the garrotting panic crime wave).[[87]](#footnote-87) Thus, there is more to be done in understanding how print works, in teasing out the development and function of the language and concepts used in this ‘public sphere’, and indeed the impact of official ‘evidence’ on public opinion. Not least, it is imperative to consider the nature of readership, and the interplay between the reading public and commentators.

Another problem is that whilst it is acknowledged that moral panics are constituted of fear and anxiety built up in the media or public sphere, few explore the influence of geographical location or class on the placement or nature of anxiety. For example, Davis’s article was criticised by Bartrip who suggested that her argument is dependent on seeing middle-to-upper class understandings of crime as homogenous, supposedly indicative of broader societal perceptions.[[88]](#footnote-88) Beier argued that previous scholarship is insufficient in its ‘overconcentration on opinion makers and policy makers.’[[89]](#footnote-89) Beier’s point is a valid one; she questions whether it is sufficient to firstly focus on the perceptions of opinion and policy makers who (whilst influential) do not represent society as a whole, and secondly to neglect the influence of the criminals themselves whose self-perceptions and experiences of the criminal justice system must surely play a part.[[90]](#footnote-90) She uses examples of criminal agency (for example, ‘cant’, a type of slang) to explore the development of traditions and values inextricably linked to criminal stereotypes.[[91]](#footnote-91) We can relate this to a point made by Bailey in 1993, arguing that self-identification amongst criminals as ex-convicts ‘condemned’ them to ‘membership’ of the residuum or criminal class, and that this served as a justification for control in itself.[[92]](#footnote-92) These historians identify new points of discourse creation, impressing the need to broaden the focus in this field.

David Lemmings and Clare Walker have recently addressed these issues in their 2009 exploration of moral panics as a component of the eighteenth-century public sphere. Instead of taking particular moments of heightened anxiety or fear, the purpose of their book is to extrapolate the ‘nexus between law, government and popular opinion’ which they argue shifted decisively after 1700.[[93]](#footnote-93) Rather than identifying moral panics throughout the eighteenth century, Lemmings recommends using the concept as a ‘critical device’ through which to explore the long-term mediatisation of English society and the nature and effects of public participation in an ever-expanding print culture. He also displays an awareness of the potential pitfalls of using a concept designed with the modern public sphere in mind in that this ahistorical approach may neglect differences in the nature of media, reader engagement and reader response. This work is also useful in that it provides an arena in which to explore earlier modes of criminal stereotyping. With a more thorough exploration of printed representations of crime, we are better equipped to draw conclusions about the transformation of contemporaries’ engagement with law and order, something which previously took place in person but was increasingly by way of proxy (print) in the eighteenth century. This relates to the motif of visibility and personal experience of crime. Randall McGowen stated that ‘The middle class were more likely to encounter the criminal class in the pages of a journal than in the streets of the late nineteenth-century city.’[[94]](#footnote-94) Following Foucault, he posited that knowledge was power in categorising and thus controlling threatening sections of society.[[95]](#footnote-95) Sindall described the middle class personal experience of crime as ‘limited’ and ‘vicarious’.[[96]](#footnote-96)

Another approach can be seen in David Phillip’s and Randall McGowen’s explorations of the development of criminal stereotypes in literature (for example, the work of social reformers and novelists).[[97]](#footnote-97) They provided a more in depth consideration of the content and dissemination of printed discussion of crime and criminality which goes some way in assessing engagement with the public sphere. Phillip’s article is chronologically relevant in exploring the creation of criminal stereotypes in reformist literature prior to the 1840s. McGowen used the apt phrase ‘structured encounters’ to describe the reading public’s relationship with crime and criminality.[[98]](#footnote-98) However, whilst these two authors acknowledge public attitudes, they do not expand upon the role of the public in creating and maintaining understandings of crime. McGowen is perhaps the exception in that he makes inferences about the effect of an author’s writing style and explanations of methodology on the reader. He argued that detailed written accounts of the way in which an author collected his evidence heightened the sense of secrecy and sensationalism around criminal stereotypes.[[99]](#footnote-99)

To return to McGowen’s ‘visibility’ motif, an understanding of the medium of representations of crime is undoubtedly important.[[100]](#footnote-100) The kind of media scholarship explored in this section is highly relevant and useful in posing the right questions. In its discussion of changes in the media of public discourse and the links of genre to attitudes, it legitimises a stretching of focus extending back to the eighteenth century, using these changes in genre and the nature of print to trace and explain the development of criminal stereotyping. Examples of these changes include but are not limited to declining popular genre types which impacted upon attitudes to criminality (for example, Ordinary’s Accounts), increased print output of expert commentary on penal matters, and increased access to crime literature. Eighteenth-century scholars such as Lemmings and McKenzie have highlighted succinctly the ways in which print genre influenced (and was influenced by) the dissemination of attitudes, be it through newspapers, Ordinary’s Accounts or other genres. Assessing print culture in its wider context tells us more than simply about its content; the analysis of integral factors such as price, genre, audience, and reader reception can tell us a great deal about the significance, purpose and dissemination of the ideas on the page.

A new approach:

The existing body of literature explored above is complex, and not one that can be easily categorised. This is evident in the crossover of content and conclusions, sometimes spanning twenty years. Whilst scholarship often begins with a particular purpose, be it assessing the impact of class conflict or certain moral panics, authors frequently hint at a more complex construction of criminal stereotypes linked to cultural values, the media, and modes of public participation in prominent social issues. This provides a base point from which to explore the research questions of this thesis, but a different approach is needed to synthesise these threads of interest. What is arguably lacking from previous scholarship is an awareness of, or an attempt to ascertain, the ways in which both official and public discourse and values intersect. The primary goal of this thesis is not simply to ascertain the relationship between official and public discourse, but to look at recidivist discourses in a more comprehensive way by seeking out chronological, geographical and discursive continuities and variations. In view of recent historiographical and methodological developments (particularly the availability of large source bases thanks to technological developments) in the discipline as a whole, it is now possible (and, more importantly, desirable) to explore this variety in language, over time, and in a diverse range of genres.

The initial way in which this project will depart from the existing literature is in terms of chronology. The prevailing understanding of the 1850s and 60s as the point of origin for the ‘criminal class’ (and indeed the process of criminal stereotyping in general) is unconvincing, given the broader and longer term nature of nineteenth-century class-based discourses and the much earlier development of a functioning and influential public sphere. Instances of criminal stereotyping have been identified as far back as the 1740s, but this has not been tested purposefully. For example, Lemmings has shown through his focus on moral panics that the requisite sources (i.e. print material) and anxieties necessary for creating criminal stereotypes (through his focus on moral panics), existed from 1700.[[101]](#footnote-101) In addition, McKenzie has shown that it is necessary to explore understandings of criminality and modes of public participation in the eighteenth century.[[102]](#footnote-102)

Reader reception is also a relevant issue and is something that has been neglected with regard to this topic (although a fruitful body of literature exists on the topic more generally). Scholarship regarding reader reception has highlighted the fact that people don’t take messages on board exactly as given. Readers have agency in their interpretation as part of the public sphere. The trends and issues explored in this thesis are heavily dependent on reader response and discussion, although reader reception is notoriously difficult to ascertain due to the lack of relevant sources. Research for this thesis has been enhanced by an awareness of this issue and it is incorporated where possible, although the limitations of the sources and constraints of the project do not allow for its full consideration. As made evident above, scholarship has tended to focus on the work of social commentators, reformers, and parliamentary discussion, often taking these to be indicative of broader public perceptions, and assuming that it is influential across the board. Whilst this obviously had an impact on the way in which contemporaries conceived of and discussed habitual offenders and their offending, it would be fruitful to consider how larger swathes of society responded to these issues, if at all. We also need to consider the nature of the nineteenth-century public sphere, i.e. the nature of, and reasons for, wider circulation of newspapers and other print genres, and indeed the nature of the reading public and public discussion of these items.Scholarship regarding the nineteenth-century public sphere has highlighted an emphasis on technological advancement, a widening of reception and available options within and across class lines and localities, and a contemporary self-consciousness about the function, power, and dangers of print (particularly the press). Writing in 2011, for instance, Casey stated that anxieties about crime ‘permeated all levels of Victorian society, from the highest echelons of the government to the working classes- the entire reading and listening public.’[[103]](#footnote-103) He does not, however, engage with how historians might ascertain the nature and role of the ‘reading and listening public’, or the problems therein. Sources like ‘Letters to the editor’, satirical publications and personal correspondence may all provide some insight into when, where, how and why criminal stereotypes were formed, and indeed the role of these stereotypes in public life.

Linked to reader reception is the issue of genre, which impacts heavily on the nature and spread of discourse. Genre is important as it shapes readership in different ways, creates different intended impacts, and is directed at different audiences and contexts. Moreover, it shapes content as illustrated, for example, by McKenzie.[[104]](#footnote-104) Newspapers required shorter attention-grabbing reports whereas pamphlets allowed for in-depth discussions and the presentation of a wider range of evidence. Perhaps the most illuminating example of the impact of genre on representations of criminality were the Ordinary’s Accounts in that the nature of the publication necessitated the content; they were designed to be cautionary tales. Ordinary’s Accounts also illustrate the significance of changes in genre over time. McKenzie links the disappearance of this particular type of publication to changing attitudes towards criminality.[[105]](#footnote-105) Whilst some particularly illuminating genres declined in popularity and circulation, research for this thesis has suggested that new genres replaced them with particular purpose, aligned to changing attitudes. Newer genres included parliamentary committee reports, pamphlets, and the printed output of philanthropic groups. Whilst they may not have shared the same popularity and circulation levels as, say, a ballad about a notorious highwayman, these genres both reflected and represented changing ideas about recidivism. They can be characterised by their investigatory and pragmatic nature, aligned to newer ways of conceiving of recidivism as a social problem with various solutions, discussed at length by policy makers, criminal justice practitioners, and high-standing individuals with an interest in the issue. This thesis will in large be based on printed material, the nature of which was both multifarious at any given point (newspapers, pamphlets, parliamentary reports etc.), and constituted part of an evolving public sphere. It will thus be necessary to look at variations in genre and consider this may have shaped discussion.

In a review of recent theses, Neale points to new directions in research, for example the way in which local identity was shaped by representations of crime in rural areas and neighbouring towns.[[106]](#footnote-106) This suggests that a consideration of different localities is important, and this thesis aims to assess the relationship between national and provincial discourse. In order to do so, it will make use of a localised case study of Birmingham, comprised of analysis of local media, correspondence, and records of local penal institutions to assess understandings and perceptions of habitual criminality in an area distinct from the usual focal point of London. A number of factors render London a fruitful, but specific context in which to explore attitudes towards criminality. Not only was it the location of the formation of national policy, but as a metropolis it had a higher volume of people and businesses, a larger and livelier public sphere, and a wider variety of personal identities and social relationships, all of which impact upon one’s perceptions of crime.

In 2009, Trevor Pearce argued that penal debate (opposition to prison reform) in the nineteenth century took a very different form to the preceding century (namely opposition to national policy change by local elites) in terms of the relationships and interactions between local government, social reformers and the public.[[107]](#footnote-107) This suggests that we need to think about how public opinion fed into social science discourse (and vice versa), and potentially legislation. In addition, it is important to consider the way in which the sheer range of penal options and opinions in the nineteenth century affected how the particular issue of recidivism was addressed. This relates to the insufficiencies of the scholarship adopting legislative approaches discussed earlier in that concentration on individual acts or the development of policy neglects the sheer volume of debate. It is arguably unnecessary to discern a leading voice in this melee, as it is the range of opinion itself that is particularly interesting in light of the research questions posed by this thesis. It is the latency of recidivist discourse that necessitates the consultation of such a wide range of genres.

Methodology and structure:

The preceding overview of scholarship regarding perceptions of recidivism from 1770-1870 has illustrated the complex nature of the topic, and the ways in which existing scholarship can and should be built upon to achieve a better understanding of contemporary attitudes towards recidivism. The research questions and methodology of this thesis have been developed in order to examine these attitudes, their nature, development, and chronological and geographical spread. This thesis thus addresses the complexities of the issue and overcomes the barriers created by existing approaches in order to allow a fuller understanding of habitual offending.

In seeking to understand the nature and importance of contemporary attitudes towards recidivism, this thesis asks how recidivism was understood and discussed from 1770 onwards. The year 1770 is a logical starting point in heralding the beginning of a long period of penal change. The rationale behind this initial research question is not only a response to the mid-nineteenth century focus in existing literature, but also lies in a recognition of the significance of the entire period with regard to developments in penal policy. Secondly, this thesis explores the wide range of attitudes and asks what function these representations and discourses served. In analysing discourse, this thesis explores whether nineteenth-century discourses of habitual criminality were as static and homogenous as we are led to believe by existing historiography. In relation to the function and purpose of attitudes towards recidivism, this thesis considers the extent to which these discourses reflected on, or influenced national policy, and whether specific understandings of habitual criminality were a manifestation of a personally-held stance, or whether they simply served a shared discursive purpose. In further exploring how discourses of habitual criminality were shared and available to a broad spectrum of people, this thesis considers to whom these understandings and discourses belonged. It asks whether there was a shared national discourse, mirrored in localities outside of London. In exploring the origins and spread of such attitudes, it considers whether the discourse was the preserve of a few, rendering understandings a divisive tool in a number of penal and social debates.

The scope and nature of these research questions necessitated a broad source base, both in chronology and type. The structure of this thesis is organised around these three angles, namely: *print* material including tracts, pamphlets and newspapers; records of national *policy making* including parliamentary debates, committees, and background correspondence; and finally records of local criminal justice practice in Birmingham including gaol committee minutes, newspapers and miscellaneous documents pertaining to the running of local criminal justice institutions.

Chapter One, covering print, opens the thesis by exploring attitudes and discourse in what might be considered their natural habitat. This chapter explores the shifts and continuities in representations of habitual criminality, as illustrated in print. A large range of publically available printed material has been consulted in order to gain as inclusive a picture as possible of a ‘national’ discourse. The source body is comprised of a range of material with a diverse purpose and readership. It includes a variety of newspapers (both high-brow and popular); the publications and public notices of philanthropic groups; and pamphlets, books, and public lectures written and published by social and penal commentators. One genre it does not consult, however, is fiction, which although relevant is far removed from the types of discussions this thesis is concerned with and requires a different theoretical and methodological approach. Nonetheless, the source body for this chapter is diverse and extensive, reflecting the sheer volume of discourse (both in output and type) created at the time. This is deliberate as it speaks pertinently to the research questions of this thesis. A combination of key-word searching and close reading has enabled both the identification of recidivist discourse and a more thorough understanding of it. Historical dictionaries were used to identify the contemporary language and phrases to be used in key word searches.[[108]](#footnote-108) Terminology and phraseology were then listed and used in varied combinations in data base searches to attempt to cover a representative range of language. The same searches were conducted in all databases used. In order to further ensure representativeness, close reading was used at all times, privileging the context of language in our understanding. By attempting to take into account such a wide range of print material and its reaches, we gain access to the somewhat abstract concept of the ‘public sphere’. This chapter recognises the utility of this concept in highlighting and describing the public arena in which ideas and social issues were disseminated, debated, understood, and manipulated.

Chapter Two explores whether the discourse identified in Chapter One was replicated in or by, and may have influenced (or been influenced by) discourse about national criminal justice practice, including policy developments in policing, sentencing and punishment. The authorship of sources explored in Chapter One suggests that recidivist discourse was inextricably linked to parliamentary debate, with much of it written or influenced by ‘experts’ in the field. Given that, as shown in Chapter One, recidivist discourse was used as a tool in penal debate, Chapter Two further explores the notion that similar arguments were drawn by national policy makers. It primarily analyses the debate and evidence attached to parliamentary discussions and bills. This does not solely encompass legislation specifically pertaining to recidivism, but the multiple different facets of the penal reform process across the whole time period. Specific and unique legislative moments do not provide the whole story. This chapter also links variations and contradictions in recidivist discourse to those of national penal policy, an area characterised and often frustrated by a multitude of options and debate.

The first two chapters of this thesis assume, by proxy, a London-centric focus. Given that London was the seat of government, both printed and political discussions of social issues were centred heavily on the metropolis.In order to ascertain the wider impact of this discourse and better understand how perceptions and stereotypes of criminality were created, maintained and used in different contexts, the final chapter of the thesis compares national discourse and policy to a different locality with unique characteristics. Chapter Three thus moves away from London, looking at Birmingham as another urban area, but one with different characteristics in socio-economic conditions and local government. As a centre of the industrial revolution, Birmingham experienced fast-paced economic change and social mobility. Technological advancement and creativity made the town a centre of the metallurgy industry, thus constituting a slightly different environment to other industrial English cities. The town was also a hotbed of political radicalism, especially around the 1830s reform movements, and was noted for its strong municipal governance and civic pride. Birmingham also provides us with a unique context through which to explore attitudes towards habitual criminality. As well as the socio-economic and political factors, what was significant about Birmingham was its citizen’s self-awareness and engagement. The town’s lively public sphere was enhanced by a strong sense of civic culture and pride, and local issues were dealt with and influenced by a distinct local character. Chapter Three makes use of local records of penal and judicial practice encompassing policing, sentencing, and punishment, but focusses mainly on the town’s gaol committee minutes. The Birmingham press is also used, as is the printed output of Birmingham-based penal and social reformers such as M. D. Hill.

Habitual offending can be identified as the encapsulation of many factors considered in penal debate, encompassing understandings about the nature and causes of crime, the ways in which crime should be dealt with, and anxieties about the failure of society and legislation to comprehend and provide efficient solutions. All of these issues suggest that current interpretations of habitual offending discourse are far too simplistic. They do not take into account changing mores and values with regard to morality, or the potential variations in relationships between official, public, and media discourse. If one agrees with the influential consensus that print culture has a history that extends well back into the eighteenth century, and if one agrees that attitudes towards criminality are formed (by and large) within the public realm of discourse, then it follows that criminal stereotyping needs to be considered within a longer and broader context. The notion that penal policy (the remnants of which still exist today in our penal system) was (and is) shaped by a broad range of discourses suggests that it is important to synthesise the political, the social and the cultural. Indeed, it is important to recognise that supposed moral panics were not the only determinant of public attitudes and penal policy; we must seek to understand the cultural context of legislation. This understanding of social discourse may have broader implications for the discipline, and indeed in understanding our social problems today.

# Chapter One: National Discourses of Recidivism

As paragons of criminality, habitual offenders inspired reflection on both social and penal problems, and are thus a useful focus for historians when exploring the criminal justice system of the eighteenth and nineteenth centuries. The problems that a habitual offender presented to a given society went beyond the frequency and nature of the crimes they committed, encompassing their apparent disengagement with acceptable modes of employment and lifestyle. They also inspired reflection on the judicial system in that they represented a failure of punishment, whether its aims were deterrent or rehabilitative. Thus, perceptions of habitual offending and related stereotypes reflected changing assumptions not only about the nature of criminality, but also changing expectations of the judicial system and modes of social control. This chapter is thus interested not in the realities of habitual offending, but of contemporary perceptions and discourses expressed in the public sphere. Regardless of the authenticity of or truth behind representations, their prevalence and consumption makes them an important area of focus.

The term recidivism (defined in the Oxford English Dictionary [hereafter OED] as: ‘The action of relapsing into crime, or reoffending, esp. habitually; the tendency to behave in this way’) was first employed to discuss habitual offenders in the late nineteenth century.[[109]](#footnote-109) Concerns about an ‘incorrigible’ cohort of habitual offenders increasingly gained prevalence and weight in penal (and socio-cultural) discussion, stimulating legislation to tackle recidivism.[[110]](#footnote-110) As explained in the introduction to this thesis, the 1853 Penal Servitude Act legislated for the end of transportation and the introduction of tickets-of-leave (an early parole system), exacerbating anxiety about crime and the problem of penal policy. The 1869 Habitual Criminals Act mandated the creation of a register of criminals, whilst the 1871 Prevention of Crimes Act necessitated the physical identification and surveillance of habitual offenders. We can view these legislative developments, as George Pavlich has described them, as ‘fixing’ criminal identity ‘through absolute images’.[[111]](#footnote-111)

A review of the historiography in the introduction to this thesis has highlighted several limitations in both the conceptualisation and analysis of discourses of recidivism by historians. The historiography frequently followed a narrow focus on specific moments, particularly mid nineteenth-century legislative developments, neglecting the longer trajectory of discourses of criminality and penal policy in which recidivism was an important issue. Much of the earlier scholarly literature suggested that certain pieces of legislation assured the development of recidivist stereotypes like the ‘criminal class’, neglecting their discursive nature, presenting an overly homogenous progression in penal policy and ideology and ascribing misplaced significance to individual events.[[112]](#footnote-112) Scholarship in the 1980s and 1990s provided a more discursive analysis of moral panics, but these were again used to explain legislative developments, rather than being used as a lens through which to explore the complex relationship between public and official understandings of crime.[[113]](#footnote-113)

As part of the broader scope of this thesis, the chapter is concerned with the national *printed* discourse of habitual criminality (from the viewpoint of the observers rather than the criminals), evident in newspaper reporting, intellectual debate, philanthropic commentary and more sensational writings on crime. This focus on the ways in which recidivism was discussed in printed sources with a public audience enables an assessment of ideas created and consumed by the public, and reactions to them. The Habermasian ‘public sphere’ (simply put, an arena or forum for public debate, a phenomenon which Habermas pinpointed as developing in the eighteenth century) is a useful framework for this chapter in helping us to think about contemporary consumption and discussion of policy, but the chapter is not devoted to the theory. As will be discussed in the following section, a new approach cognisant of a range of genres and variations in contemporary language will be used to expose the contradictions, continuities and longer trajectory of late eighteenth and nineteenth-century perceptions of habitual offending. A large and diverse public sphere developed prior to, and grew steadily throughout, the period in question. A key component of this public sphere was the discussion and consumption of news and debate about crime and criminal justice. As Shoemaker states, an ‘explosion of printed literature shaped public attitudes toward crime. For the first time in English history, popular understandings about the nature of crime as a social problem were shaped more by what people read than by personal experience and oral reports.’[[114]](#footnote-114) The range of genres through which knowledge about crime was disseminated served to shape and mould public attitudes in various ways. Pamphlets often took an alarmist or propagandist tone (characteristics which were particularly relevant in shaping attitudes towards crime rates and penal policy), and newspaper reporting of crime served to render criminal activity a fact of everyday life.[[115]](#footnote-115)

Section One: Approach and Methodology

Whilst this thesis as a whole aims to answer a much broader set of questions regarding the relationship between discourse and policy, this first chapter sets out to explore the development of the discourse itself. After a brief overview of the types of ideas and language used in what has been seen as a ‘dominant’ discourse of recidivism (section two), this chapter then will explore how recidivism was understood and discussed from 1770 onwards, looking at the language used in printed material to identify a longer trajectory of recidivist discourse (section three). The notion of a ‘dominant’ discourse refers to the explicit and often prejudicial attitudes towards recidivism found in printed material in the mid-nineteenth century, negative conceptions which historians have linked to habitual offender legislation. This chapter will then question whether nineteenth-century discourses of habitual criminality were as static and homogenous as we are led to believe by existing historiography. In this sense, the chapter critiques class interpretations of criminal stereotyping, by identifying continuities, exploring what differentiation and paternalistic approaches really meant, and showing that class conflict is not the most useful paradigm.

In further questioning the supposed homogeneity of nineteenth-century understandings of recidivism, the chapter will provide a better assessment of transition and continuities in understandings of habitual criminality, particularly the shift from an ‘everyman’ to an ‘innate’ understanding (section four). The chapter will then explore the ways in which recidivist discourses were used and manipulated by contemporaries in penal debates (section five), and finally social debates (section six). These final two sections show that representations of recidivism throughout the period had contributed to a range of contemporary debates, reflecting the argument that the significance of stereotypes of habitual offending lies in their discursive nature rather than their reality. In order to emphasise the discursive function of representations and understandings, the chapter will question throughout whether they were a manifestation of an author’s personally-held stance, whether they served a shared discursive purpose, or indeed whether they were a combination of the two. These aims will redress the current underestimation of the extent and complexity of discourses of habitual criminality.

The purpose of this chapter is in part to avoid attributing recidivist discourse solely to the specific activities of legislators or elites, as previous scholarly literature has done. The chapter will instead look at the way in which discourse might have functioned and been received as a *national* discourse embraced by a wide reading public. The term national here refers not simply to geographical spread, but to the wide range of literate people engaged in discussion. People from all over the country participated in discussion about crime and print material was widely dispersed. Moreover, the policy-bias of the metropolis rendered the discourse nationally influential, as the place where laws were made and passed. Whilst the debate unearthed and sources used were often London-centric and expert-led, exploring the nature of print culture as well as its content allows for an assessment of their national influence and pervasiveness. The chapter thus makes use of key texts which reflect a strong discourse regarding recidivism, but perhaps more importantly explores the wider resonances of these texts. This most obviously includes the geographical spread of and access to texts; they are national because they were in forms of print available for people across the country. In addition, the collaborative nature of sources- including letters to the editor; letters printed in response to an article; advertisements for the latest books; pamphlets or printed lectures; and reports of meetings and events- suggests that discussion about recidivism was widespread and interconnected and that authors utilised, responded to, and criticised the ideas of others. The advertisements and printed lectures mentioned above represent an exchange of ideas and interests. A broad, arguably national awareness and understanding of the tropes of recidivist discourse is evident.

The exploration of discourse is used in this chapter to explore changing understandings and representations of habitual criminality. This involves an assessment of how contemporaries used certain language and ideas, to what purpose, and through what vehicles. Discourse analysis as a methodology can be problematic in that the effort to uncover and ascribe meaning can be subjective on behalf of the historian. The ways in which this chapter attempts to understand the meanings of certain language and tropes is to use contemporary dictionaries, and to assess the ideological and physical context of the printed sources used. An analysis of the functions of genre and purposes of the text and author is also important in order to avoid making subjective or inappropriate inferences, and to appreciate contradictions and inconsistencies within individual texts. Each genre created an expectation that the author should write in a certain way, thus the chapter also pays attention to the impact that genre type may have had.

Reader reception is something that has previously been neglected. As made evident above, scholarship has tended to assume that the work of social commentators, reformers, and parliamentary discussion was indicative of broader public perceptions and realities, assuming that these sources were influential across the board. Reader reception is notoriously challenging to assess but there are ways that it can be gauged. One of the best sources of reader reception are letters from readers which were printed in newspapers. These included letters to the editor about a specific issue, and responses to books, articles, or events. These illuminating sources allow the historian to assess levels of understanding through the reactions and arguments used by their authors. Whilst these sources were often printed anonymously, potentially placing the purpose of the letter into question, this chapter uses them carefully to illustrate the content, latency and collaborative nature of discourses of habitual criminality. This chapter also posits that advertisements placed in newspapers by groups such as the Philanthropic Society illustrate reader response. The frequency and content of these adverts suggests an assumption on behalf of these groups that the reading public was both aware of and interested in discourses of recidivism and their implications.

Analysis of historical discourse requires an appreciation of contemporary ways of understanding. This chapter broadens the history of a discourse of recidivism by re-evaluating the language used in public documents to discuss the problem of habitual offending. As explained in the introduction, the term recidivism was not used until the late nineteenth century and related words like ‘habitual’ rarely return results linked to discussions of crime, unless directly related to the Habitual Criminals Act later in the period. Identifying terms which contemporaries used to discuss recidivism required a specific methodology. The first steps were to take note of common words and themes in contemporary writings about crime, and to assess their meaning using contemporary dictionaries (for example, Samuel Johnson’s *A Dictionary of the English Language*, first published in 1755). Searches for the most basic terms (‘crime’, ‘criminal’, ‘offender’, and more descriptive words such as ‘malefactor’ or ‘notorious’) were conducted within Johnson’s dictionary for a range of years, in order to identify the various terms in which criminality was discussed. The Oxford English Dictionary’s *Historical Thesaurus* was also used to expand and test a range of terminology.[[116]](#footnote-116) Context was also considered in initially identifying terms. For example, knowledge of eighteenth-century ‘everyman’ and ‘slippery slope’ understandings of crime suggested that ways of representing habitual criminality would be accumulative, such as ‘hardened’ or ‘old’ offender. A survey of key texts (examples include the work of Patrick Colquhoun and Henry Mayhew) was conducted to identify terms frequently used, cross-referenced with contemporary dictionaries to gain a fuller understanding of meaning.[[117]](#footnote-117)

Identifying the terminology used at the time to discuss recidivism rendered an extremely large corpus of material more manageable. The sheer volume of printed works about crime in this period was rendered accessible by the availability of digital databases, their organisation, and the research functions within them. Databases utilised include *Eighteenth Century Collections Online (ECCO)*, *British Library Newspapers*, the *Burney Collection*, and *Nineteenth Century Pamphlets via JSTOR*. ECCO, for example, holds around 180,000 titles, whilst the British Library Newspaper database contains around two million newspaper pages.[[118]](#footnote-118) Keyword searches of these online databases were used to identify key sources throughout the period. The terminology used for key word searches was made up of words, phrases, and combinations highlighted by preliminary research into contemporary dictionaries. Searches were also conducted on phrases found in previously consulted contemporary material. Results were then consulted and read, depending on availability. Digital sources such as the online Burney newspaper collections, and JSTOR pamphlet collections were used to identify the spread and impact of this discourse, as well as to assess the wider resonances of key texts (if any) both chronologically and geographically. Having identified the relevant contemporary language, as explained in the above paragraph, the results produced by searches of these catalogues and databases were much wider and more varied than those for key words such as the ‘criminal class’ or ‘habitual offender’. The search guidelines for these databases were invaluable in that they outlined the effect of different categories and search terms on the results produced. A shift from using the ‘key-word’ category to the ‘entire document’ category, for example, produced vastly different returns, and proximity searching was used to narrow down the results. In addition to the use of digital databases, library catalogues and reference mining were invaluable. Exploring and following the references and bibliographies of contemporary works, in particular, provided the identification and of contemporary understanding regarding what were seen at the time as ‘key texts’.

Whilst online databases are extremely useful to the historian, allowing for the searching and indexing of both individual texts and large bodies of work, the process and result of making sources not just viewable but ‘machine-readable’ can be problematic.[[119]](#footnote-119) In an article exploring the limitations of Optical Character Reading technology (abbreviated to OCR, a form of text-recognition software), Simon Tanner stated that there are ‘difficulties in gaining a true sense of the performance or accuracy of a search system when dealing with the inherently inaccurate text provided by automated technologies.’[[120]](#footnote-120) Optical Character Reading is not an exact science, as original text can be misread or mis-transcribed by the software, or simply not found by it. To overcome these limitations, searches were conducted using wildcards, variant spellings and proximity operators in order to account for technological error, but also historical differences in spelling and grammar. Records of searches were kept (including the exact search terms, date range, search categories employed and number of results produced) to ensure that the use of these online databases was consistent. Digital texts that are available physically were also consulted with the view of cross-referencing and ensuring accuracy. Whilst I have not identified or consulted every single instance of the use of these terms (such as ‘hardened offender’, ‘old offender’, and ‘notorious offender’, to be discussed later) this methodology allowed me to identify a significant proportion of them.

Section Two: Conventional understandings of recidivism

The prominent sensationalist journalist and philanthropist Henry Mayhew’s *The Criminal Prisons of London and Scenes of London Life* (the fourth volume of *London Labour and the London Poor*, published in 1862) can be seen as a benchmark of nineteenth-century discourses of habitual criminality. Mayhew used exaggerated language to paint lurid depictions of criminality in London, in which recidivism was depicted as a disease. Whilst discussing the factual development of London’s prison system, at the start of his section on the ‘Criminal Prisons and Prison Population of London’, for example, Mayhew feeds the reader stereotypes in a seemingly innocuous explanation. In the discussion of classification and separation in prisons, recidivism and criminality are described as a ‘vicious infection’. He described developments in prison organisation as ‘quarantining’ the morally disordered, lamenting what he termed a ‘criminal epidemic’, described as ‘…a very plague, as it were, of profligacy - that diffuses itself among the people with as much fatality to society as even the putrid fever or black vomit.’[[121]](#footnote-121) The interspersing of this kind of statement with what appeared to be factual observations (including statistics on prison population and cost) only served to highlight the extent of the problem.

Whilst not specifically focused on habitual offending, Mayhew’s writings reflected dominant ideas about the links between poverty, vagrancy, vice and crime based on judicial statistics and policy, and supplemented by his own journalistic ventures. Mayhew pointed to the 1837 *Report of the Constabulary Commissioners*, ‘the most trustworthy and practical treatise on the criminal classes that has yet been published’, which stated that habitual criminality stemmed from the ‘disposition to acquire property with a less degree of labour than ordinary industry.’[[122]](#footnote-122) He highlighted the habitual criminality of ‘professional’ criminals, portrayed as distinct from *accidental* crimes committed circumstantially.[[123]](#footnote-123) Mayhew explained that:

All crimes, and consequently all criminals, are divisible into two different classes, *the habitual and the casual*- that is to say, there are two distinct orders of people continually offending against the laws of society, viz. (1) those who indulge in dishonest practices as a regular means of living; (2) those who are dishonest from some accidental cause.[[124]](#footnote-124)

Further distinguishing between habitual and casual crime, Mayhew wrote of a kind of inverted economic system, in which crime was a means of gainful employment. He explained that:

The habitual crimes, on the other hand, will be generally found to include burglary, robbery, poaching, coining, smuggling, working of illicit stills, larceny from the person, simple larceny, &c., because each and all of these are regular crafts, requiring almost the same apprenticeships as any other mode of life- house-breaking, and picking pockets, and working illicit stills, being crafts to which no man without some previous training can adapt himself.[[125]](#footnote-125)

Describing property crime as ‘dishonest handicrafts’, suggesting that crime was a career or craft, Mayhew pinpointed the existence of a ‘criminal class… a distinct body of people’ and highlighted the necessity of assessing and dealing with this group.[[126]](#footnote-126) Mayhew then went on to racialize recidivists, conceptualising the ‘criminal class’ as a distinct race, noting the existence of such a class of people in every society. He argued that ‘[S]uch classes appertain to even the rudest nations, they being, as it were, the human parasites of every civilized and barbarous community.’[[127]](#footnote-127) Comparing London to far flung places around the globe, he stated that ‘The Hottentots have their *"Sonquas,"*and the Kaffirs their *"Fingoes",*as we have our "prigs" and "cadgers."’[[128]](#footnote-128) Passing further comment about the prevalence of innate criminality in all walks of life, he explained that:

Those who object to labour for the food they consume appear to be part and parcel of every State - an essential element of the social fabric. Go where you will - to what corner of the earth you please - search out or propound what new-fangled or obsolete form of society you may - you will be sure to find some members of it more apathetic than the rest, who will object to work; even as there will be some more infirm than others, who are unable, though willing, to earn their own living; and some, again, more thrifty, who, from their prudence and their savings, will have no need to labour for their subsistence.[[129]](#footnote-129)

Continuing to conceive of criminality in this quasi-scientific categorising manner, Mayhew listed and described sub-categories of criminals, including ‘mobsmen’, ‘sneaksmen’ and ‘cadgers’.[[130]](#footnote-130) This reflected a trend in efforts to understand social problems empirically, cataloguing and categorising in a scientific manner.

Mayhew’s work can be seen as indicative of prevailing anxieties about habitual offending in the mid-nineteenth century, anxieties which stimulated the need to categorise and view the recidivist class as a most pressing problem. The resulting picture was one of a crime epidemic, in which moral degeneracy and criminal careerism went hand in hand. Similarly, in the *Seven Curses of London* by James Greenwood, published in 1869 and mirroring Mayhew’s journalistic style, the author warned of an ‘army’ of 20,000 ‘professional thieves’.[[131]](#footnote-131) The ‘Seven Curses’ included neglected children, professional thieves, beggars, fallen women, the curse of drunkenness, betting gamblers, and finally waste of charity (i.e. indiscriminate or misplaced aid). Mirroring Mayhew, Greenwood stated that readers ‘will be shocked and amazed to learn that within the limits of the City of London alone, an army of male and female thieves, twenty thou­sand strong, find daily and nightly employment.’[[132]](#footnote-132) Highlighting the gravity of the situation, he claimed that ‘amongst us one person in every hundred and fifty is a forger, a housebreaker, a pickpocket, a shoplifter, a receiver of stolen goods or what not…’[[133]](#footnote-133) Emphasising the difference and depravity of what he suggested to be a criminal ‘identity’, he likened criminals to a ‘human bird of prey’ or a ‘wily cunning man-wolf’, depriving recidivists of their humanity.[[134]](#footnote-134) Greenwood went on to explain that whilst members of this ‘formidable host’ or ‘criminal class’ were known to the police, so too were the police to the offenders; in another animalistic metaphor, Greenwood claimed that criminals could sniff out officers with ‘some subtle power of scent such as the fox possesses in discovering the approach of their natural enemy.’[[135]](#footnote-135) Further separating recidivists from the ranks of normal society, Greenwood goes on to explore their language of ‘cant’, a language that ‘… is to be met with in no dictionary with which I am acquainted.’[[136]](#footnote-136) Greenwood made a continual effort to emphasise difference and depravity, noting that ‘[S]o pertinaciously do the inhabitants of criminal colonies stick to their “Latin,” that a well-known writer suggests that special religious tracts, suiting their condition, should be printed in the language, as an almost certain method of securing their attention.’[[137]](#footnote-137) Distinguishing between casual and habitual crime, as Mayhew did, Greenwood explained that:

But these are the bad ones already so branded and seared in heart and mind that to prick and scorch an inch of their outward skin would be but to tickle their vanity, and give them to brag of another scar, got in their life-long war against society. Short of torturing them or killing them, it matters little what measures are provided against these case-hardened villains.[[138]](#footnote-138)

This quote further emphasises the innate depravity and difference of the habitual criminal, depicting them as monstrous and immune to suffering that would greatly affect law-abiding citizens.

These two texts have been seen by both contemporaries and historians alike as being an excellent window onto London street life, but also a classic manifestation of middle-class Victorian anxieties. The influence of the attitudes and anxieties expressed in these two texts can also be identified in different types of print media, notably cartoons. In September 1856, Punch magazine ran an advertisement for the 'Patent Antigarotte Collar', a spoof personal safety device.[[139]](#footnote-139) The function of the object was to protect the wearer from a garrotting attack in which the victim was strangled (or ‘garrotted’) by their assailant in order to incapacitate and steal from them. This cartoon depicted an attack being foiled as the spikes of the collar injured the would-be assailant. The function of the object, the language used to describe it and the satirical nature of the source are suggestive of anxieties and pre-conceptions about crime that were seen to be part of increasingly severe and fixed attitudes towards criminals. The phrase ‘muscular ruffian’, used in the blurb of the advertisement, suggests that the assailant is a member of this ‘criminal class’, and the imagery alludes to a professional crime whilst the source as a whole suggests a kind of insidious threat. However, the comedic presentation of these anxieties has the potential to both heighten and alleviate them. In fact the light-hearted tone could even be interpreted as mocking the context of the time, contradicting existing historiographical interpretations.

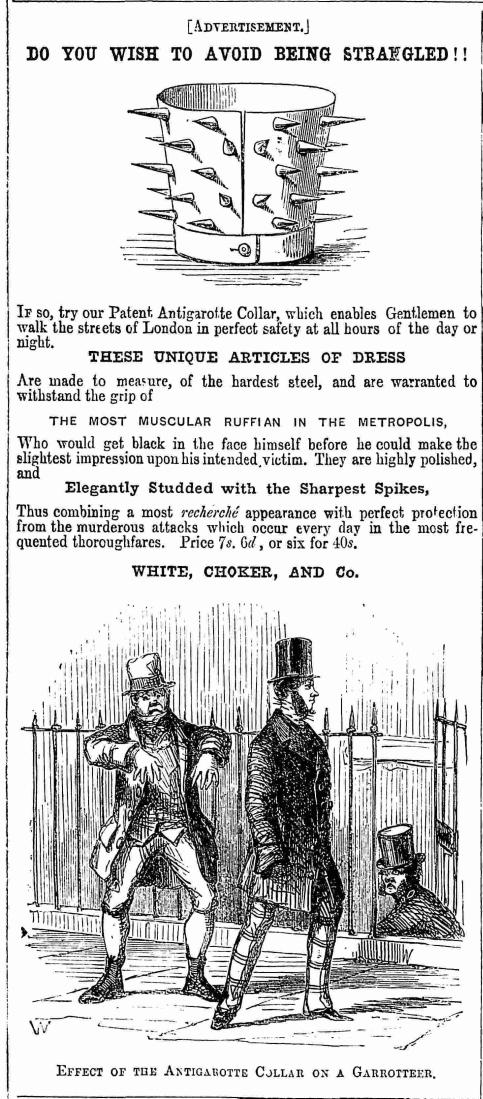


Fig. 1: ‘The Patent Antigarotte Collar’, *Punch Magazine*, 27 September 1856, p. 128.

Punch Magazine ran a further satirical anti-garrotting solution, the ‘Patent Antigarotte Overcoat’, a man’s overcoat with an in-built crinoline to create a protective circle around the wearer, thus rendering a garrotting attack impossible due to physical distance.



Fig. 2, *Punch Magazine*, 27 December 1856, p. 251.

Punch continued to run cartoons parodying dominant attitudes towards recidivism into the 1860s and 70s. The images below, portraying disfigured and monstrous men committing crimes, represented an understanding of criminality in which crime was committed by an identifiable, degenerate subsection of the working class. The men in these images lack any kind of individual, human characteristics and appear as anonymous parts of a group or category, and sometimes almost animalistic. The scene depicted in figure four represented the deterrent and retributive qualities of policing, punishment and justice, as opposed to rehabilitation.[[140]](#footnote-140) This supports existing historiographical arguments that criminal stereotypes were symptomatic of, and influential to an increasingly regimented and retributive criminal justice system and a growing awareness or fear about habitual offending. Although these sets of cartoons were a satirical take on the context of the time, they still illustrate that anxieties and shared attitudes towards recidivism were commonly held. The satirical nature of these cartoons, however, gives way to a more intriguing interpretation. It suggests that some contemporaries felt that the reaction to garrotting was overblown, deserving of a comedic representation. This contrasting interpretation illustrates how impactful print as a vehicle was in portraying attitudes towards habitual criminality, allowing not only for the homogenous reproduction of ideas, but as challenges to what might be seen as the status quo.





Fig. 3, *Punch Magazine*, 11 January 1868 (attention drawn to the facial features of the assailant)

Fig. 4, *Punch Magazine*, 26 October 1872

Section Three: Peaks and troughs in discussions of recidivism

These ideas were not new. The continuity of the concept of habitual offending is evident through even the most superficial engagement with eighteenth-century printed sources of crime. The popularity of genres like the criminal biography (sensationalising the criminal careers of popular ‘notorious malefactors’) suggested that contemporaries were aware of and concerned by recidivism. Anxieties about crime in the eighteenth century are also well documented by historians. Penal reform, particularly the move towards imprisonment after the suspension of transportation in 1775, necessitated a discussion of criminality; who criminals were, why they committed crime, and whether reform or retribution was the main goal of punishment. Thus it is insufficient to assume that discussions of recidivism only occurred in the nineteenth century. Rather than beginning at certain identifiable point, heightened awareness and discussion of recidivism had a longer history, and fluctuated, particularly during times of penal change.

It is possible to find such discourse in key eighteenth-century texts, albeit expressed through slightly different language. In *A Treatise on the Police of the Metropolis*, published in 1796, Patrick Colquhoun (eighteenth-century policing pioneer and key author on the subject of crime) alluded to increasing anxieties about crime, stating that ‘the present insecurity with regard to property, and in some instances with respect to life itself, is too obvious to require elucidation.’[[141]](#footnote-141) The work was intended to explain the causes of a perceived increase in crime, and relate them to problems with existing penal policy. In an earlier example of Greenwood’s image of a twenty thousand-strong army of criminals, Colquhoun warned readers of a ‘phalanx of criminal delinquents now upon the town...’.[[142]](#footnote-142) What is significant here, and was also the case in Greenwood’s text, is that the criminals were identified as habitual, being ‘delinquents’ to Colquhoun and ‘professionals’ to Greenwood.

Colquhoun also expressed an earlier resonance of a criminal class, his proposals being directed to ‘those classes of society only, the nature of whose dealings, from being in many instances both unlawful and immoral, occasions a pressure upon the community.’[[143]](#footnote-143) It is important to note here, however, that the term ‘class’ may not have had specific socio-economic meaning, but rather alluded to a section or group defined by specific characteristics or situations (for example, a neighbourhood). Colquhoun called for ‘more extensive information relative to the evils...’ reflecting a desire to identify and supervise habitual criminals, akin to nineteenth-century legislative efforts.[[144]](#footnote-144) In his introduction, Colquhoun explained how skills harnessed through criminal careers translated into the courtroom, where experienced recidivists (or their lawyers!) manipulated a lack of prosecution evidence:

An advocate is heard for the prisoner, availing himself of every trifling inaccuracy which shall screen his client from the punishment of the law, the hardened villain is acquitted and escapes justice; while the novice in crimes, unskilled in the deficiencies of the law, and unable, from the want of criminal connections, or that support, which the professed thief receives from the Buyers of Stolen Goods, to procure the aid of counsel to defend him, is often convicted![[145]](#footnote-145)

Thus professional criminality was seen to pervade and impact upon the criminal justice system, becoming an imperative target for reform. When discussing problems with existing punishments, Colquhoun stated that after punishment (most likely imprisonment) some criminals ‘immediately rush into the same course of depredation and warfare upon the public...’ indicating a discourse of incorrigibility.[[146]](#footnote-146) Colquhoun also suggested that the most ‘depraved and hardened convicts’, who ‘have extensive criminal connections in the metropolis, who have been long upon the town as professed thieves and burglars’ should be transported, singling recidivists out as a specific problem.[[147]](#footnote-147) Colquhoun’s main concerns with the problem of crime were that existing methods of policing and punishment were doing little to help, and perhaps even facilitating offending. Echoing attitudes put forth much later in the period, he pinpointed specific issues which masked or facilitated recidivism including the manipulation of evidence and trials, and the futility of punishments, with recommendations for certain treatment more suited to the habitual offender.

Similarly, John Howard (a philanthropist who visited and wrote about English prisons), often seen as the father of eighteenth-century penal reform, was greatly concerned about the impact of ‘old’ offenders, or recidivists, on other inmates. His seminal report *The State of the Prisons* (1777) was thus explicit about the need to classify prisoners. A discourse of recidivism was prevalent form the first pages of this key text, where Howard described the manner in which prisons ‘confirm[ed] old offenders in their bad practices...’.[[148]](#footnote-148) The word ‘old’ and the phrase ‘bad practices’ represented the idea of an incorrigible life of crime.

Eighteenth-century newspapers were littered with tales of repeat offending and popularly-consumed crime literature (for example, execution narratives) displayed recidivism tropes related to the penal concerns of the period. One illuminating source combining these two genres was the execution narrative of a convict named Dicker, printed in numerous newspapers in August 1778. On August 15, the *General Evening Post* linked Dicker’s shocking behaviour at his execution to his recidivist past. It was reported that Dicker ‘behaved in the most hardened manner, and seemed totally lost to every sense of his unfortunate situation.’[[149]](#footnote-149) On his way to the gallows, Dicker conversed with those around him with ‘apparent unconcern’, swore at a fellow convict for crying, and told the executioner that he could tie the cord himself, stating finally that he ‘died a good fellow’.[[150]](#footnote-150) This behaviour was used to emphasise Dicker’s lack of penitence and ultimate incorrigibility; even the prospect of death did not deter him from his recidivist and immoral ways. Further embedding this recidivist discourse, Dicker’s behaviour was compared with that of another convict awaiting execution who displayed penitence and remorse. Despite both being ‘young men’, they behaved so differently because Dicker was ‘an old offender’.[[151]](#footnote-151)

As well as being used to describe offenders, recidivist discourse featured in discussion of their victims or communities. *The Whitehall Evening Post* reported in February 1788 that an ‘old offender’ named Hinton had been imprisoned on the Hulks twice previously and that his recent release had ‘occasioned a general alarm in this neighbourhood’.[[152]](#footnote-152) This discourse can be found in numerous other late eighteenth-century examples encompassing discussions of penal policy, crime, trial and execution reports.[[153]](#footnote-153) All of these reports used tropes such as hardened offender, old offender, and a differentiation between an offender’s age (in years) and his ‘age’ (i.e. experience) in crime.

Section Four: Themes and variations in understandings

Amongst this widespread discussion of recidivism, some of the most potent and well-documented stereotypes of habitual criminality centred on class differences throughout the eighteenth and nineteenth centuries. Whilst there is strong evidence to support the argument that perceptions of habitual offending were inextricably linked to perceived differences between the lower and upper classes, this section seeks to provide additional interpretations of the links that contemporaries drew between crime and social status. It emphasises differentiation, empathy, and complexity over top-down class stratification. As explained in the previous section, it is also possible to identify class-based continuities in discourses of recidivism.

Prejudice and stereotypes regarding the criminality of the lower social strata are prevalent in a variety of nineteenth-century publications. The identification of a criminal subsection of the working class permeated a range of discussion. In 1862, at the height of class-based recidivist discourse, Henry Mayhew concisely conflated crime and poverty, stating that ‘vagrancy is the nursery of crime… the habitual tramps are first beggars then thieves, and finally the convicts of the country,  the evidence of all parties goes to prove.’[[154]](#footnote-154) In the same volume he presented an elaborate classification of the criminality of the lower classes:

Such, then, are the characters of the habitual criminals, or professionally dishonest classes - the vagrants, beggars, cheats, and thieves - each order expressing some different mode of existence adopted by those who hate working for their living. The vagrants, who love a roving life, exist principally by declaring on the parish funds for the time being; the beggars, as deficient in courage and intellect as in pride, prefer to live by soliciting alms from the public; the cheats, possessed of considerable cunning and ingenuity, choose rather to subsist by fraud and deception; the thieves distinguished generally by a hardihood and comparative disregard of danger, find greater delight in risking their liberty and taking what they want, instead of waiting to have it given to them.[[155]](#footnote-155)

Mayhew alluded throughout this volume to the importance of differentiating between sections of the working class, for example arguing that ‘those who resort to crime as a means of subsistence when in extreme want, cannot be said to belong to those who prefer idleness to labouring for their living...’.[[156]](#footnote-156) His classification of various socio-economic categories reflect a complexity in contemporary links drawn between poverty and criminality based on a desire to understand and quantify rather than segregate.

This kind of classification can be found in sources throughout the nineteenth century, both before and after Mayhew’s publication. A review of a House of Commons debate regarding poor relief, printed in *The Standard* in May 1870, lamented the fact that those who were ‘homeless and destitute through misfortune, and who may fairly be classed with the deserving poor, are treated with extreme harshness and rigour, and are compelled to herd with the criminal poor.’[[157]](#footnote-157) The report goes further to argue for a separation of the two types of poor, suggesting that crime and poverty were often inextricable in the minds of Victorians. Reverend Francis Close, in a lecture delivered in 1850 regarding the ‘dangerous classes’, encapsulated public fears speaking of the ‘deep and dark recesses of crime, especially in this great metropolis’, home to a ‘thief-class... that requires talent, and intellect, and ingenuity’.[[158]](#footnote-158) Close went on to describe the lower classes as the ‘ignorant masses- masses of people that are really degraded almost to a level with the beasts that perish’, using the quasi-scientific differentiation that appears to have been so pervasive.[[159]](#footnote-159) A year later, barrister Jelinger Cookson Symons similarly alluded to the ‘…uninformed minds, gross lust and countless other internal adversities’ of the poor.[[160]](#footnote-160) With interests in education and poor law, Symons was involved in select committees including the 1852 select committee on criminal and destitute juveniles.[[161]](#footnote-161) With this statement, Cookson expressed the idea that the poor were predisposed to criminality.

There is, however, also evidence of much longer-term differentiation, and sometimes conflict, between different social strata stretching back to the eighteenth century. Patrick Colquhoun differentiated between victim and criminal, frequently suggesting that the protection of property was the most important factor in preventing crime. In the preface he stated that the aim of the work was to ‘operate as a spur to men of property and consequence, to employ means for improving the police of the metropolis...’[[162]](#footnote-162) His pitting of the propertied classes against the ‘atrocious and criminal confederacy’ suggests that recidivism was seen here as the preserve of the property-less.[[163]](#footnote-163) Linking the living conditions of the poor to immorality and crime, he stated that ‘if the prevailing and increasing immorality and profligacy is not checked, the licentiousness of the times will produce universal anarchy and confusion...’[[164]](#footnote-164)

This discourse also extended to representations of the committal of crime. In August 1775, the *Morning Post and Daily Advertiser* reported on an execution at Kennington Common, where the convicts ‘had the insensibility to sport with their unhappy condition, and saluted the gallows upon Kennington Common, as they passed by, with a loud huzza.’[[165]](#footnote-165) Whilst this type of execution report was typical, often emphasising the ‘insensibility’ of the convicts, what is interesting here is that these particular convicts were identified as being members of the ‘common people’. The report opens with the statement; ‘So hardened and profligate are the common people of this country become, that they not only practice every day the most daring outrages, but even hold justice and its instruments to contempt.’[[166]](#footnote-166) This mirrors the nineteenth-century class-based understanding of crime in which it is committed by a degenerate section of society, segregated from moral and civil society by their actions and attitudes. A letter to the editor of the *Whitehall Evening Post* (printed in April 1798) again conflated the economic situation of lower social strata with crime, passing comment on unemployment and laziness. The author argued that the best form of punishment would be perpetual labour in prison, because to criminals ‘the most formidable terror... would be the necessity of employment.’[[167]](#footnote-167) Like Mayhew, this author pinpointed specific sub-sections of the lower stratas of society who actively avoided the pursuit of legal income. Writing in 1819 under the pseudonym ‘Britannicus’, another author also made a direct link between economic difficulties, vice, and crime, stating that two thirds of London prostitutes were unemployed domestic servants.[[168]](#footnote-168) Although unemployment did not necessarily equate to poverty, this statement mirrored binary differentiations between honest employment and the dangers of dishonest or immoral activity. Whilst prostitution does not technically fall under the remit of habitual offending, contemporaries saw vice, immorality and crime as inextricably linked.

The Philanthropic Society, founded in 1788, was a charitable institution linking poverty, immorality and crime, their ‘primary object being to reform the morals of the poor’.[[169]](#footnote-169) The activities of this institution were described as being:

[t]o take from prisons, and from the various haunts of vice, profligacy, and wretchedness, with which this metropolis abounds, the children of convicts, or such other infant poor who are engaged, under the baneful tuition of ripe thieves, in evil courses...[[170]](#footnote-170)

In their *Third Address to the Public*, printed in the *Diary or Woodfall’s Register* in 1789, the Society reported on their activities (taking in twenty children) who were ‘children of sloth, disease and wickedness... growing up nuisances in society, and miserable in themselves...’[[171]](#footnote-171) Here, they made distinctions between the care of ‘proper persons’ and the care of ‘the very lowest of vagrant and criminal poor’, suggesting that crime was a direct result of poverty, where poor children are bought up in the ‘combined horrors of want, with the infamy of vice’, corrupted by criminals and thus perpetuating a vicious circle.[[172]](#footnote-172)

Whilst the Philanthropic Society did not seem to espouse beliefs about innate criminality, it is clear that they saw certain situations of poverty and unemployment as conducive to crime. In the Society’s first report they argued that a lack of useful activity led to inertness, and that undirected activity led to evil, concluding that ‘an active spirit will become vigilant in crimes, when it is weary of that vacuity to which it had been left a prey’.[[173]](#footnote-173) The term ‘vigilant’ here suggests an active pursuit of engagement in criminal activity. The *First Report* also shows an awareness of criminal areas or ghettos, likened to ‘pestiferous’ soil where ‘malignant seeds... fall upon it... take root, grow to maturity, and in their turn shed their seed and perpetuate the baneful vegetation.’[[174]](#footnote-174) In this divisive discourse, the criminal poor were ‘links which have fallen off from the chain of society, and which, going to decay, injure and obstruct the movements of the whole machine.’[[175]](#footnote-175) There is also evidence of self-righteousness on behalf of philanthropists. Discussing the efforts of the Philanthropic Society one reader wrote to the printer of the *Public Advertiser*:

When we observe the efforts of a single citizen exerted in order to snatch as it were the young criminal from the fatal consequences of their enormities, and with a zeal as laudable as extraordinary, persisting in the heavenly endeavour, we ought to be struck both with wonder and gratitude at the indefatigable continuance.[[176]](#footnote-176)

The differentiation here is stark, portraying the Philanthropic Society as angelic saviours of those on the path to a life of crime.

The report of a Commons debate in 1870 regarding poor relief (mentioned earlier) is archetypal in its use of distinctions between the deserving and criminal poor. There is, however, evidence of empathy even in such a binary dialogue at the height of ‘criminal class’ stereotyping, with the author stating that ‘neither the law nor the instincts of humanity would sanction the doctrine that a convicted felon or a professional tramp is to be left to die of cold or hunger in the open streets.’[[177]](#footnote-177) Whilst linking recidivism and poverty, a commentator on the ticket-of-leave system asked ‘Has the country, in the first instance, done its duty in a parental character to this neglected class of the community?’[[178]](#footnote-178) The author went on to describe those who committed crime as ‘poor ignorant brutalised outcasts’.[[179]](#footnote-179) Whilst differentiating between social strata and acknowledging that the poor committed crime, it was not a prejudicial or fearful approach but a paternalistic and empathetic one. Very late on in the period (1872), J. C. Mansell-Pleydell suggested that habitual lives of crime and its committal out of necessity were to an extent inevitable unless the living conditions of those members of society were rectified.[[180]](#footnote-180) JC Mansel-Pleydell, a natural historian and antiquarian, local politician with a range of social interests and founder of the Milborne Boy’s Reformatory in Dorset, was another author who combined a more general interest in social issues with commentary on criminal justice.[[181]](#footnote-181) William Tallack, secretary of the Howard Association, championed practical methods of philanthropy in 1869 targeting the causes of destitution and crime, rather than providing indiscriminate aid.[[182]](#footnote-182)

Those who promoted institutions such as the Philanthropic Society were aware of social inequality and the hypocrisy of those complaining about the links between crime and poverty. In a letter to the *Morning Post and Daily Advertiser* printed in June 1791, Robert Young (‘intendant and treasurer’) described the targets of his work as those who were ‘pining in misery amidst the plenty of this land.’[[183]](#footnote-183) In a sensationalist text, Reverend Francis Close stated that although the ‘criminal classes of society... are found chiefly among the working-classes’, he did not mean that there were ‘no criminals in the higher classes of society.’[[184]](#footnote-184) The National Association for the Promotion of Social Science, alluding to the effects of trade stagnation, recognised that ‘under our present commercial and monetary system we can never very long be free from such sources of destitution and pauperism’, and thus crime.[[185]](#footnote-185) Tallack stated in 1869 that whilst ‘men cannot be made moral by an Act of Parliament’, they can be made *immoral* by them.[[186]](#footnote-186) In a reflective, critical analysis of the causes of recidivism and men’s descent into a life of crime, Tallack argued that the laws and practices of the elites, such as the granting of alcohol licences, tempted the lower classes and caused crime.[[187]](#footnote-187) The Reverend J Field pre-empted Tallack’s arguments five years earlier in 1864. Responding to the claims of Parliamentary committees and crime statistics apparently proving that drinking and debauchery encouraged crime, he stated:

Such national sins must be renounced, or we shall have little reason to be surprised if our laws be violated and less right to complain if their penalties be unavailing.[[188]](#footnote-188)

When looking at a range of printed material produced for different purposes, it is also pertinent to question whether statements and arguments made were the result of personally-held stances, or served a more discursive or pragmatic function (or indeed a combination of both). That is, it is important to consider whether the author was truly aligned to the particular stance of their work, or whether they were aware of the discursive function of the issue and used it accordingly. The variety of genres, styles, and ideas consulted in this research suggests that some authors may have wrote to a specific line, in a specific tone depending on the purpose of their text. The sensationalism and emotive tones evident in many of the sources consulted suggest that the class discourse so far identified in this section may not have been as widely-held or widespread as first appears. Rather, newspaper reports, speeches and pamphlets were selectively used, with content adjusted and language heightened accordingly to suit the purpose of a particular text. In his 1850 lecture, Reverend Francis Close utilised emotive, hyperbolic language. At one point, speaking of religious and educational ignorance, he stated ‘I hasten from this part of my subject, for it is painful and loathsome to me.’[[189]](#footnote-189) This, along with his repeated warnings of danger, are interesting. It may be that this author genuinely held these fears. However, at the beginning of the lecture, he explained that he chose this topic (the ‘dangerous classes’) from a list he was given because it ‘excites curiosity’ and is ‘interesting’ and ‘prolific’.[[190]](#footnote-190) It would be pertinent to count a desire for strong rhetoric and oratory amongst his goals in lecturing on the topic. Close further sensationalised the topic by heightening the threat of the criminal classes, arguing that times of political agitation and civil commotion made them particularly dangerous.[[191]](#footnote-191) He stated:

It were [sic] an easy task to harrow up your minds by tales of horror, of guilt, and of crime; it were comparatively easy to excite your fears as to what may be the probable results of these “dangerous classes” if allowed to increase and to gather strength.[[192]](#footnote-192)

When consulting a broader chronological range of sources beyond the mid-nineteenth century focus of existing scholarly literature, continuities in class-based understandings of recidivism are evident. Poverty and habitual criminality were conflated throughout the period, but not entirely and often lazily for discursive effect. A complex relationship between poverty and crime existed in which habitual criminals were usually poor, but the poor were by no means all habitual criminals. Evidence also shows that it is important not to conflate the idea of being ‘trained’ in criminality with a belief in pre-disposition. Poverty and punishment were seen to render a life of crime more likely, but there is little evidence of a binary, quasi-racial discourse. The contradictions and variations within individual texts are significant in that they reflect what appear to be more discursive and sensationalist purposes of some authors. When linked to the findings of section five, it is evident that what appear to be class-based understandings of recidivism were linked more to environment and temptation than the result of a belief in the concept of innate criminality amongst a degenerate section of the working class.

Section Five: Understandings of the causes of crime

As discussed in the introduction, historians have documented a shift in attitudes towards criminality from the eighteenth to the nineteenth century, moving away from an ‘everyman’ understanding of crime to a more divisive and sociological approach. Analysis of the sheer range of discussions of recidivism in print throughout the period, however, has highlighted some notable continuities in attitudes towards recidivism. Perceptions and stereotypes of criminality formed a contradictory and fluctuating discourse. It was not a homogenous discourse, and there was not a clear chronological progression or divide between seemingly separate understandings, from ‘everyman’ to ‘criminal classes’. Philosophical and moralistic understandings of habit existed alongside the endeavour to explore and conceive of criminality in an empirical way well into the nineteenth century. And even when criminality was explained in terms of degeneration or corruption, it reflected ideas about religious piety, temptation, or environment, rather than biological disposition.

A letter to the editor of the *Middlesex Journal*, in October 1773, provides us with a philosophical approach to criminality which can be identified throughout the period. The anonymous author draws connections between crime and the shared human feeling of shame, explaining that:

Modesty and fear of shame is one of those natural restraints which the wisdom of heaven has put upon mankind, and he that once stumbles may yet, by a check of that bridle, recover again; but when, by a public detection, he is fallen under that infamy he feared, he will then be apt to discard all caution, and to think he owes himself the utmost pleasure of vice, as the price of his reputation: nay, perhaps he advances further, and sets up for a reversed sort of fame, by being eminently wicked; and he, who before was but a clandestine disciple, becomes a doctor of impiety.[[193]](#footnote-193)

By using shared human vices and feelings, the author suggests that everyone has the potential to descend into a life of crime. Moreover, whilst not absolving criminals of their guilt, this author projects an understanding of habitual criminality in which those that commit crime are not inherently bad, but simply susceptible to a range of feelings and behaviours that all humans experience.

In another newspaper opinion piece printed twenty years later, we are presented with a different understanding of the correlation between crime and the human condition, but one which still speaks to a shared ‘everyman’ approach to criminality. Discussing habit and the difficulty of overcoming them, the author explained that:

We may form an idea of the unhappy situation of an habitual offender, from the difficulty we find in conquering even an indifferent custom. What was at first optional and voluntary, becomes by degrees in a manner necessary, and almost unavoidable. For although it is easy to contract ill habits, it is not without violence and self-denial, to which we are always averse, that we can disengage ourselves from them, or even form a desire to be disengaged.[[194]](#footnote-194)

Not only does this author acknowledge the peculiar and easy way in which humans form habits, but the challenge presented in overcoming even the most innocent ones. This awareness and explanation of the human condition continued into the nineteenth century. For example, an opinion piece penned in 1819 under the pseudonym ‘Britannicus’ noted that ‘Men’s passions conquer their reason, and blind them to the fatal consequences.’[[195]](#footnote-195) Towards the end of the period, at what has been seen to be the height of anxieties about recidivism, another anonymous author argued in 1863 that ‘It matters not, what the cause may be, whether financial or social, but under the excitement of panic men lose their self-possession, and exaggerate and aggravate the danger they apprehend, by rushing headlong from one extreme to the opposite.’[[196]](#footnote-196) The author continued in this vein, stating that ‘Every criminal is regarded… as one who has fallen, but not irrecoverably; capable of restoration and usefulness, like a broken limb, equally requiring confinement and careful treatment.’[[197]](#footnote-197) The author ends with a ‘slippery slope’ conceptualisation of crime reminiscent of attitudes some one hundred years earlier. He stated that:

It is an indisputable fact, by the admission of these wretched outcasts themselves, that in the majority of cases their present degraded condition may be attributed to a neglected education and all its natural bitter fruits- brutal ignorance, Sabbath desecration, a seared conscience, drunkenness, acts of violence, too often ending in murder.[[198]](#footnote-198)

We can identify similar attempts to associate crime with a shared human condition throughout the period. Writing in 1849, Jellinger Cookson Symons alluded to the impact of temptation attributing a ‘relaxation of moral restraint’ (i.e. crime) to the ‘familiar exhibition and apparent success of crime.’[[199]](#footnote-199) He goes on to argue that ‘Crime, like every moral disease, has its primary root in the natural corruption of the human heart, and without God’s grace, vain indeed were human effort or moral appliance to eradicate that just cause of evil.’[[200]](#footnote-200) Whilst using similar language to Mayhew and Greenwood in conceiving of crime as a ‘disease’, Cookson Symons adopted a more religious perspective, acknowledging a shared human propensity to sin and the ever-present need to check it. Again, recognising the role of influence and temptation, Cookson Symons pointed out that ‘There is a criminalising effect in large and crowded communities- perhaps much owing to the old truth, that deeds of darkness shun the light; and crimes have freest scope where they have most shelter.’[[201]](#footnote-201) Cookson Symon’s emphasis on morality and temptation negates the notion of innate criminality. Discussing the effects of moral corruption in prisons, he argues:

The predominant elements of our penal treatment of juvenile offenders is, to give them that sort of religious drilling which infallibly disgusts them with religion, to expose them to contaminating associates who complete their corruption and inure them to idleness. They are thus turned out with an increased taste and greater aptitude for crime, a greater dislike to virtue, and a lesser capacity for industry than ever.[[202]](#footnote-202)

Cookson Symon’s understanding of temptation and corruption was mirrored by the Reverend Henry Solly, who warned of ‘… returned convicts and incorrigible gaol-birds coming back at short intervals to boast of their victory over law and order, and to seduce from a new and at first irksome life of honest labour their former and better-disposed companions.’[[203]](#footnote-203) Writing in 1872, J. C. Mansel-Pleydell represented a more scientific approach to corruption, stating that:

The main artery of our social degradation is the overcrowded, ill-ventilated dwellings of the labouring classes, both in our towns and in villages, which bid defiance to sanitary, police, and poor-law agencies which legislation and private enterprise have expended towards the improvement of their moral and intellectual condition.[[204]](#footnote-204)

Whilst Mansel-Pleydell’s approach to the section of society he deems criminal is divisive, he acknowledged the influence of environmental and corruptive elements as opposed to innate criminality. This idea of inter-personal and environmental corruption and temptation as a cause of crime and recidivism persisted and mutated alongside class interpretations. It took on a more empirical and investigatory nature in the nineteenth century, changing the tone of the discourse slightly (the idea of a miasma, or corruption through situation, revised the ‘everyman’ argument about crime), but still reflected attempts to understand crime in light of a shared human condition.

Section Six: Recidivism as a vehicle for penal debate

Throughout the period, discourse about habitual criminality inflected penal debates, and was manipulated as a tool for the voicing of opinion. Discourses of recidivism were used to discuss and make arguments about different facets of the criminal justice system, but also the nature and purpose of punishment itself. This section will explore each facet in turn, encompassing execution, transportation, prison sentences and regimes, and finally more general debates about the nature and purpose of punishment.

As a key penal debate, particularly in the 1770s and 80s, the country’s capital code was debated by contemporaries using recidivist tropes. The suspension of transportation in 1775 resulted in a rise in executions as an alternative penal option particularly following the end of the American War in 1783. The resulting bloodbath and concurrent lack of reduction in crime rates inspired widespread debate about the utility and morality of large-scale execution. A topic well-covered by historians in the field, debates regarding execution throughout the period revolved around a number of issues, mainly its abolition and privatisation. The 1780s in particular saw a backlash against England’s execution practices, known as the ‘Bloody Code’. Shoemaker and Hitchcock note that the period 1779-83 saw a huge increase in sentencing and execution, estimating that capital sentences tripled in these years.[[205]](#footnote-205) The problem of punishment returned with a huge increase in trials (and potential executions) in the 1820s and 30s following the end of the Napoleonic wars. The cultural and philosophical concerns regarding executions in the eighteenth century gave way to more practical concerns relating to its efficacy and application, and the maintenance of order.[[206]](#footnote-206) Late eighteenth-century debate about execution ranged from concerns about severity, to the protection of property, to the impact public occasions left on spectators. After debate in the wake of the late eighteenth-century penal crisis subsided, Randall McGowen has argued that arguments about execution took on a more ‘humanitarian’ tone.[[207]](#footnote-207) Later in the period, however, the ending of transportation in the 1850s again inspired debate and anxiety as had been seen almost a century earlier. As the following evidence shows, recidivism was used in a variety of ways to argue for and against the morality and efficacy of executions, their public nature, and the use of pardons. In the simplest arguments, the frequency of pardons was seen to remove the risk of offending, mitigating the deterrent factor of punishment and thus leading to an increase in crime and more specifically, recidivism. Public executions were lamented for their lack of solemnity, breeding more crime at the event itself. In a slightly more convoluted way, some argued that a high rate of capital conviction desensitised recidivists to risk. This was because the high number of capital sentences among those who were caught rendered all criminal activity risky. Some of the earlier examples of printed discourse regarding executions are less clearly about recidivism and we must acknowledge their limitations. However, the latency of recidivism within discussions of crime and criminal justice more generally suggests that commentators would have had recidivism in mind. Thinking about, and using, discourses of recidivism was a latent trend in penal thought throughout the period but there are chronological limitations with the evidence given that discussion often centred around periodic penal flash points.

The country’s capital laws were a topic of frequent discussion, particularly in the eighteenth-century press. In a letter to the editor of the *Gazetteer and New Daily Advertiser*, printed in December 1784, recidivism was used as a vehicle to criticise what the author perceived as a lax use of pardons. The author stated that ‘… when such power of prerogative is indiscriminately diffused to the notorious and hardened offender, hackneyed in every species of atrocious villainy, as well as to real objects of commiseration… it becomes an evil, pregnant with obvious mischief to society, and by letting daring miscreants loose again upon the community, may be justly deemed an infringement on the constitution.’[[208]](#footnote-208) In the same year, an opinion piece printed in the *General Advertiser* on August the 22nd 1784 used a discourse of recidivism to criticise execution practices in a more creative way. As well as commenting on its lack of deterrent effect, this author argued that execution practices allowed for a kind of martyrdom of recidivists. He stated that:

Thus the hardened offender over-looks the multitude that suffer, and considers only how many chances he has to escape; and when he is at last overtaken, he falls a sacrifice to those laws, which a long habit of impunity has taught him to treat with contempt.[[209]](#footnote-209)

In a ‘Letter on the penal laws of Great Britain’, printed in the *Diary or Woodfalls Register* in 1790, the author writing under the pseudonym ‘Benevolus’ lamented that ‘Such is their unequal vigour, that they condemn to a common fate the old hardened villain and the beardless youth…’[[210]](#footnote-210) The author uses the concept of age here in two ways. Firstly, he recognises the relative innocence of youth and the prospect of second chances and rehabilitation. And secondly, he utilises the trope of the ‘old’ offender, emphasised by the antonym of ‘youth’. Incorporating a familiar recidivist trope steeped in socio-economic prejudice into an argument against execution, one commentator argued that the work-shy nature of recidivistsmeant that ‘the most formidable terror that could be presented to their mind, would be the necessity of employment.’[[211]](#footnote-211)

In a letter to the editor of the *Middlesex Journal and Evening Advertiser*, printed in 1770 expressing concerns about execution rates prior to the escalation of the penal crisis, one anonymous author linked what he saw as improper execution practices with recidivism. He argued that offender’s expectations of the death penalty caused them to be more audacious ‘… in proportion to the chance they perceived to escape with impunity.’[[212]](#footnote-212) This phrase suggests that the author felt that criminals might increase or redouble their offending in accordance with heightened risk since, whatever they did, their lives were at stake. He went on to state that if executions had been reserved for the worst offenders, and treated with solemnity, that they would have a stronger deterrent effect, thus impacting on those already committing offences, and those who might be tempted to do so in the future.

A letter regarding the well-known case of the white collar forger Dr William Dodd (a clergyman convicted of and executed for forgery) to the *Gazetteer and New Daily Advertiser* in June 1777 further used arguments about recidivism to discuss the issue of criminality and execution. Through a discussion of Dodd’s admission of guilt, the author criticised execution practices in that he felt they removed the opportunity for remorse and repentance. The author used this celebrity case as a springboard to garner attention and thus further discuss moral issues surrounding crime and execution. He stated that:

As Christians, we should be very tender of hastening a human being into eternity, with a long-contracted load of guilt upon his head, to take the chance of the efficacy of few weeks’ repentance in a jail. He may deserve the pain of death, but our views ought to reach beyond the grave. Indeed, the spirit of our law as is gives every chance to an unhappy offender, even in an attempt to murder, the most horrid and atrocious of all crimes.[[213]](#footnote-213)

So, despite distinguishing between ‘good’ and ‘bad’ offenders (i.e. those who are recidivists, or who do not show remorse), this is another example of an author manipulating perceptions of criminality to suit his own penal arguments. The author’s use of the phrase ‘long-contracted load of guilt’ and discussion of ‘deserving’ the pain of death appear to reference repeat offenders who have as yet not renounced their criminal pasts. Whilst not specifically referring to Dodd (who himself could not be considered a repeat offender, and pleaded guilty), the author used a particularly newsworthy case to espouse ideas about criminality, recidivism and punishment.

Recidivist tropes also featured in eighteenth-century legal and philosophical discussions of executions. The anonymous pamphlet *Thoughts on Capital Punishments- In a Series of Letters*, published in 1770, again highlights the ways in which recidivist tropes were used to express thoughts on execution.[[214]](#footnote-214) The first letter in this collection mirrored sentiments expressed in letter to the editor of the *Middlesex Journal and Evening Advertiser* printed in the same year. The author argued that execution was not an effective punishment or deterrent as recidivists had little fear of death. Speaking as if he was one of these hardened offenders, the author wrote:

And why then (the hardened robber and thief will be apt to say (why should I be such a coward as to be afraid to run such a venture, and incur the danger of losing a life which will shortly end, whatever care I take to preserve it, and while it continues, can be nothing worth, if I am destitute of enjoyments, which I know not how to obtain without taking such liberties as will hazard the loss of it?[[215]](#footnote-215)

Here, the author used an image of habitual offenders who were so debased in character, that death was a mere trifling thought. Indeed, the recidivists depicted in this particular phrase were so hardened and depraved that the only pleasure they took from life was the committal of crime; they would rather die than be blocked from going about their nefarious ways. Using a depiction of recidivism in such a way heightened both the perception of the inefficacy of execution, and the problem they were tackling.

Nineteenth-century tracts and pamphlets provide more explicit links drawn between recidivism and arguments about execution. Samuel Romilly saw fit to publish a speech made to parliament in 1810, regarding disparities between the volume of capital statutes and imprecisely applied leniency and discretion. Romilly occasionally used recidivism to support his argument, for example when discussing the seemingly random application of pardons:

A man is convicted of one of those larcenies made capital by law, and is besides a person of very bad character. It is not to such a man that mercy is to be extended; and, the sentence of the law denouncing death, a remission of it must be called by the name of mercy; the man, therefore, is hanged; but in truth it is not for his crime that he suffers death, but for the badness of his reputation.[[216]](#footnote-216)

Romilly’s example illustrating the vagaries of recidivism and character is used to suggest proper checks and guidance for magistrates. He suggested that ‘If so large a discretion as this can safely be intrusted to any magistrates, the legislature ought at least to lay down some general rules to direct or assist them in the exercise of it…’[[217]](#footnote-217)

Romilly continued this line of argument, discussing discretion related to other forms of punishment. He argued that assumptions about reoffending, and even the widely held notion of ‘slippery slope’ criminality, negatively affected sentencing decisions. He gave the example of the judge in a case in Norfolk, who, although regarded as ‘mild and indulgent’, had observed the following:

Observed, that men who set out with stealing fowls, generally end by committing the most atrocious crimes; and building a sort of system upon this observation, had made it a rule to punish this offence with very great severity, and he accordingly, to the great astonishment of this unhappy man [the offender], sentenced him to be transported. While one was taking his departure for Botany Bay, the term of the others [sic] imprisonment had expired; and what must have been the notions which that little public, who witnessed and compared these two examples, formed of our criminal jurisprudence?[[218]](#footnote-218)

Romilly’s arguments against the proliferation of capital statutes are not based on the determination of who (or what) deserves death, but on moral guilt. Thus the motivations and environment of offenders and reoffenders plays a role.

A selection of tracts entitled *Punishment of death: a series of short articles*, published in 1831 provides further evidence of the way recidivist tropes were used in arguments for and against execution. This particular source was abolitionist in character (printed for the Society for the Diffusion of Information on the subject of Capital Punishment), stating at the very beginning that the ‘sanguinary’ penal code of Great Britain was a ‘national disgrace’.[[219]](#footnote-219) Using recidivist tropes depicting both the audience and the convict to put forth an argument about the example set by executions, it argued:

But if we look to the executions themselves, what example do they give? The thief dies either hardened or penitent. We are not to consider such reflections as occur to reasonable and good men, but such impressions as are made on the thoughtless, the desperate, and the wicked. These men look on the hardened villain with envy and admiration. All that admiration and contempt of death with which heroes and martyrs inspire good men in a good cause, the abandoned villain feels in seeing a desperado like himself meet death with intrepidity.[[220]](#footnote-220)

Not only are habitual offenders themselves able to die in a ‘hardened’ and heroic manner, but the ‘criminal classes’ who observed executions (and, we can infer, formed the majority of the audience), were inspired by the spectacle to engage (or continue) in a life of crime.

Echoing an argument made in 1770, disparities in judicial discretion inspired criminal risk taking. It was stated that ‘Among so many chances of escaping, the needy and hardened offender overlooks the multitudes that suffer. He boldly engages in some desperate attempt to relieve his wants to supply his vices; and if, unexpectedly, the hand of justice overtakes him, he deems himself peculiarly unfortunate in falling at last a sacrifice to those laws which long impunity had taught him to condemn.’[[221]](#footnote-221)

Throughout the eighteenth and nineteenth centuries contemporaries continued to argue on both sides of the execution debate (abolition, and on the flipside, its utility). What was common amongst all of these arguments was that recidivism was a latent and recurrent theme. Returning to the issue of chronology, much of the evidence originates from the late eighteenth century at a time of intense debate regarding execution. Execution as a punishment declined from the 1820s onwards, as does the quantity and quality of the evidence available, but the issue resurfaced in the 1850s around the ending of transportation. Once execution was removed from the penal code (something which did not occur until after the end of the period in question), however, it naturally fell out of dialogue, but the sting in the issue was removed following the reforms of the 1820s.

The penal option that was vital in stimulating the ongoing process of penal reform and debate (alongside the poor state of the country’s gaols) was transportation. Having remained a reliable penal option which appeared to meet practical goals from the seventeenth century, its suspension following the American War of Independence in 1775 sparked what is widely acknowledged to have been ‘an unprecedented penal crisis’. [[222]](#footnote-222) A lack of physical space in the country’s gaols led to the use of hulks, which attracted criticism and were embroiled in debates about transportation. Transportation was re-established in 1787 and quickly became one of the most common sentences, experiencing a particular increase in the late 1810s and early 1820s. Transportation became a central issue again in the 1850s and 60s, when its end was heralded by the Penal Servitude Act of 1857. As McGowen states, ‘The approaching end of transportation produced an anxiety, fostered by newspapers, about releasing serious offenders back into society. The garrotting panics of 1856 and 1862 focussed these concerns upon the figure of the violent offender. These stories made people feel less secure in the streets. The resulting panic produced a backlash against penal reform, as writers and politicians came to blame leniency in the treatment of offender with encouraging crime.’[[223]](#footnote-223)

Despite its popularity as a sentence, even in the 1810s there were doubts about transportation. Writing to the secretary of state in 1819, one Henry Grey Bennet used recidivist tropes to bolster his anti-transportation, pro-imprisonment arguments. With respect to transportation, he stated that ‘No care has been practically taken to reform the criminal, to correct the vicious habits of the dissolute, or to make the idle and profligate sober and industrious;- to get rid of the miserable objects of legal punishment constituted the sole occupation of these administrators of our penal law…’[[224]](#footnote-224). He criticised use of transportation and execution as penal options, showing himself to be a great supporter of reformatory prison discipline, and a disciple of Thomas Fowell Buxton (penal reformer, abolitionist and author).

The intermingling of prisoners (recidivist and first time offenders in particular) was also seen as a problem in transportation. Bennet argued that:

In such a motley assemblage of crimes, ages and characters, I ask, if any rational being can expect but that the bad should become worse, and youth and comparative innocence ripen into the finished offender?[[225]](#footnote-225)

Bennet used numerous examples of his own visits to the hulks support his combined anti-transportation and pro-reformatory prison arguments. One such example follows:

I visited the Justitia hulk at Woolwich last spring, it is in much the same condition as the Laurel. I saw there many deplorable instances of the progress of corruption; young men whom I had known even in Newgate with honest and reserved manners had now become hardened and sullen. On speaking to some who were less lost than others, of their altered state, they shed tears and replied, “What can we do, we must be as they are here, although we are conscious we become worse daily”.[[226]](#footnote-226)

Bennet further used recidivist tropes to illustrate the haphazard deterrent effects of transportation, centred on its uncertain application and results. He lists ‘the pain of a lingering and cruel death by disease, by fire, by shipwreck’ as a possible result of transportation.[[227]](#footnote-227) However, he then stated that these potential outcomes of transportation were in fact ‘… a game of chance, a lottery, in which the robust in body and hardened in mind may win the prize and live, the feeble and the young lose and die.’[[228]](#footnote-228) Playing on this notion of humanity, Bennet envisages a judge’s speech upon handing down a sentence of transportation, in which he tells the unhappy convict: ‘The vessel which bears you from our shores, takes you from our recollection, we see not your miseries, and we shall soon forget you have ever existed.’[[229]](#footnote-229) Thus, for Bennet, transportation was at once a disservice to reclaimable offenders, and a futile way to ‘cure’ recidivists. Bennet concluded by arguing that a focus on reformatory prison discipline, and a turning away from transportation would, ‘…be the means, under Providence, of redeeming the country from the stigma of raising up, in another quarter of the world, a settlement of criminals and free-booters.’[[230]](#footnote-230) While transportation did nothing to stem recidivism, he argued, reformatory prison discipline ‘corrects, improves and united the reformation to the punishment of the offender.’[[231]](#footnote-231) In this pamphlet we see the interconnectedness of attitudes towards recidivism, punishment, and reform. Bennet and many like him felt that reformatory discipline was the only way to truly counter recidivism.

Recidivist tropes and attitudes were also used by Colonel George Arthur (Lieutenant-Governor of Van Diemen’s Land from 1823) in a letter to Earl Grey (printed in 1835) in *support* of transportation.[[232]](#footnote-232) Arthur opened his letter in a discursive manner, stating that his addressee’s vocal opposition to transportation was in fact a blessing, in that it had given him the opportunity to ‘set the facts straight’.[[233]](#footnote-233) This is thus a more direct example of the way in which recidivist tropes were used as a vehicle in penal debate, in that the authors themselves had a specific agenda in mind. One of Arthur’s arguments espousing the benefit of transportation in countering recidivism was that the punishment allowed for a greater understanding of the offender, and thus more opportunity at remedying his ways. In a note on the profiling of convicts, he explained that:

Before the convicts are landed, a most minute record is taken on board the transport of their previous history… an ample disclosure is extracted from them of their lives, connexions, previous convictions etc., and from that period, the strictest account is taken of the culprit’s proceedings, good or bad, and in five minutes the record can be exhibited, of the whole character and conduct of any individual. The effect of this upon the convict is indescribable, and it is one which in England, or any densely populated country, could scarcely be produced.[[234]](#footnote-234)

Arthur further argued that transportation did indeed have rehabilitation at its core. He aligned the punishment with a humanitarian approach stating that a transported convicted still had ‘claims on her [England’s] compassion, which no misdeeds can annul.’[[235]](#footnote-235) It was a Christian duty, he argued, to ‘raise the criminal from moral degradation- to present to him the utmost facilities for evincing repentance…’ and thus transportation should have the same motive.[[236]](#footnote-236) He even went as far as to argue that transportation may in fact offer people a better chance at life, asking ‘… whether there is not a large class [in England] who cannot obtain regular employment, who, in consequence, get discontented, cease to respect themselves, fall into bad company, and gradually becoming habituated to the commission of crime, bring up their children to it, *as a trade* [emphasis in text].’[[237]](#footnote-237) Arthur further offered two ways in which transportation was beneficial to the fight against recidivism. In a list of deterrent factors, he wrote ‘Second- Of the separation from companions, and relatives, and of the breaking up of old habits- and perhaps of the future inability to rob, and enjoy the fruits of robbery’ and ‘Fourth- Of being compelled to labour for a long period, than which no idea can be more irksome to a habitual thief.’[[238]](#footnote-238)

Taking a demographic approach to the benefits of transportation with respect to crime prevention, Arthur further noted that the removal from Britain of ‘that part of the population which is the least able to resist the temptation to commit crime’ would subsequently remove that temptation in others.[[239]](#footnote-239) Moreover, he argued that a smaller population (i.e. in the colonies) facilitated better monitoring of offenders upon release (‘he remains, as it were, in prison, even after he has become free’).[[240]](#footnote-240) Another argument put forth by Arthur, relating to corruption and temptation as a cause of recidivism, was that ‘[b]y removing criminals in this manner, they are, as it were, taken from a situation in which they acted upon others, to one in which they are themselves acted upon. It is their interest in England, to teach others crime, but here it is the interest of others to teach them industry.’[[241]](#footnote-241) His final two points on the demographic benefits of transportation further utilised recidivist tropes, first of the ‘criminal class’, and secondly of the deserving/undeserving poor narrative. He argued that ‘[b]y the removal of thieves from the scene of their activity, the number of the class is reduced, not only there, but as I have already shewn, universally’ and ‘By the removal of thieves, their competition as penitentiary labourers with the industrious poor is prevented, and the descent of the latter into pauperism, which is the parent of crime, is delayed, or at least not accelerated.’[[242]](#footnote-242) Arthur concludes his list of the benefits of transportation with how it reforms convicts, noting that whilst exiled they acquired habits of industry and transferable skills such as agriculture, two factors which would enable them to lead a reformed life upon release.[[243]](#footnote-243)

From the start of the period in question, prison was seen as an alternative to transportation, given its reforming potential. However, a key, frequently cited argument was that prisons actually had the capacity to cause recidivism. Strong statements were made about corruption, vice and temptation in prison. Additionally, some saw the mistreatment and indignity of prison as something which removed shame and hardened inmates, thus reducing their desire to behave morally. The emergence of the prison reform movement is significant here. From the earliest efforts at prison reform in the 1770s, attitudes towards recidivism were used to promote arguments against the intermingling of prisoners, be it male and female, young and old, or first time and repeat offenders. Following the 1779 Penitentiary Act, the 1790s saw a concerted legislative drive to create national penitentiaries, although it was not until 1816 that the first national reformed prison, Millbank, was opened in line with contemporary thought regarding the purpose and nature of prison regimes. Despite the explicit rehabilitative purpose of 'reformed’ prisons, however, it quickly became clear that they did not work, evidenced by re-committal rates. Debate followed regarding the purpose of these institutions, and how they should be run and this continued throughout the first half of the nineteenth century. A particularly decisive moment, linked explicitly to recidivism, was the ‘separate’ vs ‘silent’ debate of the 1830s and 40s, in which the most basic aspect of a reformed prison regime (the spatial and psychological separation of prisoners) was hotly contested. The first half of the nineteenth century also saw fluctuations in approaches to other aspects of penal regime, including dietary allowances, prison conditions, work, and punishments. Criminal justice practitioners and commentators held widely varied ideas on the type of regime which might successfully reduce recidivism, and this depended heavily on their broader approach to punishment (be it deterrent or reformatory). The 1850s saw a backlash against what was seen as cruel treatment (the scandals involving diet and hand cranks at Leicester and Birmingham are two examples), but a deterrent approach to prison regime and the purpose of punishment prevailed, and was recommended by the 1863 Carnarvon Committee, continuing into the 1870s.

Throughout these discussions, recidivism was a constant theme. Early arguments for the reformed prison posited that it would result in the reduction of recidivism. In a letter to the editor printed in the *Gazetteer and New Daily Advertiser* in 1771, the author espoused the benefits of hard labour, explaining that being condemned to such treatment for life (‘or as long as crimes deserve’), accompanied by a ‘slender diet’, will ‘in time perhaps humanise the most refractory’.[[244]](#footnote-244) But in a letter to the editor of the *Middlesex Journal* in October 1773, discussing issues of vice, the incarceration of such petty offenders, and the problematic nature of the unreformed prison, the author wrote that ‘by the time their confinement has expired, they are divested of all shame, hardened in guilt, and reduced to such a miserable condition, that, so far as necessity may be allowed as an excuse for enormities, they have a right to plead it.’[[245]](#footnote-245) Here, the author suggested that existing modes of punishment (and ill-advised sentencing practices) in fact created habitual criminality. A letter from Sir Thomas Beever to the secretary of the Bath Society, reprinted in the *Public Advertiser* in 1785, used recidivism to support the introduction of solitary confinement. He stated that ‘[t]his solitude is found to affect the most unfeeling and hardened amongst them beyond either fetters or stripes, and is that part of their punishment from which reformation is chiefly expected…’[[246]](#footnote-246) In a similar vein, prisons were described as ‘universities of vice’ in the *Public Advertiser* in March 1790, and the ‘hardened iniquity’ of inmates was used in support of establishing solitary confinement.[[247]](#footnote-247) Six years later, a letter ‘[o]n the frequency of thefts’, printed in the *Oracle and Public Advertiser*, echoed these sentiments, arguing ‘Let them be all kept separate from each other, that the little petty offender may not be stimulated to plunder, by the recital of the daring deeds of the hardened offender, who sports handfuls of gold in prison.’[[248]](#footnote-248)

Following the introduction of reformed prisons, the 1830s and 40s saw a penal debate regarding the separate and silent systems of prison discipline. These two schools of thought originated in contemporary American penitentiaries; cellular separation in Pennsylvania and silent association in New York.[[249]](#footnote-249) The separate system involved housing inmates in individual cells in complete solitude encompassing all aspects of regime (from work to worship). The silent system imposed mental, rather than physical solitude and inmates were forbidden from talking and even looking at one another.[[250]](#footnote-250) This debate was particularly fierce given the immediate practical (and financial) implications of imposing either system. Both systems required overhauling existing institutions, or indeed constructing new ones. Whilst the silent system required less specific construction blueprints, it needed significantly more space and staff.[[251]](#footnote-251)

Writing in support of the separate system in 1838, John Silby (the governor of Brixton House of Correction) used recidivist tropes to support his cause and criticise his opponents on the ‘silent’ side.[[252]](#footnote-252) Highlighting the agreement-based nature of the silent system, Silby wrote that:

The laxity which might safely be conceded to the gentle and comparatively innocent, is certain to be abused in the grossest manner by the daring and the profligate; and the law appears to be nearly unconscious that the impudent, the forward, and irascible have been in the habit of succeeding in their objects a thousand times, by the exhibition of specious effrontery under the semblance of argument…[[253]](#footnote-253)

Here, Silby employed two recidivist tropes. Firstly, he argued that the silent system was not sufficient in preventing corruption and contamination amongst inmates. Secondly, he passed comment on the deceptive and untrustworthy nature of recidivists in that they could not be trusted to follow rules, and could appear to be acting in accordance with regulations whilst plotting and corrupting less hardened inmates.

Silby included his own arguments made six months earlier, one of which followed that:

The great and overwhelming evil of prisons is well known to be the contamination offenders, young and old; even the most expert and wicked of their class cannot enter into prison without being still further initiated into the mysteries of crime, while the young, the timid, and the novice immediately become hardened and reckless from the example of their infamous associates.[[254]](#footnote-254)

To Silby, the corrupting desires and influence of recidivists were so strong, that nothing but complete solitary confinement could block them.

Silby used recidivist tropes in an emotional plea to garner support for the separate system, asking his reader:

Are you parents? Remember that your children may at some unlooked for moment be thrown into the society of the very worst descriptions of persons, for one slight offences which may hardly (except in principle) be called a crime; that for some petty theft, committed in a moment of sudden temptation, they may be known as long as they live, by scores of the most depraved and hardened of human kind, as criminals, who will recognise them whenever and wherever they may meet, and consider themselves upon a footing of perfect equality with them; for a gaol levels all distinctions.[[255]](#footnote-255)

Here, Silby invoked imagery both in- and outside of the prison walls, to bolster his argument about the dangers of contamination and corruption.

The idea of the corrupting influences of prison, and the multitude of suggestions to remedy it, extended well into the nineteenth century, despite the introduction of the penitentiary. In 1849 Cookson Symons wrote that the practise of imprisoning urban criminals specifically in rural gaols meant that the local offenders became ‘pupils’ in fraternising with hardened offenders.[[256]](#footnote-256) Cookson Symons was a barrister with an interest (and numerous official roles) in social investigation.[[257]](#footnote-257) Later in his piece, he goes on to discuss the criminal justice system, particularly prison regimes, in greater detail. Using recidivist tropes to argue for his own approach to penal treatment, Cookson Symons argued that ‘if prisoners are not amended they are almost certain to be made worse in gaol. The companionship they meet with is sure to do this!’[[258]](#footnote-258) In-house classification remained a problem into the nineteenth century, flaring up during debates about separate versus silent regimes in the 1840s, and echoed in Cookson Symon’s argument that ‘[b]efore conviction, the old and young, the worst criminals and the youngest offenders, are herded together in perfect idleness, and are there left to concoct crime and foster one another’s depravity.’[[259]](#footnote-259) The separate vs silent debate centred mainly on the moral and reformatory benefits of enforced silence or segregation on convicted inmates, but also encompassed the mixing of pre- and post-conviction inmates which was seen to heighten ‘contamination’ and add to the problem of recidivism. Through his use of recidivist tropes, Cookson Symons suggested that key remedies to a more effectual criminal justice system are classification and training prisoners in ‘habits of industry’.[[260]](#footnote-260) Promoting reformatory discipline, Cookson Symons argued that:

The number of recommitments, and the certain evidence that the great majority of criminals are habitual offenders, is conclusive proof that they are not deterred from offences by any such pain to any extent which could justify its infliction unless there were a higher and more profitable object in view.’[[261]](#footnote-261)

It is almost as if Cookson Symons was suggesting that increasing levels of severity of the deterrent factors in penal regimes (or ‘any such pain’) would never have an effect on the most hardened offenders. They were prepared to endure anything. What would work, however, was a reformatory programme of training in which offenders could reap the economic benefits (‘a higher and more profitable object’). Cookson Symons supports his argument further with a conversation he imagined between a judge and offender. He lamented thus:

And yet we hear at every quarter sessions and assizes, learned judges and sedate justices, after sundry previous convictions, haranguing the prisoners they support in this fashion; ‘Prisoner, you have been imprisoned thrice before and I find that you have been twice privately whipped, nevertheless (or notwithstanding) all that has been thus done to reclaim you has had no effect upon you: lenience is evidently useless, you are a hardened offender. The sentence of the court upon you is, that you be transported to such place beyond the seas, etc. etc.’[[262]](#footnote-262)

Here, Cookson Symons is not necessarily commenting on the efficacy of different types of punishment (i.e. transportation), but the perceived formulaic and ineffective déjà vu effect of the current penal system. In contrast, Cookson Symons included the following imagined statement of a ‘learned’ judge:

‘Prisoner, you have been several times punished without any means being taken to reclaim you, but only in fact, to corrupt and harden you; in consequence of which you have become more criminal than you were before and we have no right to punish you again in the same wicked and silly manner…’[[263]](#footnote-263)

Commenting on other aspects of prison regime, Cookson Symons used recidivist tropes to criticise certain practices and suggest solutions. One such example was his criticism of treadmill labour in prison, which he felt gave prisoners ‘a certain distaste to industry when they leave prison, and prove an incentive to future idleness when they leave prison.’[[264]](#footnote-264) In suggesting more practical types of prison industry related to ordinary life, he argued that ‘It is not in human nature for the mind to be stationary; it must progress either in virtue or in vice- nothing promotes this progress so much as the emulation created by society, and from the nature of the society will it receive its direction.’[[265]](#footnote-265) In commenting on the way in which recidivist (and indeed human) minds worked, this phrase suggests that recidivists too thrive on activity and criminal ‘occupation’. Cookson Symons argued that if this criminal energy could be channelled into legal and acceptable means, reformation may occur.

In his 1872 pamphlet regarding his reformatory, and *Remarks upon Recent Legislation and Other Measures for the Suppression of Crime*, Mansel-Pleydell made direct links between recidivism and what he saw as problems with the existing penal system, whilst also outlining an awareness of the penal debate going on around him. He stated that ‘[a]bout the year 1850, the retaliatory mode of punishment began to lose many of its supporters. It was observed that liberated convicts usually resumed their criminal habits, and that the period of their imprisonment had no reforming effect; on the contrary their last state was worse than their first.’[[266]](#footnote-266) He followed this by arguing that ‘[u]ntil then, punishment was regarded as the possible deterrent to the legally innocent treading on the verge of the criminal path; but the future of the convicted person was unheeded and uncared for.’[[267]](#footnote-267) He suggested, here, that anxiety about recidivism had led to a focus on deterrence, but that the recidivist-inducing nature of existing modes of punishment had been ignored. The links he drew between the resumption of ‘criminal habits’ and what he perceived to be a lack of reformative penal purpose illustrates this. The focus in the past had been on depicting punishment as a horror, the idea of which would make a potential offender reconsider before committing their criminal act. The phrase ‘legally innocent’ also implies that the hypothetical individual he discusses may in fact be dabbling in unsavoury or even illegal activities, but had not yet been convicted. In a damning claim, he stated that ‘Each ten-times-convicted offender is a standing proof of the inefficacy of our present system to prevent offences, and shows that the gaol in his particular case has lost its terrors, and the cost of our county prisons proportionally has increased.’[[268]](#footnote-268) Here he spoke not only to his contemporaries’ emphases on deterrence, but the lack of rehabilitative purpose in punishment and thus a continued flow of recommittal and new offenders.

A common penal argument utilising recidivist discourses was the more abstract notion of contagion in prison, caused not only by a lack of appropriate separation, but by what were seen as indiscriminately applied short sentences. This philosophical concern about contagion had its roots in the earliest eighteenth-century efforts at prison reform which sought to combat gaol fever.[[269]](#footnote-269) In 1864, visiting justice of the North Riding House of Correction Rev. J Field wrote that:

Upon a first offence in how many instances do we find circumstances which indicate that the character is not depraved, and they are thought to justify a mitigated penalty; and one is accordingly inflicted- short in duration and therefore insufficient for improvement- perhaps light in its nature, but lasting in its degradation.[[270]](#footnote-270)

He suggested here that character and the relevant level of rehabilitation was considered and attempted, but that this was not done fully and effectually. Reverend Field continued further in his denunciation of a lack of reformatory purpose in short sentences (and the nation’s penal system more generally), asking the following of the current system:

And to what may a re-conviction with so much reason be ascribed as to a previous imprisonment, which deprived the offender of self-respect and of reputation, and having despoiled him of these occasional safeguards of honesty, gave additional power to temptation when again presented, whilst it afforded no opportunity for that correctional discipline by which he might have been restored and his relapse prevented?[[271]](#footnote-271)

He further linked the penal system with recidivism, implying that its incorrect application actually caused recidivism. He stated that ‘The law then provides a more severe punishment for consequences of which a former injudicious administration may have been the cause.’[[272]](#footnote-272) Field’s overarching argument was that a lack of foresight in first sentencing, handing out short prison sentences with a lack of purpose, directly fostered recidivism. In an explicit argument explaining this, he stated that ‘if short imprisonments for trifling offences have been thus pregnant with future crime, and instead of deterring, evidently reverse that sound maxim in criminal jurisprudence… like effects have also followed from the insufficient terms of punishment which have recently been awarded for more serious offences.’[[273]](#footnote-273) He acknowledged that crimes committed by released criminals caused alarm, but that the focus was too often placed on the length rather than character of sentences and punishment, noting that this had skewed the nature of penal debate, possibly in reaction to the Carnarvon Committee of 1863 which is briefly mentioned but not expanded on (‘[h]ence the cry for greater severity towards criminals.’[[274]](#footnote-274)) He concluded his damning verdict stating that ‘[t]hus offenders have gone forth unreformed to repeat offences themselves, and as certainly to teach, tempt, and train others to pursue the like vicious course.’[[275]](#footnote-275)

The period 1770-1870 was one in which a new type of prison, the penitentiary, was in the process of developing. It is unsurprising, then, that debates about the nature and purpose of punishment raged. These debates ranged from the more abstract issue of whether punishment should be deterrent or rehabilitative, to the minutiae of prison regimes. It was in many ways an experimental period in which legislators, social commentators, and those newly associated with or employed in developing areas of the criminal justice system espoused opinions and suggested solutions as to what might work best. What united these varied arguments, however, were the interlinked facts that crimes were still being committed, and that offenders who had been through the system were being seen again and again. To eighteenth and nineteenth-century commentators on the criminal justice system, existing punishments were at once too lenient or too severe, too long or too short, too holistic or lacking in rehabilitative purpose.Advocates from all camps used varying perceptions and stereotypes of criminality, particularly recidivism, to support their arguments, and the desire to voice an opinion was evident in the practical solutions introduced by authors. Perceptions oscillated depending on the penal situation and point of view of the author but discourses of hardened criminality were a useful weapon throughout the period in debates about penal reform.

Section Seven: Recidivism as a vehicle for social debate

Perceptions and stereotypes of habitual criminality were also used as discursive tools in social debates. Habitual criminality, as a threat to national stability and security *and* a manifestation or cause of social problems, was used to support arguments about various social issues. These included poverty and vagrancy, education, and vice (prostitution, alcohol, gambling).Links were drawn between prostitution and crime to support anti-prostitution policy, education reform campaigners heavily utilised discourses of recidivism in support of their arguments, and discourses of recidivism also featured heavily in debates about vagrancy and charity. These different social themes comprise issues raised throughout this thesis, and were a particular characteristic of the nineteenth century (discussed accordingly in the chronology of evidence available), a time in which contemporaries became increasingly interested in social improvement. Social and penal issues often intersected, as is evident in the work of many contemporary philanthropists and reformers such as Edwin Chadwick. Recidivism and social issues were particularly tied together through an emerging trend of social classification.

A number of tracts and pamphlets written throughout the nineteenth century illustrate the use of recidivist tropes by social reformers. Returning to a reference used previously, Mansel-Pleydell used a pamphlet about his own reformatory to discuss the links between recidivism and pressing social issues.[[276]](#footnote-276) Here, he used the idea of a criminal miasma or contagious recidivism to call for improvements in the physical conditions of the poor. The ‘social degradation’ he references, whilst not explicitly about crime, encompassed a number of social ills linked to crime. He continued, stating that ‘[A]s long as the working man has not a decent home for his wife and family, with an atmosphere of comfort and health, so long will these exertions fail in their object.’[[277]](#footnote-277) By exertions here, he referred to the activities of social and criminal justice agencies which were hampered by the cramped and disorderly environments of poor areas. Again, he linked these conditions with a degradation of morality and incitement to crime, arguing that ‘[F]ew are aware of the miseries endured by tens of thousands of our people, which, eating as a canker-worm upon their morals and loyalty, cause social disorganisation which may any day produce troubles to the nation, and widespread desolation.’[[278]](#footnote-278) Referring directly to recidivism, he stated that ‘[T]hus the habitual criminal and vagrant classes are now safe only in those places where they can be absorbed among dense population, or where supervision is slack.’[[279]](#footnote-279) Whilst not referring to a specific social cause (but rather, a range of social problems), he is lamenting a general social breakdown seen to contribute to crime and its recommittal.

William Tallack, secretary of the Howard Association, also made use of recidivist tropes in promoting various social arguments in his work, *The Problem of Diminishing Prevalent Destitution and Temptations to Crime* (London 1869), which focussed mainly on socio-economic concerns regarding begging, mendicancy and poor law board failures. The pamphlet reflects on the practical ways of helping the poor which reduce the abuse of and reliance on charity and aid, and target the problems identified which cause destitution and crime, thus reducing the temptation to offend. Tallack saw crime and social issues as being interlinked, stating that ‘The circumstances of the present time specially warrant the diffusion of any information likely to assist the solution of the difficult social problem of diminishing prevalent destitution and temptations to crime.’[[280]](#footnote-280) Whilst not specifically referencing recidivism, we can assume that he was referring to the committal and recommittal of crime. However, this was not a simple correlation between poverty and recidivism, but discussed the way in which misdirected social justice and different kinds of morality (a lack of, or a skewed sense) caused criminality and reoffending. On a basic level, he critiqued the social and legislative efforts of his peers, arguing that charity provided through inefficient poor law systems had the potential to ‘perpetuate idle habits and to increase vice.’[[281]](#footnote-281) Evidencing his belief in prevention through social remedies, Tallack also discussed the benefits of having savings or insurance. He stated that ‘these men and their families make, in most cases, no provision for the future, and expect the provident, the temperate, and the self-denying to extend liberal assistances when that distress arrives which is the natural (and sometimes only curative) result of such profligate and wicked heedlessness.’[[282]](#footnote-282)

In a similar vein to Mansel-Pleydell (and in fact precursory to his work), Tallack also used a discourse of recidivism to promote and inspire social change. He argued that ‘The causes [of pauperism and crime] are admitted to be, mainly, filthy overcrowded dwellings, intemperance, improvidence and ignorance.’[[283]](#footnote-283) He saw intemperance and bad housing as barrier against religion and morality, likening them to ‘…stagnant water upon undrained lands which must be drawn off before good seed can be sown with any advantage.’[[284]](#footnote-284) His use of the terms ‘stagnant’ and ‘good seed’ allude to a lack of and a need for improvement in morality, and further emphasise the contagious nature of recidivism. Tallack also included a quote from an individual he claimed to be a tenant of poor housing, who lamented that ‘[F]urther, there being no provision for domestic decency, chastity becomes a virtual impossibility, and oftentimes vice unadulterable ensues. There also ensue unhealthy childhood, diseased manhood, helpless poverty, spiritless or semi-idiotic dispositions, and premature death.’[[285]](#footnote-285) It appears that Tallack used this lurid statement, suggestive of habitual criminality, to back up his own arguments. Linking his social causes to his own penal approach, he argued that ‘…valuable and essential as repressive and reformatory criminal treatment indubitably is, it requires to be accompanied by the removal of the crime- nurseries of the innumerable dens and styles above alluded to.’ [[286]](#footnote-286)

Writing about the futility of transportation in 1850, CB Adderley used penal debate and what he perceived to be the failings of that particular penal option to pass social commentary. His main argument (that transportation does not remedy the causes of crime), allowed him to make several points about various social issues. In a comment on the futility of penal reform without social reform, Adderley argued:

Thus may human laws, and the consequent condition and institutions of a community, overload a country with a criminal population, either originally made so by their own neglect or viciousness, or ensnared by their evil influence and misdirection, or falsely treated as criminal, by their own confusion.[[287]](#footnote-287)

He went on to point out that:

… There is much crime which, even though wholly and completely both in will and deed committed by its immediate agents, has been caused, induced, fostered, and multiplied by a culpable influence, stimulus and temptation, or by neglect and impolite action, or by want of salutary provision, on the part of the general social regulation and economy.[[288]](#footnote-288)

In this statement, Adderley appeared to criticise a lack of, or at least a misguided sense, of social organisation and justice throughout the wider society as a whole. Whilst acknowledging offender’s culpability in ‘will and deed’, he pointed to wider social problems as a context to crime. In an apparent criticism of new social relationships and class interactions, Adderley appeared to long for a more ancient system of social organisation which he felt might reduce recidivism:

If there were throughout this land that friendly and intimate intercourse between masters and men, between landlords and peasantry, which would be the legitimate descendant and progeny of the old feudal inter-dependencies of our of quarter of the globe, it would be impossible that so many children would grow up in absolute inculture, or so many men become degraded and depraved by resourceless and friendless misfortune; that filth should breed crime in our streets, or crowded dwellings banish chastity from our villages. I fear that wealth in the new democracies has been found to the full as selfish, as rank has become neglectful in this old world.[[289]](#footnote-289)

Adderley touched on most contemporary social issues including alcohol, leisure time, immigration and education. Regarding alcohol, he stated ‘I must not pass over, amongst the crime-breeding features in the country, our beer-houses’, noting that ‘… at least three-fourths of the criminal charges that are brought to trial at the assizes, originate in habits of intemperance and the spending all leisure time in public houses.’[[290]](#footnote-290) Recidivism was not explicitly mentioned here but we can infer its presence in the argument through the conflation of habit and crime. In a slightly more tangential conflation of recidivism and social ills, Adderley focused on the Game Laws, explaining that:

In proceeding to enumerate other sources of crime, I will not allow any scruples of personal predilections of class prejudices to hinder a frank confession that I think the habit of preserving game, in the most highly cultivated and densely peopled parts of the country, deserves a place in the enumeration. Interested sportsmen pretend to argue that only thieves are poachers, and that if there were no such thing as game, the same depredators would attack other property. I believe the temptation offered by such exposed and alluring property has made many honest men thieves…[[291]](#footnote-291)

He goes on to state:

May be, the attacking party *were* [emphasis in text] lawless depredators, and perhaps they were regular professional thieves. Nevertheless I have some misgivings as to the probable mode of their original training in dishonesty, and doubts whether, without the special allurement of game at their doors, they would all have arrived at such lawless habits of life.[[292]](#footnote-292)

Detailed above are just some of the ways in which recidivist discourse was used in wider social debates beyond the issue of penal policy. These social debates ranged from more abstract concerns regarding morality to very specific and seemingly obscure issues such as poaching. This range of issues highlights the complexity of the way in which contemporaries conceived of crime, further emphasising the notion that attitudes towards recidivism were not homogenous and static but fluctuating and varied. The links drawn between recidivism and social issues also illustrate a developing and strengthening investigatory approach throughout the nineteenth century. But perhaps more importantly, the salience of crime and the presence of recidivist discourse in these debates illustrates not only its latency, but its recognised use to contemporaries. When thinking about and discussing issues which were at once related and disparate, recidivist language was recognised and used to bolster various causes. Indeed, the links between these causes and both penal and social governmental policy shows just how extensive a role recidivist discourse played. In fact, many of the social issues linked to recidivism (and vice versa) identified in research for this chapter can be traced through into the policy documents discussed in Chapter Two.

Conclusions:

The evidence presented in this chapter shows that understandings and representations of habitual offending have a much longer and more complex history than previously assumed. Discourses of habitual offending are a very useful lens through which to assess eighteenth and nineteenth-century understandings of criminality and a range of social and penal problems, thus its nature and development need to be better understood. This chapter has focused on this discourse within the key arena of print culture and the public sphere. This was a period which saw a huge expansion of this arena, an expansion which allowed for crime and punishment to be readily and widely discussed. Tropes of recidivism within wider discussions of crime were particularly important to the period’s penal debate. At the most fundamental level, recidivism highlighted the failure of the criminal justice system to deter and reform. But as a latent concern in discussions of crime and punishment, it also raised wider issues about criminality that demanded attention. A shift from the eighteenth-century ‘everyman’ understanding of crime to the nineteenth-century notion that some people had specific propensity to crime (this was related to life chances or environment, however, rather than criminal genetics), both stimulated, and was reflected in, criminal justice policy.

Moral panics and legislation targeting recidivism in the mid-nineteenth century are well documented and a clear and explicit language then existed to express recidivism related discourses. This discourse centred around tropes such as the ‘criminal class’, the ‘dangerous class’, and the ‘residuum’, terms which reflected the apparent function of discourses of recidivism to categorise and segregate deviant social strata, and in some cases impose quasi-scientific understandings. This is a very recognisable discourse for historians, and thus mid-nineteenth century understandings of recidivism have been seen not only as the pinnacle, but often the origin, of such representations.

Given the penal upheaval and development of the public sphere in the eighteenth century, however, it is unlikely that discussions of recidivism and the creation of related stereotypes only emerged in the mid-nineteenth century. An analysis of context and language in a range of genres has enabled the identification of substantial earlier examples. Whilst habitual offenders were not discussed using the same language in the eighteenth century, a powerful discourse still existed. The focus or direct engagement of eighteenth-century observers may not have been explicit, but an awareness of recidivism and its utility in a variety of penal and social arguments is clear. Tropes that represented this earlier discourse of recidivism included ‘hardened’ offending, the idea that a young man could be an ‘old’ criminal, and expressions of incorrigibility in the face of execution, all of which reflect accumulative understandings of crime (i.e. the layering of sin upon sin, or crime upon crime) which were prevalent in the eighteenth century and remained influential long after.

Perceptions of criminality and related stereotypes were complex and cannot be explored simply in terms of their relationship to statistical reality as has been the case in some previous scholarship (as discussed in the introduction to this thesis). There is evidence of a clear distinction along class lines in recidivist discourse throughout the period. However, there is little evidence of a homogenous discourse of innate criminality amongst the lower classes. The partial conflation of poverty and crime is perhaps best conceived of as a result of differentiation rather than conflict. It should not be seen as an effort by the elites to control the lower classes, but rather as part of an effort to understand and provide solutions, and later as part of the nineteenth-century trend of social investigation and quantification. The lack of homogenous opinion between commentators, and indeed contradictions within individual texts, suggests that recidivist discourse was not always intended to support social control. The paternalism, empathy, and self-criticism identified in sources throughout the period also suggests that the conflation between poverty and recidivism may not have been as simplistic or as one-sided as existing scholarly literature has led us to assume.

This chapter emphasises continuity in discourses of recidivism, as opposed to stark chronological differences. This is highlighted in the section on class, but has also been made abundantly apparent through the exploration of the continuity and pervasiveness of the ‘everyman’ and ‘slippery slope’ understandings of crime, and the resonances of a belief in a shared human condition which existed up until the very end of the period covered. Concerns about the living conditions of the poor, which led to temptation and corruption, were more reminiscent of a universalist approach to crime as opposed to a desire to classify and discipline. The significance of a recidivist discourse lies in its discursive nature, rather than its expression of reality. It served a range of wider discursive purposes and reflected a broad range of opinion, disseminated with different agendas in mind. Some authors had genuine points and suggestions to espouse, but others were simply weighing in on a trendy subject.

The longer trajectory of a discourse of recidivism was stimulated by the process of penal reform from the 1770s onwards. Not only was there a huge proliferation in thinking and writing about crime (from all angles), but this necessitated a conceptualisation of criminality, and by extension, recidivism. The wholesale upheaval of the criminal justice system (in particular, punishment) from the late 1770s inspired discussion extending to all aspects of it, particularly primary and secondary punishment options. The penal crisis of the 1770s and 80s led to soul-searching regarding secondary punishments (namely their purpose and the form they should take), but also raised significant practical concerns. An influx of public and ‘expert’ interest resulted in a proliferation of printed discussion and naturally a huge variety of penal arguments.

Debates about execution were many and varied but recidivism was a latent theme in all of them. Key arguments regarding execution throughout the period included the allegedly glorifying nature of public execution (providing a platform or martyrdom for recidivists), the disorderly nature of public executions, a desensitisation to risk (both due to the number of capital statutes and the possibility of being pardoned), and the haphazard discretion used by judges. Recidivists tropes were rarely at the forefront of these arguments, but the worst cases were used to add colour to arguments. Recidivist tropes were also used to promote alternatives.

One such alternative was transportation, the availability and utility of which spurred penal debate. Recidivist tropes were used to promote transportation, but also suggest alternatives. As a penal option, transportation met three purposes of punishment (deterrence, rehabilitation, and public protection) so of course it inspired argument from all sides. Two individuals with very different penal approaches could use recidivism to make impassioned and detailed arguments in support of transportation, for very different reasons. Thus, transportation is particularly good example of the discursive function of recidivism.

The final penal option, prison, attracted an even greater share of debate. Its domestic presence (and cost) perhaps intensified anxiety and criticism due to the constant cyclical visibility of crime and recommittals. Similarly to transportation, prison met both rehabilitative and deterrent needs, and so garnered support from multiple angles. Here, recidivism was used most explicitly in support and criticism of a variety of issues including the minutiae of inmate regime and treatment, as well as the symbolic purpose of punishment. The most significant area in which recidivist tropes influenced debates about imprisonment lay in a belief in corruption and temptation. This changed somewhat over the period, from the evils of temptations contextualised in the slippery slope attitude to crime, to the corruption of innocence by hardened criminals. However, this temptation narrative continued well into the nineteenth century. These debates had a direct correlation with prison practice regarding the classification and separation of prisoners. This particular debate was most obvious at the start of the prison reform process in the 1770s, and the separate vs silent debates in the 1830s and 40s. Recidivist tropes were also central to arguments about the purpose of prison; should it be reformatory (to ‘cure’ recidivism), or should it be deterrent (to stop people committing, and especially re-committing offences, after a stay inside).

Recidivism was not always a central concern, or even explicitly mentioned, but rather was widely used to bolster or provide colour to penal and social arguments. Lurid and detailed depictions of ‘nurseries of crime’ or a criminal class lent weight to numerous arguments about punishment options, prison regimes, and even sanitation reforms. In addition to penal debate, contemporaries also found recidivist tropes useful in putting forth arguments on varied and related social issues. The problem of crime was frequently linked to social issues such as poverty, lack of education, and alcoholism and so alongside suggestions about criminal justice policy, commentators often also promoted various social causes. The links drawn between recidivism and social issues ranged from abstract lamentations of social ‘degradation’, to very specific concerns or causes related to a variety of issues. Recidivist tropes were particularly central to contemporaries discussing alcohol, sanitation, education, and poor laws. In highlighting the continuities in, and manipulation of, a discourse of recidivism from 1770 to 1870, this chapter illuminates a set of criminal tropes which were used to explain, support and criticise the social and penal problems (and solutions) of the day. These tropes were prevalent throughout all genres, suggesting that thinking about recidivism was omnipresent. Used as a tool in a multitude of debates, hardened criminality was a useful discourse for people thinking about crime, especially for those making criminal justice policy, on whom the next chapter will focus.

# Chapter Two: The Dissemination and Role of Understandings of Recidivism in National Penal Policy

As seen in the previous chapter, crime and criminality were issues of great social and political importance throughout the period 1770-1870 and frequently discussed in the public sphere, and attitudes towards it were neither simple nor homogenous. This melee of opinion was reflected in the seats of national policy making, locations in which this vast range of attitudes could be expressed and reflected upon. Policy makers and reformers were continually introduced and expressed to new criticisms of the penal system, new ideas and new requirements. As such, the discussions about and the enacting of policy share a common language with wider attitudes. The implementation of legislation specifically targeting recidivists in the 1860s is very well documented, but it is important to consider earlier legislation and the way in which the crime problem was perceived. Sources pertaining to the development and passing of legislation provides us with a window into contemporary concerns and expectations regarding the criminal justice system during a period which has often been credited as the point of the establishment of today’s penal system.[[293]](#footnote-293) The entire system, centred in the mid eighteenth century on capital and corporal punishment and the transportation of convicts to America, was largely turned on its head as converging practical, intellectual, and social developments necessitated an urgent discussion about, and response to, the problem of punishment.

In the midst of the penal reform process, the persistence of recidivism consciously and subconsciously encapsulated the issues at hand. Recidivism was at once a problem to be tackled in itself, but also a physical manifestation of the failings of penal and policing systems. Despite the conception of recidivists as a socio-legal category only from the 1860s, policy makers and reformists recognised the problem much earlier. The discussion surrounding policy changes provides a rich and diverse backdrop against which to re-evaluate both nineteenth-century and historiographical conceptions of habitual offending. In doing so, we can explore the social reality of attitudes towards recidivism, but also their social construction.

In Chapter One, a range of different attitudes towards recidivism were identified in printed discussions of the problem of crime, penal reform, and the specific issue of habitual offending. Although habitual offending was not afforded a specific focus or terminology until the mid-nineteenth century, its discussion in print shows that it was a latent concern throughout the period. An exploration of printed sources has shown that sets of characteristics and stereotypes about recidivists existed throughout the period, and that at the same time habitual offending was used as a lens through which to explore other social and penal debates. Where Chapter One assessed the expression of such debates amongst the reading public, this chapter will explore the prevalence and use of these characteristics in policy discussions, and assess their role and impact in politics and policy making at a national level. The chapter will attempt to examine the relationship between attitudes evident in print and their translation into policy or vice versa.

Policy developments both stimulated and reflected the rich printed discourse on all things related to crime, an issue of continual importance in parliament and press. As the preceding chapter explored shifts and continuities in public perceptions of habitual criminality, as expressed in print, this chapter does so with official policy documents. In highlighting similarities and differences between the attitudes evident in wider discourse and official sources, this chapter will explore the transfer of these attitudes between these spheres, and test the use of and reliance on related tropes in policy, and the role of policy makers in creating them.

The initial focus of this chapter is to assess how parliament and the Home Office conceived of recidivism, and understood the problems that recidivists both presented to, and were encapsulated in, the process of penal reform. In testing the accepted chronology of legislation targeting habitual offenders, this chapter asks how and when recidivists became an explicit focus (or driving force) in policy investigation and policy making. It asks whether something significant changed in the mid-nineteenth century to bring anxieties to the forefront. Conversely, rather than being linked to a moral panic about recidivists (the ‘criminal classes’) themselves, the chapter questions whether general anxiety about punishment options were more significant, especially by the 1850s when prison experiments were unravelling and transportation was coming to an end.

In light of the gamut of contemporary commentary regarding recidivism, this chapter also seeks to understand whether there was a divergence in understandings between widely shared public discourse and the experience of those with direct engagement with the criminal justice system, and if so, how we can reconcile this. This will be taken further in Chapter Three. Research has shown that significant ties existed between an individual’s cause or argument (regarding both penal and social issues), and the way in which they discussed recidivism. In light of this, the chapter will explore the ways in which attitudes towards recidivism were expressed as a political, social, and discursive tool. It seeks to shed light on the way in which parliamentary committees used and privileged evidence, what happened to the recommendations of committees, and asks what this can tell us about the role of recidivist discourses and stereotypes in governmental thinking and policy.

In order to assess attitudes in government, but also their development and creation, it was essential to consult not only pieces of legislation but the documentary evidence surrounding this, delving further into the mind-sets of policy makers and their associates. A comprehensive reading of parliamentary bills and acts and the discourses surrounding them allowed for a greater understanding of key policy developments and the rationale behind them. This was enhanced by an in-depth look at key select committees, particularly those relating to the general problem of crime and punishment. These provide us with an understanding of the importance of key issues and are packed with detail, but also allow us to question the construction and privileging of evidence when contrasted with other sources. Hansard, the verbatim record of parliamentary debates, plays a similar role. In addition to these parliamentary sources, manuscript sources ranging from draft bills, memos, personal papers and correspondence, and inter-departmental correspondence allow for a further assessment of key players’ attitudes towards recidivism and the function and use of related tropes. These key players include ministers, MPs experts, witnesses called to give evidence in committees, and individuals who shared their own views on policy matters through correspondence. This combination of sources will illuminate the nature, role, and reliance on shared (or indeed divergent) attitudes towards recidivism at various stages of penal reform and policy making.

This chapter is comprised of two parts, designed to reflect the creation, replication, and function of concepts of recidivism. The first part deals with the various characteristics and environmental factors seen to have caused recidivism by policy makers. These mirror concepts and issues linked by contemporaries’ to recidivism in Chapter One and include socio-economic background, education and vice. The second part explores the way in which recidivism was used as a vehicle for penal debate. This was also explored in Chapter One, and takes on greater significance in policy documents. Together, they illustrate the way in which the problem of recidivism and contemporarys varying understandings of it permeated penal and social discussions of the period. Its dual role also illustrates the continuous presence of recidivism from the 1770s onwards, despite often existing only in the background of policy discussions.

Section one: Recidivist characteristics

As discussed in Chapter One, there existed a wide a range of environmental factors and social problems discussed in print which were understood to be associated with a life of crime, and this was no less the case in policy documents. Through the explanations, rationale, and evidence they contain, sources relating to national penal policy provide us with constructed snap-shots of eighteenth- and nineteenth-century recidivism, portraying assumptions about (and in some cases, the realities of) the causes and contexts of habitual criminality. Whether describing the criminality of a district or town, suggesting modifications to prison regimes and policing practices, or lamenting the social and moral degradation of society, the compilers of and witnesses in policy-making and investigatory documents lay bare contemporary understandings. Personal characteristics and environmental factors conflated to create stereotypes of habitual offenders, and these persisted throughout the period. Social and moral concerns which were seen to develop and encourage recidivism encompassed socio-economic background (employment, hardship, local area), family (age, illegitimacy, poor parenting), the proximity of vice (alcohol, prostitution), moral character and education, and a perceived breakdown of social and moral order.These issues pertained to both individual attributes and surrounding environment, and are expressed in various ways throughout the period.

Understandings of recidivist characteristics and influential environments strongly mirrored more general arguments about the causes of crime. In fact, recidivism was embedded in these arguments. As established in chapter one, concepts of recidivism, often signified by certain language or phrases, permeated penal and social discussion throughout the period. Attitudes towards, and concepts of, recidivism often featured in more general discussion of the problem of crime and social issues, rather than being mentioned specifically. It is often difficult to pin-point exact or precise concepts of recidivism due to the inter-connected nature of the social issues in which it is expressed. What this section will thus show is that recidivism occupied a liminal space in policy discussions and through this we can conclude that it was seen as both a cause and marker of the problem of crime and social degradation. Concepts of recidivism can be traced both in the foreground and background of a range of discussions and the language and evidence used by policy makers suggests a continual presence despite a background role.

Official sources from the first half of the period (1770-1820) cover initial attempts at penal reform and the development of an early police force. The suspension of transportation in 1775 and the subsequent search for alternative modes of punishment stimulated investigations into existing places of confinement. These were found to be lacking, and debate developed around the issues of appropriate construction, regime, and treatment. Occurring alongside this was an increased emphasis on reforming the criminal. Recidivism, whilst not an explicit focus at this time, was an implicit concern given this new focus on the efficacy and success of modes of punishment. Understandings of recidivism were evident in these discussions of the purpose of punishment, the workings of imprisonment, and the ways in which crime might be prevented through more effective policing. Whilst the role that concepts of recidivism played in penal debate will be more thoroughly explored in the second half of this chapter, these issues provide us with evidence of the characteristics and environmental factors that contemporaries identified as causes and attributes of recidivism.

From the earliest legislative documents of the period, understandings of environmental factors that influenced incidences of recidivism were evident. Legislation drawn up to tackle crime and recidivism contained directives specifically related, for example, to the consumption of alcohol and its related environments. The failed 1785 Bill for the Further Prevention of Crimes (also known as the London and Westminster Police Bill) sought to direct the attention of peace-keepers to locations of alcohol consumption and vice, and therefore crime. The nascent police force should, under this bill, have been able to ‘enter into any dwelling house or place kept by any victualler or victuallers… and to apprehend and take into custody all and every journeyman, apprentice, servant, or labourer, who shall be found therein drinking, tippling, or gaming, at unreasonable hours…’[[294]](#footnote-294) Whilst not explicitly mentioning recidivists, this directive paints a picture of a criminal underworld, or a group of people thought to be capable of, or likely to commit crime, attracting the focus of policy-makers. Although this bill was unsuccessful, it is useful in that it reflected increasingly heated debate in parliament and the public sphere in the late eighteenth century regarding policing and public safety.[[295]](#footnote-295) Such sentiments are reflected in policing documents throughout the rest of the period, whereby the consumption of alcohol and the environments in which it was consumed were treated with great suspicion, seen to inspire and foster recidivism, and thus specifically targeted.

The continuation of a ‘slippery slope’ or ‘everyman’ understanding of crime prevailed at this time, meaning that specific recidivist characteristics and environmental factors related to recidivism were not as clearly defined as later in the period. This is illustrated in 1778 amendments to the 1776 Criminal Law Act (sometimes referred to as the Hulks Act) in which the benefits of imprisonment with hard labour were cited as being, firstly, that it gave ‘…security to the public, by the just and temporary seclusion of those, who have shewn themselves to be dangerous members of society’, and secondly, that ‘The reformation of criminals, by the effect of habitual industry, and the impression of a punishment, which induces the sufferer to reflect on the injuries he has done to the community, at the same time that it obliges him to make some compensation for them by his labour.’[[296]](#footnote-296) This rationale suggests a more democratic approach to crime and recidivism in that its commission *and* prevention was a community matter. The phrase ‘most dangerous and daring offenders’, used when discussing further legislation in this document, acknowledges the problem of recidivism but does not give any indication as to the type of people they may be.[[297]](#footnote-297) Rather, the problems and threat posed by repeat offenders is simply acknowledged. Prevention and punishment was not, here, directed at a specific type of person or section of the community, but conceived of as a fair and just way in which to punish and reform law-breakers. Indeed, rather than focusing on the nature of criminality as occurred later in the period, penal reformers in the last decades of the eighteenth and early decades of the nineteenth-century were concerned with the practical issues of the re-construction and re-organisation of prisons.

Legislation targeting ‘rogues and vagabonds’ suggests an inherent threat from certain section of society, providing a window into understandings of the link between recidivism and socio-economic background. Recidivism is arguably inherent in the notion of ‘idle and disorderly’, in that such persons did not have a legitimate or acceptable means of making a living, with the implication that they regularly sought other illegal means. Radzinowicz points to the equation of poor relief, vice, and crime throughout the period.[[298]](#footnote-298) He includes a definition of vagrancy by Sir James Fitzjames Stephen in his 1883 work *History of the Criminal Law of England* who stated that ‘[t]he vagrant came to be regarded rather as a probable criminal than a runaway slave’.[[299]](#footnote-299) This lends weight to the argument that such terminology and sentiments espoused by policy makers and commentators held an implicit suggestion of recidivism. This was encapsulated in the 1783 ‘Bill for the Punishment of Idle and Disorderly Persons, upon whom Implements for Housebreaking, or Offensive Weapons, shall be found in the Night Time’. This bill suggests that anyone classified as ‘idle and disorderly’ (under the related 1781 Bill), seen at night with one of a wide array of tools, should be apprehended under suspicion of illegal activity.[[300]](#footnote-300) This also suggests that local constables or officials may have had an awareness that certain locals were more likely to offend through their knowledge of the communities they served.

Investigative documents into newly constructed or reformed prisons in the early nineteenth century also provide us with some evidence of the social and moral characteristics and environments attributed to recidivism. The expression of these characteristics are, however, much less explicit than later in the period. Nonetheless, arguments about the classification and separation of prisoners (a key issue at the time), may tell us something about concepts of recidivist characteristics. In the 1810 Holford Committee (Officially known as the *Select Committee on Expediency of erecting Penitentiary-Houses, and State of Punishment in Hulks. First Report*), a direct assumption is made about the socio-economic background of the majority of prisoners. In discussing the benefit of the ‘Master’s Side’ (where the more well-to-do inmates could pay for a more comfortable stay), the report states that an inmate of that section would be separated ‘from the society of his more indigent fellow prisoners.’[[301]](#footnote-301) This statement (particularly the term ‘indigent’) alludes to the socio-economic background of the majority of prisoners and the danger their lifestyles and recidivism posed. It distinguishes between types of people and concurrently types of criminal. But more significantly, perhaps, evidence relating to the issue of classification and separation tells us that eighteenth- and early-nineteenth century penal policy makers placed greater emphasis on the influence of environment and contagion on recidivism, as opposed to individual defects or specific backgrounds.

The report of the Holford Committee (in which MPs discussed prison construction, regime, and bureaucracy, suggesting the creation of national penitentiaries) provides evidence not only of the perceived moral character of recidivists, but the way in which exposure to such personalities could lead one to reoffend. Prison chaplain Rev. T Butcher’s insights into a recidivist personality are included in the minutes of evidence, where he described new inmates as ‘filth, diseased, drunken idle and profane’.[[302]](#footnote-302) Their discussion of prison classification thus portrays attitudes towards the effect of difference in character and proximity to negative influences. The report states that it is unadvisable:

To confine the offender, who has been betrayed in an unguarded moment into the commission of a first crime, and who would perhaps gladly make his peace with himself, and retrieve, if it were in his power, the loss of his character and friends among those, whose minds have been hardened by a long course of guilt against shame and remorse; and in whose company such feelings will be repressed in others by ridicule and contempt.

He also describes inmates upon reformation, representing the opposite characteristics, stating that ‘that man in a short time becomes clean, sober, healthy, diligent, and to all appearance a good moral man.’[[303]](#footnote-303) The minutes of evidence also illustrate understandings about the impact of environment outside of prison. Criminal gangs are mentioned in response to a question about the differences between rural and urban criminals.[[304]](#footnote-304) And, when discussing the deterrent effect of transportation on recidivists, it is stated that it is in part due to fear of being removed from criminal connexions and the environment they previously inhabited.[[305]](#footnote-305) This focus on morality and association encapsulates the direction of the Holford Committee in establishing what was seen at the time to be effective penal regime. The idea of contagion and corruption within prison will be further discussed in the second section of this chapter.

These early policy documents also suggest that recidivism was not necessarily thought to be caused by an innate evil, but was due to a lack of proper religious instruction which could thus be remedied. A discussion of the efficacy of the prison hulks in the 1812 **Third Report from the Committee on the Laws Relating to Penitentiary Houses uses letters and reports regarding religious instruction on board as evidence of successes in inspiring reformation. Similarly to the Holford Committee, this again mirrors the penal mood of the time in which routine and instruction were hoped to inspire reformation. This faith in an offender’s propensity to reform tells us not only about attitudes towards the positive influence of religious instruction (and conversely a lack thereof in recidivists), but also negates the idea that recidivists were inherently bad. A letter from Rev Henry Donne (appendix E 8) illustrates this:**

**That persons of various religious persuasions, long hardened by habits of vice, justly degraded in the estimation of society, and almost beyond the reach of those honourable restraints which keep men, differently situated, within the bounds of decorum, should be brought to a devout attention to the solemn religious duties of public worship… is a truth which must strike you with the same astonishment it does me.[[306]](#footnote-306)**

**Praising Reverend Donne’s work on board the Portsmouth Hulk, one J Hunter applauded his work as having ‘been the means of recovering many of these poor fellows to a sense of the iniquity of their past life, and a determined resolution, by one of honesty and industry, to endeavour, at the expiration of their respective sentences, to recover their character in society’.[[307]](#footnote-307)**

Understandings of the role of environment and background in promoting recidivism are also evident in other sources relating to the criminal justice system. In the notebooks of John Silvester from 1816 (lawyer, judge, and Recorder of London throughout the late eighteenth and early nineteenth century), children are identified as occupying a central role in London’s criminal underworlds. Silvester notes the numbers of children lodging in ‘flash houses’ in a real-life Dickensian set-up. One Mrs Franklin ‘fences from about 60 boys, near 20 of whom are only 9 or 10 years old.’[[308]](#footnote-308) Although Silvester did not play a role in policy-making, his official status is significant in that it illustrates an interplay between attitudes in print, policy, and practice. It reflects a widespread understanding of the relationship between crime, recidivism, and environment, and shows that these understandings spread to differing levels of authority.

With the basic mechanisms of a reformed prison system in place, the parliamentary committees of the 1820s (relating to all areas of the criminal justice system including crime rates, penal policy, and policing), provide more detailed evidence of attitudes towards recidivism and its related characteristics. This period was one of a new impetus in compiling criminal statistics and prison reports, and a drive towards centralisation, with the view to better assess the machinations of the criminal justice system. The 1823 Gaols Act, for example, mandated the recording of previous offences. The 1828 *Select Committee on Cause of Increase in Number of Commitments and Convictions in London and Middlesex, and State of Police of Metropolis* (contributing to the passage of the Metropolitan Police Act of the following year) was appointed to inquire into an increase of commitments and convictions in London and Middlesex and ‘the inference that there has been a proportionate perpetration of crime’.[[309]](#footnote-309) A key avenue of inquiry in this committee was to ascertain whether this increase was linked, in part, to a population increase. The ensuing discussion, however, took into account issues such as socio-economic status, behaviour, and vices such as alcohol and thus provides multiple examples of awareness of recidivist characteristics and environments as identified by contemporaries.

A central issue was that of the link between socio-economic background and recidivism. Poverty, hardship, and employment were all highlighted as causes of, or at least catalysts to, recidivism. Conflating socio-economic background and habits, magistrate Richard Birnie gave the following evidence to the 1828 Select Committee on the Police of the Metropolis. In response to the question ‘Do you think that crimes are committed from actual distress and from want of employment, or are they committed by depraved characters, who could get employment if they chose to apply for it?’, Birnie replied:

I am very much afraid that depraved characters create the greatest number of crimes more than mere want of employment. A great deal of it is owing to the drunkenness that every human being must observe in the streets since gin was so cheap; they spend their money, they get up next morning, and they do not know what to do, and they join thief gangs I have no doubt…[[310]](#footnote-310)

Birnie’s response here, to a leading question from which he takes cues, sets out a range of different characteristics attributed to recidivism, including moral depravity, the influence of alcohol, and the spectre of poverty. The offender’s socio-economic background and habits are conflated.

Another witness to this committee, Mr S. J. Thomas (a Covent Garden parish constable) set out a socio-economic divide between thieves and their victims. Describing the crime committed at Covent Garden theatres (and the lack of proper policing), he stated that ‘we know men that have been policed, and vagabonds of the worst description, coming night after night, and mixing with the most respectable classes of society...’[[311]](#footnote-311) He draws a distinction between ‘men that have been policed’ (i.e. recidivists), and the ‘respectable classes of society’, illustrating assumptions about the class of the offender. When questioned about apprehending known thieves who were not committing a specific offence at the time, Thomas stated that he would apprehend them ‘from the principle of prevention, to protect the public from persons that I had every reason to believe were notorious thieves, that had no other means to get their living.’[[312]](#footnote-312)

Another theme evident throughout the evidence gathered by The *Select Committee on the Police of the Metropolis* was a link between a perceived breakdown in social and moral order and recidivism. The committee pointed to ‘a general want of employment and neglect of children’ as causes of an increase in crime in the 1820s.[[313]](#footnote-313) They then go on to explain how neglected children fall into mischief, gambling, and subsequently crime, and make an emotive statement about lack of care taken by their parents.[[314]](#footnote-314) This shows that some felt that environment impacted heavily on incidences of recidivism, and in more extreme statements that recidivism was a sign of the moral and social degradation of the time.

A key question for the 1828 Select Committee on the Police of the Metropolis was whether an increase in commitments was proportionate to an increase in offences, or whether ‘much of it might not reasonably be supposed to emanate from circumstances and changes in the state of society; which, whilst they serve to exhibit conspicuously, offences, and to swell the catalogue of criminals, by no means warrant the interference that there has been a proportionate perpetration of crime.’[[315]](#footnote-315) The committee appeared greatly concerned with the impact of a growing population in their report. Here, they reference the ‘several prevalent evils’ which witnesses in the minutes of evidence point to as causing an increase in crime in the metropolis (ranging from prostitution to cheap alcohol). They stated that:

… Without doubt these evils must injuriously influence the state of society, and deteriorate public morals; your committee, therefore, refer to them, more in the hope that the attention of the house being attracted to them, every opportunity will be taken to apply correctives, than in the expectation that vicious habits, in such a thickly inhabited district [London], can be so far eradicated as to restore to the returns of criminal commitments, that appearance which they presented, when the population was at least 36 per cent less dense.[[316]](#footnote-316)

The quote suggests that, whilst they feel that ‘correctives’ should be applied to the various social issues and vices (‘prevalent evils’) referred to, they do not believe that solutions to these specific issues would fully solve the problem. They suggest, in this statement, that bad habits and vices can never be fully eradicated and that population increase remains the main problem. This statement, however, also reflects rather more abstract concerns, lamenting social upheaval and a perceived subsequent breakdown of morals.

This perceived breakdown in social and moral order was also seen to impact upon, or even create, one of the most prominent groups of recidivists; young offenders. Inextricably linked to anxieties regarding upbringing and morally appropriate hierarchies and authorities was the notion that age played a significant role in the incidence and development of patterns of recidivism. Youth appears to be understood by contemporaries as both a characteristic and symptom of recidivism. Juvenile offenders occupied an unusual space in discourses of recidivism as, whilst their habitual criminality was recognised as a major problem, their potential for innocence and reclamation distinguished them from an adult of ‘bad character’. The efforts directed towards juvenile offenders in sources throughout the nineteenth century were striking, and there appears to have been a general consensus regarding the issue. Susan Magarey has pointed to the identification of juvenile crime by contemporaries as a recent phenomenon and pressing problem of their time.[[317]](#footnote-317) And Heather Shore describes the way in which juvenile offenders ‘became such a potent element of the debate about crime and punishment’ in the first half of the nineteenth century.[[318]](#footnote-318) Although juvenile criminality has also been studied as a theme separate to recidivism, discussions of re-committals and depictions of the descent into crime are wholly relevant to this topic. Shore concisely encapsulates the link between recidivism and juvenile crime, stating that ‘[t]he role of the juvenile offender, as both the progeny and progenitor of criminals, was central.’[[319]](#footnote-319) Whilst young recidivists featured prominently in discussions of habitual offending and the process of penal reform more generally, these children were also seen as unfortunate products of adult criminality. Attitudes towards recidivist juveniles ranged from depicting them as feral children to be corrected, to innocent victims of a poor or unhappy childhood.

Giving evidence to the 1828 committee regarding increased crime rates and the state of policing, magistrate Henry Moreton Dyer painted a vibrant picture of a juvenile’s place in the criminal underworld, stating that:

The very considerable increase which has taken place in the population, obviously accounts for some increase in crime. As to the increase which is otherwise to be accounted for, I consider the greatest proportion as arising from juvenile delinquency; and among the class of juvenile offenders, I should say that the influence of bad example has a material effect. There are multitudes of vicious and abandoned parents in the metropolis, who not only allow their children to go on the same absolute habits themselves, but who actually tutor in crime. The offspring of such persons, therefore, may be said to be cradled in iniquity. No good can ever be expected from them. They naturally run the career of crime, advancing from one step to another, till they finally attain the greatest heights.[[320]](#footnote-320)

Moreton Dyer’s statement highlights certain problematic recidivist characteristics (i.e. youth), but also links the problem to the more abstract issue of social and moral degradation. Similarly, in their main report, the committee explained how neglected children were liable to fall into mischief, gambling, and subsequently crime, and made an emotive statement about the effects of a lack of parental love and care (‘instances are not infrequent, of parents so wanting in duty and affection, as to view with indifference the degradation and expulsion of their children for misconduct…’).[[321]](#footnote-321) In fact, they cited ‘a general want of employment and the neglect of children’ as key causes of an increase of crime in the 1820s.[[322]](#footnote-322)

Another key select committee in 1828 was the Select Committee on the *Cause of Increase in Number of Criminal Commitments and Convictions in England and Wales*. The commissioners took a quasi- anthropological approach to the problem, dividing the country into ‘agricultural’ and ‘manufacturing’ districts, and thus passing comment on the socio-economic and environmental backdrop to crime in each area. The introductory report strongly linked socio-economic background and crime, mirroring the wider debates of the time regarding the poor laws, industrialisation and the state of the nation. In fact, Radzinowicz makes a direct link between these debates at this particular committee.[[323]](#footnote-323) They stated that ‘the habits of a certain class of manufacturers, of spending only four days in a week at work, and the other two [sic] in drinking, may tend to crime; while in another district, the insufficiency of wages to maintain a man who works hard for six days in the week, may contribute in the same degree, though in a different manner, to swell the number of commitments to prison.’[[324]](#footnote-324) Here, the committee recognised that poverty and class induce the committal of crimes in different ways, but they did not subscribe to prejudicial stereotypes related to class (instead expressing prejudices concerning other factors such as drunkenness). The fact that this statement features in the main report gives weight to these opinions as official discourse, as a conclusion based on the evidence collected. We must, however, question the selection and privileging of evidence and the consensus of those consulted.

In their initial summary, the commissioners lamented changes in the living arrangements of masters, servants and apprentices, echoing the sentiments of the committee on the Police of the Metropolis of the same year.[[325]](#footnote-325) A trend for apprentices to live away from their masters’ house was seen to create a situation in which ‘no one has a proper control over them’.[[326]](#footnote-326) This trend was directly linked by the commissioners to an increase in juvenile crime, but also suggests a degree of unease with socio-economic change and the loosening of traditional social ties. The report goes on to point to one of the ‘primary causes’ of an increase in juvenile crime as being ‘the change of habits which has taken place, the abandonment of boys by their parents and masters…’.[[327]](#footnote-327) This matter, they argue, ‘seems beyond the reach of legislation’, further highlighting a more general concern regarding the state of society.[[328]](#footnote-328)

Providing evidence to the committee, Sir Thomas Baring (MP) listed a vast range of causes of an increase in crime and recidivism, including population increase, temptation due to ‘exposure of property’, alehouses and fairs, and the weakness (as perceived by him) of laws regarding perceived vices such as prostitution, illegitimacy, and gambling.[[329]](#footnote-329) The social problems he (and others) identified portrayed the environments they saw crime develop in, recidivism being the worst extension of this. Illegitimacy and a perceived lack of proper parental love and control were highlighted as concerns. Upon being asked whether illegitimate children were a ‘more vicious race’, a witness stated ‘I think they are, from the manner in which they are brought up, for the people with whom they are put do not feel the interest which they do in their own children; I think they generally turn out worse than the legitimate children.’[[330]](#footnote-330)

In a similar vein to the links drawn between youth and recidivism, a lack of appropriate instruction at an early age was highlighted as a key characteristic and cause of recidivism. The commissioners in the Report from the Select Committee on Criminal Commitments and Convictions made a distinction between juvenile offenders and non-criminal children whereby juvenile offenders of 14 or 15 were noted to be delayed, on a par (both intellectually and spiritually) with boys from ‘our rank’ (social strata) aged 12 or younger.[[331]](#footnote-331) This suggests that a lack of appropriate education and instruction (that obtained by boys of ‘our rank’) was thought to a cause of juvenile crime. Whilst the general consensus was that children were corrupted or incited to crime by adult recidivists (their parents, gangs, or those they encountered through their entrance into the criminal justice system), some did not allow for such arguments. The commissioners in the Report from the Select Committee on Criminal Commitments and Convictions privileged the evidence of Francis Maude (a Yorkshire barrister) in their main report, including his statement ‘I do not believe that it is the habit of older thieves to be employing boys for thieving, they do it for their own advantage.’[[332]](#footnote-332)

The role of alcohol in promoting a descent into crime, not only for the individual but for those around them, is highlighted in the 1828 Select Committee on Criminal Commitments and Convictions. Giving evidence, John Ellman stated that ‘if there is one man in a parish or a village that is of worse character than the rest, he is sure to resort to the public-house, and his great ambition is to get others to be as bad as himself’.[[333]](#footnote-333) He follows this up explaining that ‘I think that is a convincing proof that these people of the worst character are rather desirous of making others as bad as themselves, in order to furnish an excuse for misconduct.’[[334]](#footnote-334) Here, alcohol ties in neatly with the common trope of criminal contagion and corruption. Whilst Ellman does not explicitly mention serious crime, this shows a conflation of concepts of criminality with other social issues.

Underpinning the above characteristics, attributes, or situations of recidivism was the notion of environmental corruption and contagion, a kind of criminal miasma allowing for the spread and incubation of recidivist tendencies. This was seen to occur within communities, on the streets, and notably in penal institutions. Corruption and communication in prison was frequently highlighted as a key cause of recidivism (for example, ‘evil communication’ rendered a prison chaplain’s ‘endeavours ineffectual’).[[335]](#footnote-335) The introductory report from the Select Committee on Criminal Commitments and Convictions numbers ‘the improvement of communication, the employment of young thieves by the elder and more practiced, the crowded state of our gaols’ among the causes of an increase in organised, repeat crime.[[336]](#footnote-336) A similar statement is made later in the report, whereby ‘… the fraudulent are mixed with the unfortunate, amongst the former are to be found characters as vile and abandoned as amongst the worst of the criminals, and who corrupt the others; this, in my opinion, is calculated to increase crime.’[[337]](#footnote-337) These sentiments bear resemblance to those of earlier sources, showing a corrupting environment to be a continual concern. Interestingly, despite some of the more prejudicial stereotypes linked to recidivist characteristics and environments, the notion of corruption and contagion does not suggest inherent criminality. Whilst acknowledging shared impetus to crime, the characteristics and environmental factors espoused in policy documents contradict the established idea that attitudes towards recidivism were purely prejudicial and divisive. Much of the existing historiography focusses firstly on the socio-economic reality of a criminal class, and secondly suggested that certain pieces of legislation assured the development of recidivist stereotypes like the ‘criminal class’, neglecting their discursive nature and the multitude of voices involved in the debate, and presenting an overly homogenous progression in penal policy and ideology.[[338]](#footnote-338)

As well as featuring statements regarding a recidivist’s social status, policy documents provide suggestions of recidivism in the form of terms or phrases repeated frequently. Terms such as ‘idle’ and ‘disorderly’ (more often than not combined) appear to signify a habitual offender’s employment status, lack of work ethic, and by extension social class. In a letter from the Home Office sent in 1822 regarding the deportation of a Polish man named Andrew Mousky, the individual is described as having led ‘a disorderly life in this neighbourhood for three or four years last past.’[[339]](#footnote-339) Mousky’s offending history is not mentioned in the document, but the identification of recidivist tendencies within Home Office correspondence is significant.

The trends identified throughout the 1820s continued into the following decades and show a further conflation of poverty, behaviour, morality and recidivism through the evidence of individual witnesses. The 1830s saw a continued grappling with the nature and purpose of punishment in prisons, with an increased emphasis on separation, and the monitoring and inspection of prisons (the 1835 Prisons Act, for example, mandated the appointment of prison inspectors). These trends are significant in relation to recidivism in that firstly they reflect the key issue of criminal contagion, and secondly the continual battle to ensure the efficacy of punishment. With regard to socio-economic background, the notion of idleness also comes through in discussion of prison regime, evident in the 1831 Select Committee on Secondary Punishments, appointed to re-assess the efficiency of the reformed prison and transportation. In this report, it is frequently noted that prison work should inspire a deterrent effect to idle thieves. When asked ‘[h]as not a London pickpocket, for example, a greater horror of transportation than a labouring man’, John Woutner, the keeper of Newgate gaol (a witness to the 1831 Select Committee on Secondary Punishments), replied that ‘He has; it is the love of idleness which makes those people commit offences.’[[340]](#footnote-340)

The development of recidivist tendencies in children was also frequently depicted, with childhood innocence and impressionability highlighted as a key component of a descent into habitual criminality. Providing evidence in the aforementioned select committee, Governor of Coldbath Fields George Laval Chesterton responded to the question ‘[d]o you ever question them as to how they fell into their courses?’ as follows:

Yes; some of their parents led them into it: it is no uncommon thing when we are listening to the conversation between the prisoners and their parents, to hear a conversation that shows at once the cause of those boy’s situation; but the old thieves are in the habit of bringing in with them young inexperienced lads. Wherever the elder thieves are recommitted, they are generally recommitted with another. I have known many very lamentable instances of the fact.[[341]](#footnote-341)

The potential power of education was also made evident in beliefs about corruption and criminal ‘training’. Keeper of Newgate John Wountner responded to a question from the 1831 Select Committee on Secondary Punishments regarding the initiation of first time offenders by ‘hardened offenders’, stating that ‘They take a delight in stating what has occurred to them of their different delinquencies and misconduct; it is their boast continually’.[[342]](#footnote-342) Not everyone, however, subscribed to the notion that recidivists were intellectually or religiously ignorant, not being provided with appropriate opportunities in prison. Those with a closer relationship with inmates, like Rev. Whitworth Russell, were keen to portray the benefits of religious instruction in prison, stating that incidences of inmates insulting and rejecting religious education were ‘very rare indeed’.[[343]](#footnote-343)

Whilst individuals with habits of drinking and vice may not themselves have committed crimes (thought often it was thought that they did), the environments that they frequented and the company that they kept were thought to render alcohol and recidivism inextricable. George Laval Chesterton explained this complex interplay when giving evidence to the 1831 Select Committee on Secondary Punishments. When discussing sentencing options, he is asked ‘[a]re those the persons to whom your observations refer, persons taken up under the suspicion of being reputed thieves, and convicted of vagrancy to that extent, but not convicted of robbery?’ Chesterton explains that:

At present such a man may be indicted as an incorrigible rogue, and he may be sentenced to one year’s imprisonment, and any number of whippings that the court may direct. The reason why I recommend this is, because I see every day the lamentable effects of the active exertions that they make out of doors; they are continually corrupting young lads, and bringing them into prison, and then, from the association in prison, they become confirmed thieves; if you go into the history of those men out of doors, it is very lamentable, those men frequent the worst sort of public-houses, they all of them keep their women, and even the young boys keep girls, and it is a system of profligacy from beginning to end.[[344]](#footnote-344)

Routine prison inspection reports show further evidence of the association of recidivism and wider social issues. For example, an inspector giving evidence for the 1837 Third Report on Prisons in Scotland and Northern Counties states that ‘crime appears to be not only hereditary to a considerable extent, but also in some degree belonging to particular occupations.’[[345]](#footnote-345) Despite referring to Scotland (outside the remit of this project), this evidence illustrates that a shared recidivist discourse was pervasive and extended beyond the English context. Located in the initial report, this statement implies that habitual offending is endemic within families of certain occupations (and, by extension, socio-economic background). In providing solutions for the prevention of crime, the inspectors believed that remedies included ‘the general and enlightened education of the people… the removal of causes of poverty and disease… the prevention of these sudden fluctuations of income which now expose the labouring man to the temptations of alternate penury and affluence…’[[346]](#footnote-346) An inspector reporting on the state of crime in Dundee stated that ‘in the late commercial distress, many of them had been often thrown out of employment; but even then it seemed, from their own showing, that it was rather the bad habits and idle company that they fell into, than absolute want, led them to steal. A few of the prisoners, however, did certainly assign hunger as the cause of their offence.’[[347]](#footnote-347) Although this individual was of the opinion that recidivism did not occur out of necessity, the conflation of socio-economic background and crime is clear.

In this report, the inspectors gave detailed descriptions of the state of crime in individual localities. The force of language with which they used to describe the problem of crime is striking, particularly with regard to alcohol. Drunkenness is highlighted as the ‘chief immediate cause of crime in Scotland’, imbedded by ‘the want of a cultivated taste for other than mere sensual gratifications’.[[348]](#footnote-348) Describing the ‘criminal classes’ of Irvine (’40 men and boys… who are thieves… 30 girls who are thieves and prostitutes’), they were ‘as a class… distinguished for habits of drunkenness and for want of education’.[[349]](#footnote-349) Similarly, the core of offenders in Ayrshire is ‘generally distinguished for habits of drunkenness.’[[350]](#footnote-350) Acknowledging the wider impact of alcohol, the inspectors state that ‘where the parents of the young thieves are living they appear to be generally bad, or at least in habits of drunkenness’.[[351]](#footnote-351) Similarly, in describing the incidence and causes of crime the inspectors for Scotland and the northern counties stated that ‘few of the children have received any education’ (in Kilmarnock), that ‘as a class, they are distinguished… for want of education’ (Irvine), and that ‘the offenders are found to be below others in the same rank of life in education’ (Ayrshire and Dundee).[[352]](#footnote-352)

In identifying criminal sections of society, there appears to be some confusion between recognising bad habits, and ascribing innate degeneracy. The inspectors occasionally portrayed crime as hereditary, and urged that ‘such a system should be gradually adopted as shall secure the withdrawal of every offender from society at the earliest possible age; that he may be trained to new feelings and habits…’[[353]](#footnote-353) They go on to paint a picture of small-scale crime committed by youth, for example, in Irvine where ‘most of the offenders are between 12 and 30 years old.’[[354]](#footnote-354)

Home Office correspondence with the public office at Bow Street in the early 1830s portrayed further expressions of attitudes about recidivist characteristics and environments prone to it.[[355]](#footnote-355) In a letter from the office of Home Secretary Lord Melbourne, the commissioner (the JP serving as the head of the Metropolitan Police) is told that if an individual arrested for drunkenness (classed as a petty misdemeanour) has not made bail or is not ‘so well known that his own recognisance may be safely taken’, the person should be brought before the magistrates with the same rules applied as ‘to all other cases of petty misdemeanour such as trifling assaults, cases of trifling wilful mischief, and ordinary cases of similar description.’[[356]](#footnote-356) Whilst inebriation was not being treated here as a major crime (nor directly linked to recidivism), this directive applying specifically to those who might be regarded as less savoury characters (judging by the above caveats), suggests a crackdown on behaviours associated with recidivism and attempts to keep them from public life.

The 1840s saw an increased focus on the problem of juvenile crime in parliamentary documents, with much of the discussion of recidivism linked solely to juveniles. A recurrent theme was the notion that early engagement with the criminal justice system actually caused habitual criminality. Linked to this was a focus on education, religious instruction, and the creation of reformatory and industrial schools. The introduction of character books in prisons and an increase in criminal prosecutions served to add richer detail to images of the criminal and to heighten anxieties about crime.

In the 1844 gaol reports, a prison chaplain in the county of Hampshire stated that the increase in crime could not be attributed to anything other than ‘that of the most deplorable ignorance of Christian truth, and deficiency of mental cultivation, which was necessary for the purposes of civilised society.’[[357]](#footnote-357) In a similar vein, the Select Committee appointed to inquire into the execution of the criminal law in 1847 were of the opinion that:

Upon one subject the whole of the evidence and all the opinions are quite unanimous- the good that may be hoped from education, meaning thereby a sound moral and religious training, commencing in infant schools, and followed up in schools for older pupils; to these, where it is practicable, industrial training should be added. There seems in the general opinion to be no other means that afford even a chance of lessening the number of offenders, and diminishing the atrocity of their crimes.[[358]](#footnote-358)

Young offenders and would-be recidivists were targeted by penal reformers from the late eighteenth century onwards, the earliest efforts undertaken by the Philanthropic Society as referred to in Chapter One. As both a symptom and characteristic of recidivism, attitudes towards juvenile offenders encapsulated those of corruption, reform, and the more general threat of crime. The complex role of youth in attitudes towards recidivism is perhaps best illustrated by the evidence of John Adams, Sergeant at Law, for the 1847 House of Lords Committee into the Execution of Criminal Law, an investigation focused specifically on juvenile crime and transportation. When asked whether the boys that came before him were ‘hardened offenders’, he stated that:

I have great difficulty in answering that question. I know not how to call them hardened offenders, and yet I cannot say it is their first offence. What I would say is this: a great number of the children that come before me are wholly and entirely without friends or relatives of any kind; others have profligate parents, who neglect them, another class have stepmothers or stepfathers, who abuse and illtreat them; some have parents who encourage them; almost all of them are quite uninstructed in religious, moral, and social duties. I should say that the evil is far more deeply seated than in the natural disposition of the children themselves. I do not think they are natural worse than other children, but that their offences spring from the want of proper moral and religious education, and in the want of proper friends to attend to them.[[359]](#footnote-359)

Here, Adams subscribes to the notion that juveniles were a subset of recidivists, but their inherent guilt or depravity is questionable. Indeed, concerns about the efficacy of punishment (and, by extension, recidivism as evidence of its failings) often centred around juvenile recidivism rates, with the 1847 House of Lords Committee into the execution of the criminal law stating that its failure was evidenced by ‘the number of times that young offenders have been committed, some of them twelve or fifteen times within a few years’.[[360]](#footnote-360) Giving evidence to this committee, Frederick Hill cited ‘the promotion of habits of sobriety and prudence’ as one of the best means of preventing crime and recidivism, alongside education and industrial training.[[361]](#footnote-361)

The 1845 *Royal Commission for Inquiring into the State of Large Towns*, which focused on the ‘physical condition of the poorer inhabitants of large towns’, sheds further light on the links drawn between alcohol, bad habits, and a life of crime. The environment depicted here is both physically and morally unsanitary and alcohol as a cause of crime is highlighted thus:

A large class of crimes, arising from the intemperance and the indulgence of vicious propensities, is much fostered by the low state of physical comforts, which leads to the use of stimulating drinks and to other methods of imparting false strength to a reduced system. These act with the greatest intensity on the inhabitants of those places, where filth and the absence of facilities for its removal depress the energies, and engender disease and death.[[362]](#footnote-362)

A degree of sympathy is evident here in that, whilst it is insinuated that people in such situations are likely to repeatedly commit crimes, their environment rather than their innate depravities is the cause.

Following the establishment of the first reformatory schools at Parkhurst in 1837 and at Redhill by the Philanthropic Society in 1849, the 1850s saw a continued focus on the early identification and reformation of juvenile offenders through a revised experience of the criminal justice system (a backlash against short term sentences, to be discussed in more detail later), and the further development of such institutions. Much of the policy discussion regarding vice and destitution (and, by extension, recidivism) at this time pinpointed the appropriate treatment of criminal children as a significant consideration in solving the problem of crime. Numerous letters were sent to the Home Office regarding possible institutions and methods for caring for and reforming criminal children. Examples include a letter from a Thomas Philpotts in 1852 lamenting the fact that juveniles incarcerated for a first offence were often released from prison as ‘incorrigible thieves’ and suggesting the establishment of ‘instruction’ ships; from a Mr Raimondi in 1853 responding to the Select Committee on Criminal and Destitute Juveniles; and from a Lord Provost in 1854 urging the establishment of houses of refuge for criminal children.[[363]](#footnote-363) In an 1854 memorial from a group of prison chaplains to the Secretary of State regarding reformatory schools and the aforementioned 1847 Select Committee, they stated that ‘to cure this class of offenders would be to cut off one of the most prolific causes of adult crime.’[[364]](#footnote-364) These chaplains viewed the establishment of reformatory schools (with a more holistic approach to develop potential as well as to punish) as paramount, arguing that there were ‘no other means that afford even a chance of lessening the number of offenders and diminishing the atrocity of their crime.’[[365]](#footnote-365)

The establishment of the new ticket-of-leave system in the 1850s and the effectual end of transportation heightened discussion of and anxieties about recidivism and allowed for legislation specifically targeting recidivists. The 1860s saw a continuation of the themes and characteristics identified almost a century prior, and the decade has been highlighted as experiencing the beginning of specific legislation targeting of recidivists. A significant facet of the overhaul of the criminal justice system throughout the period was the establishment of the Metropolitan police in 1829, and correspondence to and from the Home Office can provide us with evidence of attitudes towards recidivism. The focus on certain public houses and places of leisure suggests the conflation of both specific ways of life and certain localities as a characteristic of recidivism. For example, correspondence relating to the Habitual Criminals Act (1869) and the Prevention of Crimes Act (1871) provided officers with printed tabular forms for mapping these environments.[[366]](#footnote-366) We might therefore draw conclusions regarding attitudes towards a recidivist’s socio-economic background through the way in which certain localities were pinpointed.

Some commentators drew much stronger correlations between socio-economic status and a life of crime. Henry Herbert, 4th Earl of Carnarvon (chair of the eponymous 1863 Carnarvon Committee), was vocal in linking socio-economic background and recidivism. British Library manuscript Add MS 60958 is a personal notebook in which Carnarvon seemingly brought together contemporary thought which informed his own opinions on crime. It is comprised of notes on relevant literature, and Carnarvon conflates crime and poverty, which seems to him to be a key characteristic of recidivism. He includes a quote from the vaguely titled ‘Hill on crime’ (presumably relevant work by M. D. Hill, Recorder of Birmingham, lawyer and penal reformer), underlined, which states that ‘pauperism and crime are both hereditary’.[[367]](#footnote-367) Another underlined quote states that ‘The great majority of offences are committed by the lowest class.’[[368]](#footnote-368) Carnarvon also touched upon characteristics previously identified, including ‘bad training and ignorance’.[[369]](#footnote-369) The links drawn between alcohol and recidivism are also evident in his notebook. In a section of notes entitled ‘causes of crime’, Carnarvon included the underlined subhead ‘drunkenness and profligacy’, noting that ‘four out of five cases of crime can be traced to drunkenness’, and including statistics from the chaplain of Preston Gaol on working class expenditure on alcohol.[[370]](#footnote-370) Whilst these details appear fairly arbitrary and shorthand, and the notebook’s purpose beyond detailing his thoughts on crime is unclear, this provides a rare insight into issues highlighted by a key player. The notebook is significant in that it portrays the wide ranging links contemporaries drew between recidivism and other social issues.

In an address to the Association for the Promotion of Social Science in September 1864 on ‘the effect of manufacturing distress’ Edwin Chadwick pointed to the situation and conditions of the ‘wage classes’ employed in factory work, which he felt had the tendency to produce further poverty, immorality, and crime. He stated that ‘the excessive moral evils of debauchery and unthrift which have accompanied it, of which the statistics of pauperism, as well as penal statistics, are also exponents’ is evidence of the haste and mismanagement of industrialisation.[[371]](#footnote-371) He went further in lamenting the reliance of families and localities on one particular industry, and the socio-economic problems caused when such an industry collapsed. Interestingly, Chadwick was not painting a damning picture of the working classes, but rather showed an awareness of the ways in which mismanaged socio-economic situation may induce crime. This is most evident in his use of the term ‘wage classes’ (as opposed to ‘working classes’ or ‘manual labourers’), explaining that it is a term free of prejudice and one which best describes the distribution of work.

The conflation of alcohol and recidivism in parliament trickled down through the various levels of power and policy implementation. In implementing the Habitual Criminals Act (1869) and the Prevention of Crimes Act (1871), the Metropolitan Police utilised their own experiences, but also mirrored the concerns of policy makers when seeking out recidivists. Correspondence relating to the above legislation suggests that the Met focused their efforts on ‘wet’ environments.[[372]](#footnote-372) Tabular forms required officers to record ‘public houses, beer shops, and coffee houses in the above division where thieves and suspected persons resort which have been visited by the police during the past month’ Directives from policing executives and the Home Office detail the prescribed action taken against pub landlords for admitting ‘known thieves’, showing an aim to target the environs of recidivism as well as the recidivists themselves.[[373]](#footnote-373)

Contemporary perceptions of a recidivist’s socio-economic background feature heavily in existing literature on the topic and this is also evident in the sources consulted for this chapter. The most explicit stereotypes such as the ‘criminal classes’ portray an inherent social difference, suggesting the existence of a shared socio-economic environment in which reoffending could thrive. There was an appreciation across the board that economic situation (poverty, unemployment, seasonal employment, times of hardship) was a key factor in crime, although attitudes towards the relationship between poverty and immorality differ. The policy documents consulted in this chapter do show an appreciation of the role of poverty in inciting or necessitating habitual criminality, but this takes on a slightly different tone from those socio-economic characteristics and prejudices expressed in both contemporary and historiographical literature. Rather than a wholesale expression of divisive and derogatory perceptions of the link between poverty and crime, the attitudes expressed in policy documents are more empathetic, portraying an understanding of the ways in which socio-economic background might affect the likelihood of the commission of crime, and suggesting remedies rather than excluding certain social groups.

The preoccupations of policy related documents also show us that age was a pivotal component in dictating attitudes towards recidivism. As a personal characteristic, related to life experiences, it allowed for the development of stereotypes of recidivism. Adolescence, ignorance, vulnerability, and manipulability were precursors to a descent into a life of crime. Juvenile recidivists also fuelled anxieties about habitual offending and crime more generally. They were used as a symbol for failures in the criminal justice system, but also the breakdown of wider societal and moral ties. However, attitudes towards the relationship between age and recidivism also took into account the effect of an offender’s surrounding environment and even the most prolific juvenile recidivists could inspire a form of empathy, contradicting the notion espoused in scholarly literature that prejudicial stereotypes fuelled attitudes towards recidivism.[[374]](#footnote-374)

Another perceived key characteristic was a lack of religious and moral instruction, the cornerstone of rehabilitation, which further impacted this stereotype by proxy. Not only was a dearth of education lamented, but so was the wrong kind of education, i.e. criminal instruction. Examples of the stereotype of the uneducated recidivist can be found throughout the period and appear to be consistent.

The consumption of alcohol as a key cause of crime (more readily available due to changes in pricing and licensing legislation) featured from the earliest policing documents covered. The consumption of alcohol and its related environs and practices is closely intertwined with discussions of recidivism, not just drunken brawls. Policy makers and the individuals who reported on their experiences and observations identified not only that alcohol caused irrational behaviour (thus acting as a spur to crimes), but both created and reflected an environment which fostered recidivism. It was thought that temptations and bad habits led individuals into addiction and destitution, removing positive influences of industry and morality, thus necessitating an illegal livelihood. The links between spirits and crime are perhaps epitomised in the statement that they ‘brutalise the habits… inflame the passions… prevent all prudent savings’.[[375]](#footnote-375)

*Section two: the problem of punishment*

Within policy documents, habitual offending played a latent but central role in discussions of the workings (and indeed, failures) of penal policy and purpose. Recidivism functioned both as the nexus of penal policy, and as a tool in debate. By proxy, recidivism lay at the centre of any discussion about the purpose and nature of punishment, and this occurred in multiple ways in nineteenth-century penal debate. Despite this centrality, however, it was not always explicitly mentioned. It functioned both as a problem to be tackled, and as a way to measure the success or failures of different methods, regimes, and approaches in punishment. It also functioned as a way to pinpoint specific problems within the criminal justice system.

The problem of crime and punishment for nineteenth-century policy makers and reformists is perhaps best encapsulated by the opening statement of the 1831 Report from the Select Committee on Secondary Punishments. The committee lamented that ‘… they do not feel themselves competent to recommend to the house any alteration in the mode of administering secondary punishments, until they shall have an opportunity for further investigation.’[[376]](#footnote-376) This statement (and the remaining 200 pages of the document) encapsulates the constant process of investigation and reform through which contemporaries tried to grapple with the problem of punishment from the late 1770s onwards, often without coming to any clear answers.

Early documents relating to transportation substitutes, the hulks, and prison reform and management use recidivism as a way to express penal issues and bolster arguments. For example, as early as 1785, the House of Commons Committee regarding the transportation of convicts to the west coast of Africa, illustrated the way in which recidivists encapsulated an urgent need for solutions to the penal problem. In justifying the experimental endeavour in Africa, they stated ‘The reason why the persons first named are to be sent to Africa is this they are notorious felons who were every day expected to break prison some of them had (I’m informed) made attempts to do it are a class of people too dangerous to remain in this country and it was thought there was no proper place in America to transport them to at least within the kings dominion.’[[377]](#footnote-377)

The 1810 Holford committee, in discussing the purpose and nature of punishment and the establishment of national penitentiaries, is another indication of the way in which recidivism was used to express one’s approach to the purpose of punishment and the forms that it should take. When asked for his opinion on the establishment of national penitentiaries, Rev. T Butcher stated:

Idleness or indigence, irresolution or intoxication, may for a while suspend the influence of honest principles; a man may become a petty thief; he may proceed further, and, by stealing a sheep , incur the forfeiture of his life; yet surely it will be universally admitted, that many such criminals are capable of being reformed by mitigated solitude and long continued habits of secluded industry, accompanied with seasonable admonition and religious instruction; and that the reflections thus suggested, and the discipline thus enforced, may ultimately produce the effect of sincere and lasting moral amendment. For the reception of such criminals, I would beg leave to recommend district penitentiary houses, of which one or two might according to circumstances be provided in every circuit.[[378]](#footnote-378)

Butcher’s attitudes towards criminality, recidivism and reformation here inform his opinion on national penal policy. The problem of recidivism was often highlighted as a failing of the criminal justice system, rather than (or indeed, alongside) the growth of a criminal class. Giving evidence to the Select Committee Inquiring into the Execution of the Criminal Law (1847), prison inspector Frederick Hill points to mismanaged recidivists (through failed attempts at rehabilitation) as being behind an increase in crime. Rather than a growth in the ‘criminal population’ occurring, Hill provided an example of his own estimate in which roughly 20,000 offences were committed by three families alone.[[379]](#footnote-379) The 1828 report from the Select Committee on Criminal Commitments and Convictions (‘appointed to inquire into the number of criminal commitments and convictions in England and Wales’) conceived of crime not as an endemic moral problem, but rather as a set of specific issues with practical solutions. They stated that:

The most usual, numerous, and troublesome crimes consist of stealing from the house or the person, goods which are easily transported, and may be quickly converted into money. This view of the subject is important for two reasons: the one, as it tends to shows that with some remarkable exceptions the state of society is not one of great depravity; the other, that it gives to the operations of government a body which may be acted upon by law.[[380]](#footnote-380)

Whilst not explicitly referring to recidivism, the language used in this statement is suggestive in that it shows a recognition of a continual, repeated offences (described as ‘usual’, and ‘numerous’) committed by a ‘body’ of offenders who do so. These people, they stated, could thus be ‘controlled and restrained by means of preventive policing and exemplary punishment’.[[381]](#footnote-381)

Written later in the period, Carnarvon’s notebook is illustrative of the range of penal options in debate at the time. He highlighted the need for a general, rather than prison-based register of recommittals, alluding not only to the migratory practices of recidivists but the ‘dark figure of crime’ left unaccounted for in conviction statistics.[[382]](#footnote-382) He bemoans the perceived leniency of the Home Office with regard to crime and supports a distinction in punishment for the worst offenders (recommendations include: ‘How to deal with hardened criminals. Severe penal servitude at first and then in some out of the way place under sufficient control.’; ‘…the law should be made more severe for the hardened class… that there should be imprisonment for life’).[[383]](#footnote-383) He also touches on one of the central penal issues relating to recidivism- probationary systems- and includes lists and assessments of these various types.

Concerns about the efficacy of punishment centre around recommittal rates, with the commissioners for the Select Committee Inquiring into the Execution of the Criminal Law stating that ‘The number of times that young offenders have been committed, some of them twelve or fifteen times within a few years, seems strongly illustrative of this position..’[[384]](#footnote-384) Their position was that evidence pertaining to young offenders shows that prisons did not allow for their rehabilitation. They went on to state that ‘the contamination of a gaol as gaols are usually managed may often prove fatal, and must always be hurtful to boys committed for a first offence, and that thus for a very trifling act they may become trained to the worst of crimes, is clear enough.’[[385]](#footnote-385) They suggested summary justice and the recognisances of parents as a preferable alternative.

Perhaps the most salient and shared argument identified across the sources consulted is the role of punishment in promoting recidivism. Used as a vehicle, recidivism was inextricably linked to the push-and-pull debate between the promotion and critique of central concepts such as deterrence and rehabilitation, in which one’s optimism regarding rehabilitation (or the inverse), both impacted upon and was influenced by attitudes towards recidivists. Arguments about and applications to construct refuge houses, summary justice for juveniles, reformatory schools, and the futility of short sentences were made from individuals and organisations to the Home Office. In arguing for post-confinement refuge houses, for example, the Prison Discipline Society requested written or legislative support for these houses on account of ‘sentiments’ that had previously been ‘entertained at the Home Office’ but apparently not acted upon.[[386]](#footnote-386) This letter from John Cowan to A. J. Tibbs, sent in 1841, appears to subscribe to a more holistic approach to punishment. The letter is in support of reformatory training and refuge houses for those released from prison. Cowan stated ‘without having some such shelter, it has been but too certainly proved by experience, and it is consistent with the ordinary principles of human conduct, that however effective may have been the discipline to which they have been subject in the prison, they will upon their liberation be in a manner compelled to sink back into the same vicious criminal courses which originally led them into guilt.’[[387]](#footnote-387)

Another arena in which recidivism was a key reference point in penal debate was the ongoing problem of transportation. The 1847 Select Committee Appointed to Inquire into the Execution of the Criminal Law provides a discussion of a range of penal options. Their particular concerns were transportation and juvenile offenders, and their conclusions are linked strongly to these two issues. To bolster support for transportation, the committee use recidivism as an argument for this method of punishment, and against imprisonment. They state that transportation inspires terror ‘… which none other short of death inspires’, and that ‘… no such fear attends imprisonment, especially for hardened offenders.’[[388]](#footnote-388) They even provided a distinction between types of prisoner which strengthens the argument for transportation, arguing that on the flip side of the terror that it inspires, it enables more ‘respectable’ prisoners to reform and start a new life.[[389]](#footnote-389) As a punishment option, it was seen to work as both a deterrent and a mode of reformation. Transportation, here, was presented as the best remedy to recidivism; ‘There can be little doubt that a sentence which imports an entire separation for life, or for a very long period, from his criminal associates and from his family, must have a greater degree of terror for an offender than any imprisonment at home which holds out the hope within a shorter period of re-joining his family, and renewing all his criminal associations.’[[390]](#footnote-390)

As explored in the previous section, the notion of corruption and contagion between criminals, their peers, and the innocent people they encountered was a widely-held concern. Prisons, particularly un-reformed ones, were seen as the most problematic locations for this corruption and contagion. Corruption and degradation between inmates was seen to both glorify recidivism within institutions, but also led first time offenders to re-offend. This was a problem of great concern from the very beginning of the penal reform process, with efforts to control the contagion of disease and squalor mirrored in efforts to control corruption amongst inmates. The introductory report to the 1810 Holford Committee focused heavily on this issue, and it coloured their subsequent discussion of prison construction, management, and regime. The report states:

But your committee deem it still more objectionable, to introduce into the society of the vilest criminals, persons whose guilt or innocence is yet to be ascertained; who, if they shall hereafter appear upon their trials to have been undeservedly suspected, must nevertheless return into the world degraded in their own estimation as well as that of others, if not really contaminated, by the companions with whom they have been compelled to associate.[[391]](#footnote-391)

Discussions of recidivism in support of certain prison regimes addressed various issues, including diet, in-house punishment, and labour. But perhaps the most significant way in which recidivism was used to support different regimes was through the ‘separate vs silent’ debate. As has been found in a large portion of material consulted, commentators refer to recidivism by way of other issues, in which it appears to inform their opinion and argument to varying degrees. This particular debate mirrors earlier discussions of classification and separation, in an attempt to prevent bad behaviour and the corruption of inmates who were both younger in age and offending history. A letter from Joseph Adshead (penal reformer and pamphleteer) to Sir George Grey in 1849 regarding the reconstruction of Manchester borough prison, for example, displays certain attitudes about recidivism through a discussion about prison regime (specifically the separate and silent systems).[[392]](#footnote-392) In his lengthy justification of the separate system, Adshead highlights the dangers of communications between prisoners, suggesting that recidivists have the potential to derail the process of punishment and justice. Hardened offenders are depicted as different, even abhorrent (for example ‘… you must be aware that such men can speak with the eye- the finger- nay in every possible way as well as with the tongue.’).[[393]](#footnote-393) Negative and sensationalist perceptions of recidivism thus colour key nineteenth-century debates such as that of ‘separate versus silent’. In its support of one system and rejection of another, Adshead’s letter exemplifies the multitude of voices and opinion present in nineteenth-century penal discourse, but also the fervent engagement with the problem of crime.

There is here, as seen in other sources (e.g. documents relating to policing) a degree of conflict between those with daily engagement with the criminal justice system, lone agents, and governmental directives and attitudes. Adshead’s letter encapsulates this in that it is devoted to disproving individuals with differing opinion; he complains that Frederic Hill (prison inspector) advocates communication between prisoners during worship and exercise (‘a further attempt has been made by Mr Hill to promote his own peculiar views’).[[394]](#footnote-394) Adshead goes on to include a circular from Lord John Russell used as a guideline to impose the separate system and in promoting this system acknowledged that ‘all the subsequent acts of the Home Office have so sanctioned these modes of action now sought to be abrogated.’ The debate here goes beyond the minutiae of regime and construction, to the issue of control and centralisation. In fact, Adshead also alludes to public opinion as a justification for the righteousness of the separate system stating ‘just at the period when the mind of the majority of the United Kingdom are beginning to yield to the force of example and experience in the application of separation as a principle of discipline, it is of the highest consequence that no interfering influences should be allowed to prevail… that may tend to embarrass and perplex the desire to carry out reforms so much and so long needed in the application of our penal laws.’[[395]](#footnote-395) Where does recidivism fit into this? It may suggest a reliance on anxieties and stereotypes in government which are at odds with the experiences of many involved in the criminal justice system. This also strengthens the argument that recidivism is a vehicle for penal debate. These stereotypes were arguably more useful as a debating tool than they were true to the experiences of those involved in the criminal justice system.

A key issue evident in both policy documents and the printed literature of the time is the backlash against sentencing terms. Regardless of an individual’s approach to punishment (rehabilitative or deterrent), short sentences were widely seen as a futile waste of time and money in which offenders were exposed to others of the same disposition and had no chance of reformation. Writing to the Secretary of State in 1859, Michael Weston, governor of Wandsworth House of Correction, argued for the ‘utter futility of short punishments… to the reformation of offenders on the prevention of crime, and the serious expenses to which to county is put by [?] commitments, to say nothing of the injury to society from the constant commission of crime by the practices to whom these observations apply…’[[396]](#footnote-396) Weston enclosed a list of recidivists that frequently returned to his institution, stating that they were repeatedly given short sentences despite their reoffending being known to those who sentenced them. He goes on to argue that this failure to recognise and deal appropriately with recidivism ‘causes the administration of justice to appear partial and unequal and brings it into contempt and disrepute.’[[397]](#footnote-397) Referencing the 1824 Vagrancy Act (whereby those convicted as rogues and vagabonds multiple times could be given longer sentences), he goes on to suggest longer sentences due to ‘the total change it could occasion on the habits of the prisoners, the regularity of their living, abstinence from spirits and the effect which the advice and admonitions of the governor matron and chaplain might produce…’[[398]](#footnote-398) Weston’s conflation of bad habits and petty crime mirrors attitudes evident in parliamentary documents, and his criticism of short sentences reflects a widely acknowledged issue within the criminal justice system. The Chaplain of Bristol House of Correction similarly observed that ‘[o]f the prisoners committed for very short terms, the chaplain has met with few of whom he can speak with any degree of satisfaction; with a few exceptions they are for the most part habitual offenders, hardened in vice, and as soon as discharged return to their former haunts, and renew their ill practices until they are again committed.’[[399]](#footnote-399)

Carnarvon’s notebook (largely relating to the eponymous Carnarvon Committee of 1863 which advocated greater penal severity and deterrence over rehabilitation) illustrated the use of recidivism as an argument in proposing or supporting new schemes. Included is a confidential memorandum by Sir Walter Crofton (chairman of the directors of Irish convict prisons) circulated in 1867 regarding the registration and supervision of license holders. This memorandum reveals an intensification of debate about and focus on recidivism ahead of the 1869 Habitual Criminals Act. Crofton discussed the mechanisms and problems with tickets-of-leave and singled out recidivists for specific penal treatment. Here, habitual offenders are an additional integral problem alongside the overarching issue of penal reform. The reasoning and timing behind this singling-out of recidivists suggests that the suspension of transportation was a driving force behind heightened discussion and legislation (point 7: ‘As the last convict ship has recently left this country, and as for the future we shall have large accumulations in England of the very worst class of criminals; it appears to be an appropriate time to deal with the subject, and to give our procedure a completeness which the experience of three years has shown to be wanting.’). The remedies that Crofton proposed were better registration and record keeping of recidivists (foreshadowing later legislative developments) and the ‘banishment’ of the worst offenders to special prisons. Carnarvon’s own notes expand upon this issue, exploring the results of contemporary legislation on offending patterns, expenditure and the tabulation of crime rates.

Conclusions:

This exploration of documents concerning the formulation of official policy has highlighted a variety of ways in which recidivism featured and functioned in eighteenth and nineteenth-century policy debate and reform. It did not always dominate discussion, but was evident in latent discourse and veiled references. These references become clearer when combined with the previous chapter’s exploration of print material.

These documents show a longer trajectory of the expression of attitudes towards recidivism and related discourse in policy making and investigation, which began much earlier than the moral panics of the mid-nineteenth century centred on the ‘criminal classes’. This awareness and expression peaked and waned in its centrality, and the language used evolved. But it was latent throughout the period and certainly not new to the 1860s. There is also evidence of a pragmatic awareness of recidivism, rather than anxiety. A key feature of this evolution was a more empirical or evidence-based approach to understanding habitual criminality. In a recent paper discussing ongoing research into the development of criminal record keeping, Shoemaker and Ward point to a burgeoning desire to better understand the criminal, an argument which speaks strongly to this chapter’s endeavour to understand developing attitudes towards recidivists.[[400]](#footnote-400) They identify the shift from an ‘everyman’ understanding of crime in which original sin was the driving force, to an increasing focus on the evaluation and significance of the personal characteristics of criminals.

Concepts of recidivism featured in discussions of penal and social issues, encompassing a range of attitudes towards the causes of crime more generally. But whilst there were shared understandings regarding recidivism, there was not a single clear concept or narrative; often, understandings related to attitudes about education, poverty, sanitation, alcohol, or childcare. Indeed, the issue of recidivism was raised in particular ways, often linked to flash-points which made it a key issue (e.g. prison reform [late eighteenth century], police reform [1820s and 30s], cementing and centralising prison regime [1840s], the end of transportation, tickets-of-leave [1850s and 60s]). In fact, the concept of recidivism is used as a resource to be drawn on, a vehicle in penal debate. This narrative of attitudes towards recidivism is thus one of continuity in its latency and implicit significance, but there are some identifiable trends which can be drawn out. Changing emphases and approaches were dependent on the dominant penal issues or trends at a particular moment. This is perhaps best encapsulated by explicit mentions of recidivism in expressing support for classification in the early stages of prison reform, the championing of the separate versus silent systems, in the ascendancy of concerns about juvenile crime, and similarly in support for other social debates such as a focus on education in the 1830s and 40s. Tentative evidence also suggests a correlation between the purpose of the document or statement and the language used (thus reflective of attitudes). Examples include the use of the phrase ‘idle and disorderly’ in social commentary, the phrase ‘known offender’ in documents relating to policing and apprehension, and words such as ‘notorious’ when passing moral judgements.

This narrative ends with the legislative efforts of the Penal Servitude Acts and Habitual Criminals Act in specifically recording and targeting recidivists. This legislation was undoubtedly significant, but it should not be overemphasised. They speak to a specific penal context, but this was neither unique nor unprecedented. Legislative developments and the discussions surrounding them throughout the period demanded consideration of recidivism, and whilst attitudes towards it were not always expressed explicitly, they featured in the background and were both informative and utilised in promoting penal and social reform. Despite its latency, however, we can identify shifts in perceptions of recidivism. Contemporaries’ understandings changed as the investigative focus of parliamentary research shifted to social background, and as penal policy became a more complex challenge.

This chapter has provided evidence of the multitude of ways in which attitudes towards recidivism were expressed and how these were used as a vehicle for penal debate. What is not yet clear, however, is whether this was also the case for criminal justice practitioners, or the way in which these attitudes may have extended into local policy and practice. In detection and prevention directives, it seems that recidivism was taken as a given. This suggests that recidivism as an underlying concept in the causes of crime needed little discussion. It is interesting to note here that there is little or no description of the character or attributes of ‘known offenders’; what appears to be significant in the identification of recidivists is a knowledge of their life and locality, one which arguably only results from constant work and immersion in a particular area. An intriguing theme that has emerged is that of a degree of conflict between legislative directive, police activity, and judicial response. In some sources, the attitudes and approach of the police (more pragmatic and accepting with regard to recidivism) appeared at odds with judicial responses and legislative directives, with police activity frustrated by these forces. This will be further explored in chapter three. There also appears to have been a disparity between the reality of recidivism experienced in the streets of London, the attitudes codified in legislation, and the concerns of magistrates in dealing with such cases. A piece of correspondence between the police and the Home Office from January 25th 1870 (concurrent with a supposed culmination and legislative resolution of anxieties about recidivism, following the Habitual Criminals Act passed a year previously) asked for ‘directions as to how the police are to act on finding known or suspected thieves in a place of public resort.’[[401]](#footnote-401) Does this suggest a degree of confusion or lack of knowledge as to how to deal with and apprehend recidivists? Or does it suggest moral panic on a different level in that the realities of crime, detection and punishment bear little resemblance to the content of contemporary literature on the subject? Finally, might it even represent a challenge to official policy which did not provide enough guidance?

In another example, a memorial sent by a group of neighbours in Lower Shadwell in 1853 complained of anti-social behaviour and assaults committed by a small group of people in their area.[[402]](#footnote-402) They stated that, whilst the police attended to situations and apprehended the trouble makers (‘well known to the police… as old and incorrigible offenders’), the local magistrate did not commit them despite having a ‘recognition of old offenders [which] is generally so good’.[[403]](#footnote-403) Whilst the memorialists believed that the magistrate sympathised with the offenders because they were Catholic, and the respondent from the magistrate’s office stated that such claims were untrue, this case shows a discrepancy between the reality of recidivism, police knowledge and activity, and judicial responses and legislation. It provides intriguing evidence of the spread of a recidivist discourse amongst different members of society, and a potential disparity between official attitudes and local practice. It is this spread and uneven application of discourses of recidivism which will be examined in the following chapter.

# Chapter Three: The Expression and Use of Attitudes towards Recidivism in Local Criminal Justice Practice. A Birmingham Case Study

This chapter further explores the expression and role of attitudes towards recidivism through a study of local criminal justice practice in Birmingham from 1770 to 1870. Birmingham provides an intriguing context through which to explore the development and impact of a seemingly shared discourse of recidivism within England. Moving away from a London-centric world of high government and national press provides an important point of comparison between ‘expert’ commentary disseminated in the public sphere, a local public sphere, and the realities of offending, correction and penal reform in a particular place. The first two chapters of this thesis explored the nature and development of a discourse of recidivism within the national public sphere and policy arena. They utilised print output in the first instance, and national penal policy in the second, to show that there were multiple, shared ways in which recidivism was conceived of and expressed. The evidence from these sources suggests that a variety of conceptions and expressions of recidivism were used by groups and individuals as tools through which to express multiple penal and social arguments. Recurring themes, or tropes, pertaining to the way in which contemporaries viewed and used the issue of recidivism include the influence of socio-economic background, education, and more abstract notions of vice, contagion and environment. These tropes were used by commentators and policy makers to propose new reforms, bolster arguments about the nature of punishment and the form it should take, and more generally pass comment on the perennial social issue that is crime.

Whilst this assessment of print output and national penal policy has afforded greater understanding of the nature, development, and use of attitudes towards reoffending, it has also opened up further questions concerning the development and spread of this discourse. The purpose of this chapter is thus to not only test the findings of the preceding chapters, but also answer the questions that they have created. On a practical level, the fundamentals of criminal justice policy and administration were set at a local level well into the nineteenth century. Apart from the most serious crimes tried by Westminster judges in the Assize courts, the majority of offences were dealt with at the local level at the quarter sessions and petty sessions. Similarly, with regard to policing, an enquiry into county-level policing was made in 1839, with legislation passed permitting counties to establish and locally organise their own police forces, but this was not made mandatory until 1856.[[404]](#footnote-404) And, whilst the first national penitentiary at Millbank opened in 1816, the vast majority of prisons around the country remained under local control until the 1877 Prisons Act.

In contrast, as the seat of government and a printing powerhouse, the majority of published expressions of attitudes towards recidivism came from London. Whilst some policy makers and commentators aimed to discuss and promote nation-wide issues, it is fair to acknowledge that a discourse of recidivism in its different guises strongly reflected the experiences of those in London. The Garrotting Panics of the 1850s and 60s, from which some of the most explicit and divisive discourses of recidivism sprang (and which, as some have argued, contributed to an increased severity in penal policy), are just one example of the identification (both contemporary and scholarly) between London and the ‘criminal classes’ and changes in judicial policy. This London-centric nature of what appear to be shared attitudes towards recidivism renders the development, spread, and shared nature of such discourse across the country unclear. In seeking to better understand contemporary attitudes towards recidivism, a local study not only facilitates a further exploration of their nature and content, but also an assessment of the origins, development and role of such discourse within the criminal justice system in a different context.

In light of the disparity between the localised nature of penal practice and policy, and the strength and pervasiveness of shared understandings of recidivism in national discourse, it is imperative to assess these attitudes at a local level, from the front line of criminal justice practice. This chapter thus seeks to ascertain if and how the attitudes expressed in government and the press radiated out from London, with local officials in Birmingham following suit, or whether these attitudes in fact stemmed from the experiences of local criminal justice practitioners in provincial towns like Birmingham. Whichever direction or combination applies, an analysis of the origins and flow of this discourse can tell us about the pervasiveness and role of discourses of recidivism at key moments of penal change. It will shed light on how perceptions and stereotypes of recidivism were created, maintained, and used in different contexts.

In a comparative piece written in 1865 on the crime statistics of Birmingham versus other large industrial towns, local journalist John Thackray Bunce noted drily that Birmingham had ‘facilities offered for the commission of crime’.[[405]](#footnote-405) As one of the largest and fastest-growing towns at the time, Birmingham presents a logical and intriguing focus for an in-depth look at the local operation of the criminal justice system and related commentary. Whilst it did not experience factory-driven industrialisation in the same way as some other English towns, it experienced considerable growth in population and manufacturing capabilities (termed ‘explosive’ by Peter Jones) from the 1750s onwards.[[406]](#footnote-406) Jones posited that Birmingham was the third most populous town in England by 1775, and Hilton placed the town’s population at 71,000 in 1801, and at 233,000 by 1851, estimating a 4.56 per cent average annual population increase.[[407]](#footnote-407) Indeed, in the eighteenth and early nineteenth centuries Birmingham remained larger than the later industrial powerhouses of Manchester and Liverpool.[[408]](#footnote-408) Despite its positive growth, however, from the 1790s onwards Birmingham experienced disrupting trends such as periods of economic decline and waves of migration from surrounding towns. Coupled with the negative physical effects of rapid urban expansion, this led some to dub the town a ‘criminal asylum’, a term suggestive of an influx of crime in Birmingham in an environment which nurtured criminal activity without risk of punishment.[[409]](#footnote-409) The town’s social issues were well-documented and interconnected pressures including as poverty, slum living, poor education, and environmental ‘contagion’ all speak to established recidivist tropes. The crime problem in Birmingham mirrored that of other large towns and cities, consisting primarily of property crimes. Historians of criminality in Birmingham have identified links between the high-value nature of the town’s industries and property crimes committed. In his discussion of the development of Birmingham’s police force, Michael Weaver noted that ‘Property offences dominated, as elsewhere, and Birmingham suffered particularly from one form of property crime, the counterfeiting of coins, a result of the large number of skilled metalworkers in the vicinity.’[[410]](#footnote-410) Local commentators throughout the period in question published pamphlets, wrote to newspapers, and made speeches about local crime problem, suggesting a strong engagement and interest in crime and criminality in the area.

However, the nature of Birmingham’s industry (metalwork deriving from technological innovation) also allowed for social mobility and the development of a unique (and sometimes radical) civic culture and thriving public sphere. Historians of Birmingham’s economy and development have linked the town’s modes of production and workforce organization to this particular socio-economic climate.[[411]](#footnote-411) Birmingham’s multitude of trades, centred on the manufacturing of metal work (ranging from jewellery to artillery) were based on individual expertise and innovation. Small units of production, headed by ‘little masters’ meant that the town’s workforce organization did not mimic the impersonal master and employee format seen in other industrial towns around the country.[[412]](#footnote-412) Increased income and free time meant that a significant proportion of Birmingham’s wealthier inhabitants had the time and resources to engage in the public sphere, a freedom which Hopkins attributes to work patterns and remuneration based on production rather than hourly rates.[[413]](#footnote-413) The manufacturing of consumer goods for specialized markets also suggests that Birmingham’s artisans were in touch with their audience, serving to further emphasise the thriving nature of the town’s public sphere.[[414]](#footnote-414)

Birmingham’s demographic profile and inextricable links to the eighteenth century’s burgeoning ‘consumer culture’ allowed for a vibrant arena of discussion and knowledge exchange. In his assessment of Birmingham’s ‘intelligentsia’, Jones argued that the technological and consumer-driven nature of Birmingham’s manufacturing industries allowed for the growth of an increasingly visible ‘middle class’ who were ‘engaged self-consciously and sociably in rational pursuits’.[[415]](#footnote-415) Jones also posited that Birmingham’s self-made men (such as Matthew Boulton and James Watt), and their middle to upper class associates were engaged in a ‘mission to civilise’.[[416]](#footnote-416) Money echoed this, painting a detailed picture of grassroots political and philanthropic activity, related, for example, to the town’s growing crime problem.[[417]](#footnote-417) Whilst many of Birmingham’s voluntary organisations targeted challenging social issues (for example, the Discharged Prisoner Relief Society, to be discussed later), others existed with the view of establishing positive institutions in the town. Jones provides details of the town’s middle and upper classes lobbying for social betterment, including a campaign to build a general hospital in the 1770s, and the founding of public playhouses and music halls.[[418]](#footnote-418)

Another example of collective lobbying as an integral part of Birmingham’s public life was the strength of the campaigns for electoral reform and Chartism. Thomas Attwood, High Bailiff and leader of the Birmingham Political Union (a reform group- hereafter BPU), spearheaded the campaign for electoral reform throughout the 1820s, eventually becoming one of the town’s two MPs (both of whom were members of the BPU). The Chartist convention, known as the ‘People’s Parliament’, relocated from London to Birmingham in 1839, and the Birmingham Women’s Political Movement ‘led the way’ with regard to female engagement in the Chartist movement.[[419]](#footnote-419) In addition to evidencing the vitality of Birmingham’s public life, the role of radical politics in the town also influenced approaches towards law and order. The anti-dissenter Priestly Riots of 1791 and the Bull Ring riots of 1839 were recognized both locally and nationally for their disorder. The Bullring Riots were so severe and the town thus considered so dangerous that in 1839 (the same year the town’s own police force was established), the Home Office took over control of policing until 1842.[[420]](#footnote-420) But these riots were not only significant in terms of disorder and crackdown; they illustrated the true *variety* of ways in which an active Birmingham public expressed themselves.

The intelligentsia and political agitators required a lively press and public sphere to match. Money argues that by 1750 provincial newspapers had become ‘a powerful instrument for the creation and guidance of public opinion’ and this supports the notion that Birmingham’s papers played an important role in the town’s political and public life.[[421]](#footnote-421) *Aris’s Birmingham Gazette* was founded in 1741, later followed by *Swinney’s Birmingham and Stafford Chronicle* in 1773, the *Birmingham Journal* in 1825 and the *Birmingham Daily Post* in 1857.[[422]](#footnote-422) In addition to a long history of newspaper printing, the role and vitality of Birmingham’s public sphere can be assessed through its book printing and booksellers. As Money argued, it is difficult to ascertain the true scale of print production and readership, but contemporary trade directories may shed some light. Money estimated that there were seven Birmingham book sellers by 1730, and that ‘the easy accessibility of printed material in Birmingham can thus be dated effectively from the 1740s.’[[423]](#footnote-423)Tools now available online also suggest this same ease of production and access in the nineteenth century. Two trade directories (*Robson’s Birmingham and Sheffield Directory*, 1839 and the *General and Commercial Directory of Birmingham*, 1858) provide the following evidence: in 1839 there were 66 printers (comprising letter press, copperplate and lithographic), 27 bookbinders, 18 book sellers and 11 ‘newspaper offices’;[[424]](#footnote-424) in 1858 there were 108 printers (lithograph and letter press), 53 bookbinders, 64 booksellers, 6 newspaper publishers and 154 ‘newsagents and periodical dealers’.[[425]](#footnote-425) Moreover, the English Short Title Catalogue (hereafter ESTC) returns 1105 works published in Birmingham from 1770 to 1800.[[426]](#footnote-426) Of course, these figures are affected by categorisation and duplication but they provide us with an estimate of the size and material diversity of Birmingham’s printed sphere. The volume of printing houses, book sellers and the like suggests that demand came from an engaged townspeople. The local press was supplemented by a lively coffee house and debating circuit, all of which allowed Birmingham men to assert their social, cultural and political status.[[427]](#footnote-427) The evidence of Birmingham’s social and political culture thus paints a picture of a vocal and active people, engaged with the current affairs of the changing town in which they lived.

In addition to a notable growth in population and undergoing the urban, industrial socio-economic change so often linked to recidivism in national discourse, Birmingham was also developing its own localised mechanisms to combat crime. Following incorporation in 1838, the first Birmingham Quarter Sessions were held in 1839 and the creation of the Birmingham Police Force followed swiftly (prior to incorporation, crime in Birmingham was dealt with within the county of Warwickshire). Winson Green Prison, housing male, female and juvenile prisoners and controlled by Birmingham’s nascent local authorities, was built in 1849, thus completing the local criminal justice system. In fact, the management of local penal institutions is particularly significant given the roles of Alexander Maconochie, Governor of Winson Green from 1849 to 1851, and Recorder Matthew Davenport Hill as radical reformers nationally. Maconochie was a vocal proponent of rehabilitative penal treatment and had developed the ‘mark’ system (based on rewards for positive progression) during his time as superintendent of the Norfolk Island Penal Colony off the coast of Australia from 1840 to 1844 prior to his appointment at Winson Green Prison.[[428]](#footnote-428) Maconochie’s appointment as governor was aided by Hill, a radical lawyer and MP who very vocally aligned himself with Maconochie’s focus on rehabilitation but also proposed increased penal severity.[[429]](#footnote-429) Hill’s position as Recorder and his links to men of government (for example, Lord Chancellor Brougham and director of Irish prisons Walter Crofton), gave him a public and practical platform from which to voice and implement the ideas of those he supported at a national as well as local level.[[430]](#footnote-430)

Alongside this, the social make up and social mobility of the city as discussed in the preceding paragraphs introduces interesting questions about local attitudes towards crime and prosecution. Local officials and commentators were self-conscious; they recognised their city’s distinct nature and the continual flux of industrial and social change, and often sought to compare Birmingham’s crime levels with those of other large industrial towns and cities (as Bunce did, for example, in his 1865 pamphlet).[[431]](#footnote-431) This contemporary desire to compare and contrast lends further utility to Birmingham as a case study in assessing the origins, spread and impact of discourses of recidivism.

A diverse range of sources are used in this chapter in order to assess a full cross-section of criminal justice discourse and practice in Birmingham. This includes manuscript sources relating to the local courts, police forces and prison services, and printed literature and journalism providing commentary and opinion on crime. Whilst full and rich records relating to certain institutions and groups survive, the source base was dependent on survival and condition (for example, Birmingham petty sessions and eighteenth-century policing documents no longer survive) and was complicated by the relocation of local criminal justice practice (courts, prisons and policing) from the county (Warwickshire) to town level (Birmingham) in the 1830s following Birmingham’s incorporation. In order to answer the questions of the chapter and thesis, it was not specifically local criminal justice practice that was of interest, but the expressions of attitudes towards recidivism within them. Some source types are naturally more descriptive and qualitative than others, but less discursive sources (such as police, prison and court returns) were useful in providing context. Attitudes towards recidivism that were expressed in a range of records from the time were often implicit rather than explicit, and so an analysis of context and purpose is necessary.

In order to best understand the role and impact of attitudes towards recidivism in Birmingham, this chapter will follow an onion model, peeling back the layers of discourse. The first section will mirror the first chapter of this thesis, exploring the nature and function of expressions of recidivism in the Birmingham press and print output, illustrating similarities with the national picture, but also local nuances. It will then go on to assess the authorship and purpose of the attitudes expressed in print, looking at the key individuals who publically voiced their opinions, but who also held practical roles within Birmingham’s criminal justice system. This section will explore the difference and similarities between their attitudes towards recidivism in their criminal justice practice and their public expressions, showing that discourses of recidivism were context-based. Finally, the chapter will go on to explore attitudes towards recidivism in action, i.e. in grassroots philanthropy and local criminal justice practice.

*Section one: recidivism in Birmingham’s press and print output*

As we have seen, a thriving public sphere existed through which Birmingham’s citizens were able to access and express a wide range of news, discussion and opinion on political and social issues. An exploration of contemporary expressions of attitudes towards recidivism in print and press in Chapter One of this thesis has indicated that a set of tropes and themes existed which served to signify and explain the problem of recidivism. Research into Birmingham’s news industry and print output suggests similar conclusions, but also some notable divergence linked to the localised nature of the study and Birmingham’s nascent socio-cultural environment and civic pride. This section will look first at Birmingham’s newspaper press, and then the printed works of some of its key political and penal figures.

In furnishing the town’s public with the latest crime and court news, Birmingham’s newspaper press was arguably the first port of call for public discussions of recidivism. Four newspapers served the period in question (1770-1870) at different times and the 1858 *General and Commercial Directory of Birmingham* listed 154 ‘newsagents and periodical dealers’, suggesting that the sale of news in Birmingham was a fruitful business and that its consumption was high.[[432]](#footnote-432) It has been noted by historians of Birmingham’s press that political affiliation had an impact on the output of these businesses through editorial opinion. Hannah Barker argued that editorial control ‘did seem to govern the choice of material’, and highlighted John Money’s argument that provincial papers were an important tool in local political expression and anti-government sentiment.[[433]](#footnote-433) She went on to point out some links between Birmingham’s press and radical politics, such as the *Birmingham Journal’s* support of the Birmingham Political Union and the reform movement.[[434]](#footnote-434) So, whilst the following section will illustrate the ways in which attitudes towards recidivism in the Birmingham press mirrored those at the national level, it will also illustrate the localised and political nature of some reporting.

Crime reporting in the Birmingham press varied both chronologically and from paper to paper, often according to editorial stance. National political news and some sensationalist crimes were re-printed by Birmingham newspapers, but they also devoted space to report from the local courts and public offices. The most detailed and expressive discussions of crime were printed in the Birmingham ‘Police Courts’ section of the *Birmingham Daily Post*, and the reporting of the County and Borough sessions in *Aris’s Birmingham Gazette* (later shortened to the *Birmingham Gazette*). It is in these sections that we can identify the use of familiar tropes and phrases as used in the London press. Despite some methodological issues associated with key word searching (text recognition problems and questions relating to context, for example), using such techniques to assess the online corpus of Birmingham’s press can give us some idea of the nature and frequency of use of some familiar tropes associated with recidivism. These tropes, identified in Chapter One, including terms such as ‘old’, ‘hardened’ and ‘notorious’, were frequently used in press and print to indicate an individual’s long offending history, and in many cases suggest a fall from grace or a lack of morality. Research in Chapter One identified the extended chronological use of such terms from the very start of the period, with ‘old offender’, for example, appearing in John Howard’s *The State of The Prisons* (1777).[[435]](#footnote-435) The phrase ‘old offender’, similarly, produces 277 hits in the *Birmingham Gazette*, *Daily Post*, and *Journal* from 1770 to 1870.[[436]](#footnote-436) Whilst this is not a significant number of hits when viewed in the context of one hundred years, the repeated use of the phrase suggests its existence in common parlance, but also that it had a specific function. In fact, its relative rarity suggests that these commonly understood shortcuts were used only to describe certain people, and suggest that the press only signified recidivism in certain cases. Familiar phrases such as ‘incorrigible rogue’ and ‘hardened offender’ return fewer results, but were still utilised by Birmingham’s newspapers. The use of these phrases is significant in that they are meaningful shortcuts which purport to express a recidivist’s character and offending history. They were used in various ways such to justify sentences, or to explain or highlight an individual’s behaviour in court or general wrongdoing.

The following examples illustrate how phrases such as ‘hardened’, ‘old’ and ‘incorrigible’ were used in the Birmingham press up until the end of the period. On January 1st 1870 the *Daily Post* printed the following police court report:

PETTY THEFTS- … - two young tramps, named Thomas Foster and James [text in source unclear], were charged with stealing four loaves from the shop of John Hall, baker, dale end, on Thursday. The prisoners, who appeared to be hardened scamps glanced smilingly at the bench, as if to indicate that they looked upon the robbery as a good joke. They were each sentenced to six weeks’ imprisonment.[[437]](#footnote-437)

Here, the phrase ‘hardened scamp’ is used at the very end of the period and appears to be a clever stylistic device in painting a picture of the defendants’ criminal characters and past, despite their youth. Combined with the familiar recidivist trope, ‘scamp’, with its mischievous and roguish connotations perfectly illustrated the picture the *Daily Post* aimed to present of these two boys. In contrast to the phrase ‘hardened’, the word ‘scamp’ has not appeared in previous research. According to the Oxford English Dictionary, the phrase was first used in 1808 to describe a ‘ne’er do well’ or ‘rascal’ (and used from the 1780s to denote highway robbery), it has greater to links to youthful mischief and idleness than simply signifying recidivism.[[438]](#footnote-438) Similarly, reporting on an 1828 case from Coventry, *Aris’s Birmingham Gazette* lamented that a convict awaiting execution named John Highfield was to ‘die a hardened offender’, having no concern ‘respecting his approaching fate’.[[439]](#footnote-439) Highfield’s offending past here was compounded by his lack of remorse and engagement with rehabilitation, rendering him truly irreclaimable. The *Daily Post* again used the phrase ‘hardened offender’ when detailing the particularly chequered past of a recidivist named Charles Williams in 1864.[[440]](#footnote-440) Williams ‘appeared to be a very dangerous and hardened offender’, who had been ‘passing under several aliases’, and had previously been incarcerated at Liverpool and Wakefield.[[441]](#footnote-441) The detail in this report is particularly striking, as the nature of his previous offences and length and type of previous sentences were all listed. The *Birmingham Daily Post* often used eye-catching sub-headings in their reporting of the Borough sessions, using ‘hardened offender’, capitalised, to report on the case of Alexander Bent, who was berated by the Recorder for being ‘such a hardened offender’, and who apparently had such disregard for his situation that he ‘quickly recovered himself and ran down the stairs singing “tooral ooral [sic]”.’[[442]](#footnote-442)

The cases above are somewhat unusual in their lengthier depictions of the offender’s behaviour and demeanour. The tropes ‘old’, ‘hardened’ and ‘notorious’ all provide the reader with a basic characterisation of the individual, and allow for inferences regarding their characters. The familiar but infrequent use of these tropes, coupled with the occasional detailed tale suggests that these tropes were only used to identify a specific set of people. Not all offenders were characterised as depraved, hardened individuals, but when they did have offending histories, it was deemed worthy of note. Certainly the embellishments in the reporting of Bent and the two young ‘scamps’, for example, suggests that these were atypical cases (or at least as reported in Birmingham’s newspaper press), and that the inclusion of such cases was meant to serve a specific purpose in emphasising their recidivist natures, reaching far beyond the activities of ordinary criminals.

The phrase ‘old offender’, was used similarly. Elizabeth Sandall, charged with uttering counterfeit coins, was described simply as an ‘old offender’.[[443]](#footnote-443) Reporting on a murder case in Huntingdon (Cambridgeshire), the phrase was again used to provide some context to the offence and offenders.[[444]](#footnote-444) Phrases like ‘hardened offender’ were also used in opinion pieces. Reporting on a parliamentary debate on juvenile offenders, ‘hardened offender’ was used in *Aris’s Gazette* to differentiate between a juvenile offender’s relative innocence and inexperience in contrast with the penal treatment they received.[[445]](#footnote-445) This case is of particular interest in that it provides a direct interplay of national parliamentary discourse and local opinion. Although it is unclear as to whether the report was a verbatim report of the parliamentary debate, the inclusion of parliamentary discourse on such matters is significant. The inclusion of an opinion piece on the issue of juvenile offending, directly after the parliamentary report, suggests a shared understanding and that this shared understanding reached beyond London. This individual case, however, is not enough evidence as yet to speculate on the origins and direction of spread of such discourse.

Whilst continuing to use these signifiers such as ‘old’ and ‘hardened’, crime reporting in the *Birmingham Daily Post* also utilised a sensationalist tone aimed at entertainment. The use of these phrases (hardened, old, notorious etc.), accompanied by anecdotes from the courtroom, made for what were often sensationalist reports of recidivists and their antics, as seen in the case of the musical Alexander Bent.[[446]](#footnote-446) Reporting on the apprehension of two pickpockets in 1857, the *Daily Post* sarcastically remarked that ‘Jones has previously had the benefit of two or three month’s hard labour at the gaol.’[[447]](#footnote-447) This ostentatious style also featured in the capitalised sub-headings prefacing each report, such as ‘A BLACKGUARD PROPERLY PUNISHED’ and ‘A YOUNG INCORRIGIBLE’.[[448]](#footnote-448) But they also frequently took a moral and cautionary tone. The ‘young incorrigible’ fifteen year-old Samuel Barnes was charged with stealing files and screws from his master, along with two previous convictions. The report went on to explain his past dealings with the law:

The recorder, in sentencing the prisoner, reminded him that he had been in trouble twice before. On the first occasion he was leniently dealt with, and had offered to him the greatest boon that could be afforded to a person in his position. He was sent to a reformatory school but reformation was not thereby produced. Afterward he was convicted for another felony, and he was now brought up for robbing his master. This was a very grave offence, all that kindness could do had been done, and without effect; now they should try what severity would do, and that severity must be very great. He was to be kept in penal servitude for seven years.[[449]](#footnote-449)

Birmingham’s press, however, did not always mirror the expressions of attitudes towards recidivism in the national press. They had different influences and a different purpose. As a developing town, aware of its civic culture, the reporting of penal issues often focussed heavily on local matters. The character of discussions of recidivism related to real-time problems or events in Birmingham’s penal policy, such as the opening of Winson Green Prison, the founding of the juvenile reformatory, and the prison suicide scandal of 1853. In this context, Birmingham’s press devoted an unusual amount of space to the expression of attitudes towards recidivism through wider penal debate. A key difference between local and national discourses of recidivism here thus lay in the way recidivism was linked to specific issues in Birmingham’s public sphere. The establishment of Birmingham’s own criminal justice apparatus and its teething problems was a contemporary local issue of great importance and prompted printed discussions of crime and punishment, and by extension recidivism. As we have seen previously, recidivism was used in a range of different contexts as a vehicle for penal debate and support for different schemes, and this was no less the case in the scramble for control and reform of Birmingham’s criminal justice system. This was particularly evidenced in the reprinting of opinion pieces and detailed reports of meetings illustrated by the following examples, all of which allowed for a great deal of detail when discussing the problems of recidivism and crime more generally.

The report of a meeting to establish a ‘reformatory institute for criminal children’ in 1853 is one such example. The report begins by listing those present at the public meeting to discuss the founding of such an establishment, counting key figures among them such as C. B. Adderley (MP) and Mary Carpenter (a contemporary authority on penal matters). It was noted that Colonel Jebb (Surveyor General and later Chairman of the Directors of Convict Prisons) sent his apologies. The report then includes some general points made at the meeting about the utility and importance of reformatory schools, thus reproducing key national debates about criminality and juvenile offending. Significantly, this report presents a strongly reformist viewpoint, including statements about the benefits and influence of good parental care and love (‘some of these boys had never had a kind word, and had been led into crime partially by the neglect and partially by the severity of their parents; but Mr Ellis had tried another plan- that of kindness…’) and a more positive approach to criminality (‘he believed that the criminal population was more susceptible of good than was generally supposed…’).[[450]](#footnote-450) The report continued that Austin, the governor of Winson Green, stated that, as destitute orphans, ‘it was a positive injustice to call them criminals- (cheers).’[[451]](#footnote-451) Reporting on the meeting in this way made discussions about recidivism accessible to readers, touching on the effects of neglect and imprisonment on children, and the role of corruption and temptation in leading offenders onto a path of crime, and the distinction between deserving and undeserving poor. The report also highlighted the interconnectedness of Birmingham’s local government, its penal policy and its public sphere, illustrating networks of mutual support at each level. In a self-aware statement reflecting Birmingham’s civic culture, it was noted that there was ‘… considerable interest excited amongst the people of Birmingham’, and that, for example, the landlord of the hotel where the meeting was held provided his rooms free of charge. When viewed alongside the use of recidivist tropes in crime reporting, this report suggests that discussion of recidivism in Birmingham’s newspaper press took a variety of different forms and functions. As well as systematically highlighting some offenders criminal pasts in a familiar way, compared to its national counterpart, the Birmingham press took discussions of recidivism much further, and in an arguably more positive tone.

The local role of key individuals in the national criminal justice system both provided content, and allowed for, these in-depth discussions of criminality and recidivism in Birmingham’s press. Whilst opinion pieces regarding crime and criminality did run in national papers, these Birmingham-centric in-depth discussions took on a distinct character, largely due to the opinions of these key individuals and the space devoted to them. As Recorder of Birmingham, the vocal supporter of rehabilitative punishment M. D. Hill was provided a platform at local court sessions, and by extension the local press. In Borough Sessions reports, Hill’s opening speeches were often printed seemingly word-for-word in *Aris’s Birmingham Gazette*. A particularly interesting case is Hill’s lamenting of a nation-wide lack of proper and efficient punishment, in which he used recidivism as a vehicle through which to criticise the use of what he saw as purposeless, short punishments. Again, readers were given a window into national discussions about the nature of criminality and the policies used to tackle it.[[452]](#footnote-452) Arguing in particular against short sentences and the related Summary Jurisdiction Act proposed by parliament, Hill presented what he saw as a typical criminal progression (‘he’ in the extract refers to a hypothetical offender):

He is subjected to a slight punishment; he is not in custody long enough for any system of reformation, however well devised, to produce any impression upon him; he has no motive for attempting self-reformation with a view to shorten his imprisonment, for it is already so short that it cannot be lessened by any such process. Meanwhile he has lost his position in society. He was one of the honest and respectable portion of the community; he has passed the Rubicon; he has entered into the criminal class.[[453]](#footnote-453)

Hill’s speech continued, arguing that upon entering a prison this hypothetical offender no longer feared it as much, and that temptations became stronger given his reduced position in society. The hypothetical offender was also able to make criminal connections in prison, further inciting him to commit offences. Hill’s use of the phrase ‘criminal class’ here is notable. His attitudes towards crime and staunch support of rehabilitation appear at odds with a phrase often associated with derogatory and divisive attitudes towards criminals and the lower classes. This demonstrates that such phrases were used as discursive tools in a multitude of ways.

Hill went on to express both sympathy and understanding for the plight of criminals and the situations which induced them to crime, but also aligned somewhat to the ‘everyman’ understanding of crime in highlighting the pull of dishonesty and temptation, and the influence of shame. These notions were significant in that they brought criminals back to the fold, picking up on vices and emotions that all men shared. Alluding to shame and its impact on behaviour, Hill explained that:

The shame of having been in gaol he cannot shake off… he now finds himself outlawed, and repelled by society; that position which he was not able to maintain whilst it was easily maintainable, he now has to recover in the midst of all difficulties.[[454]](#footnote-454)

In speaking to a shared belief in original sin, and the constant battle against it, Hill stated ‘his wants and desires press upon him on the instant, and with tyrannical power. What wonder, then, if he soon falls?’[[455]](#footnote-455) Hill’s opinion piece did not render the criminal blameless (‘He was not able to resist temptation when it was comparatively easy to resist it’). Rather, the acknowledgment of common human feelings and battles, expressed through a discussion of recidivism, served to bolster his approach to criminal justice in providing purposeful punishment and successful rehabilitation (and specifically, his criticism of the Summary Jurisdiction Act). His argument was that the temptations and vices which all may succumb to are heightened and facilitated by improper penal treatment.

Other key local figures were also given a voice in Birmingham’s press. Linking national penal policy and local campaigns, *Aris’s Gazette* reported on the meeting of local magistrates aimed to petition parliament based on a letter printed by Warwickshire magistrate John Eardley Eardley-Wilmott in 1820, arguing for summary justice as a more efficient measure against the increase in juvenile offending.[[456]](#footnote-456) Eardley Wilmott’s letter will be explored in greater depth later in this chapter as a printed work in its own right, but it is significant that his views were given space in the local press. Stating that ‘the community at large is greatly indebted for his valuable letter’, the *Gazette* included chunks of his work discussing the nature and causes of criminality and recidivism. As seen in previous chapters, juvenile offending and recidivism were frequently conflated by contemporaries who argued that juvenile offending allowed for the swelling of the ranks of the ‘criminal class’, but also that association with recidivists induced young people to commit crimes. Tackling juvenile offending (for which a variety of different ideas existed) was seen to be the key to stopping recidivism in its tracks. The *Gazette* reported that ‘By the adoption of such a plan, Sir Eardley argues, “the chance of reform would be more probable, and an opportunity held out to the youthful offender of relinquishing the yet unbeaten path of criminality”.’[[457]](#footnote-457) Indeed, the advertisement of this petition was followed immediately by the Warwickshire Quarter Sessions Report, in which it was resolved that ‘one of the chief causes of the increase of crime throughout the kingdom is the treating of the boy of tender age for a first offence, and that of a trifling nature, in the same manner as the most hardened offender for offences of greater turpitude…’.[[458]](#footnote-458) As argued by Eardley-Wilmott, inappropriate sentencing and punishment of juveniles led to the ‘deadening at the earliest age all those feelings of shame and compunction which are the best groundworks of reform and amendment.’[[459]](#footnote-459) It should be noted here that Hill’s criticism of summary jurisdiction, discussed in the paragraph above, was printed in the same paper almost 30 years later.[[460]](#footnote-460) Whilst taking into account the chronological gap between the two pieces, the support for local figures and the space designated to printing their views was a clear feature of the way in which the Birmingham press reported on crime and recidivism.

An anonymous opinion piece printed in the *Daily Post* in 1862 spoke to both Hill’s reform agenda and the sensationalist reporting of recidivism seen in both the local and national press. The author played on the context of moral panic at the time, regarding garrotting and Tickets of Leave. The author began by stating that ‘London is occupied by a hostile force. Its citizens are trembling under a reign of terror. An army of liberated convicts has settled within its boundaries to the indescribable dismay of every other class of occupants.’[[461]](#footnote-461) They continued in this vein, painting a picture of ‘organised gangs of garrotters and housebreakers [who] are prowling about at all hours of the night in search of plunder.’[[462]](#footnote-462) The author went on to ‘rejoice’ at the fact that the increase of crime in London had led to an emptying-out of perpetrators in other localities (Birmingham included), but also that the ‘ruffianism’ that has ‘exhibited itself in such concentrated essence before the most influential section of the community’, had inspired (presumably governmental) investigation into the best means of crime reduction and the reasons as to why previous methods had failed.[[463]](#footnote-463)

However, after partaking in this fearmongering discourse, seen similarly in the satire in *Punch Magazine* discussed in Chapter One, for example, the author turned his attention to a more sensible yet still entertaining discussion on the best modes of reducing crime. In the lengthy piece, the author continued on to ‘exhaust’ the ‘remedial suggestions’ proposed by the ‘influential sections’ of London, concluding that a thorough reform of convict discipline was the solution.[[464]](#footnote-464) For the author, this reform lay in reformative discipline favoured by Maconochie and Hill, a principle he was so confident in that he concluded by stating that ‘by the time their sentences had fairly expired, probably eighty per cent of them would have abandoned their evil courses forever.’[[465]](#footnote-465) Three points are significant about this piece: firstly, the exaggerated use of classic recidivist tropes and anxieties; secondly, the sarcastic comparison of London and Birmingham, and thinly veiled criticism of national penal policy; and thirdly, the clever imbedding of penal arguments which they (and key Birmingham figures) supported. Underpinning these points was the fact that Birmingham was depicted here as separate and different. These points suggest not simply the shared nature of discourses of recidivism, but also the way in which such tropes were manipulated according to various purposes or causes. Moreover, the piece illustrates the way in which Birmingham’s press continued to express *local* attitudes towards recidivism and its concurrent penal policy, and the way in which they saw local crime as being unique. Their approach to recidivism may have been shared by numerous others round the country, but it was framed in print as a point of local pride and enthusiasm.

As well as providing a voice for local penal opinion, the attitudes towards recidivism expressed in Birmingham’s newspapers were strongly linked to specific local events. One such case was the enquiry into an inmate’s suicide at Winson Green in 1853. According to the coroner’s inquest, fifteen year old inmate Edward Andrews committed the act after being subjected to severe in-house discipline including a bread and water diet, crank labour, and the cruel use of a strait jacket strapped to the wall.[[466]](#footnote-466) Whilst the deceased’s offending history was not the main point of discussion, questions of prison discipline and appropriate levels of severity by nature inspired a discussion of recidivism and desistance. Reporting on the 1853 Quarter Sessions, where the suicide was discussed, Hill was once again given a platform in his capacity as the town’s Recorder. In reference to this case, Hill stated that the ‘adoption of pain’ in prisons had led to Andrew’s suicide and those of others.[[467]](#footnote-467) Hill used criticism of severe deterrent treatment as a segue to promote his reformist agenda which would both allow for the avoidance of events such as an inmate’s suicide, and lessen rates of reoffending. He stated that severe deterrent treatment caused ‘a hardening process… so that they are found soon to return again to the prison after discharge’. He continued, arguing that deterrence alone resulted in ‘… a stream of unreformed criminals issuing from the gates of our prisons.’[[468]](#footnote-468) He even went so far as to suggest that the system put in place by Maconochie, the governor’s predecessor, would not have induced inmates to commit such acts, expressing disappointment at Maconochie’s dismissal and pointing out that Maconochie was a proponent of reformative rather than prison discipline that was ‘sufficiently painful to be deterrent’.[[469]](#footnote-469) Here, Hill used recidivist tropes to discuss and promote his penal approach. Recidivism was also latent in the discussion. Hill’s use of phrases such as ‘hardening’ and ‘criminal class’ (used simply as a moniker in his discussion, a signifier used with the assumption that the reader understood its meaning) illustrates that Birmingham newspapers did not simply report on or discuss recidivism in a usual way. Rather, the localised nature of the Birmingham press, radical in places and keen to extol the virtues of civic pride, allowed for detailed expressions of their attitudes towards recidivism.

Research presented in Chapters One and Two of this thesis identified a number of different themes present in the expression of attitudes towards recidivism. These themes can also be identified in other forms of print material created in Birmingham such as books and pamphlets in this period. This printed material included ‘expert’ or criminological opinion pieces and commentary about Birmingham published by key local figures, but also examples of more popular broadsheets. It appears that, whilst a wider pool of information and discourse that these men could draw from existed, the purpose and thus the content of their outputs often pertain to specific, complex local matters.

The themes or currents in which we can place Birmingham’s printed discussions of recidivism pertain to both notions of recidivist characteristics and environments which served to induce or nurture recidivism. Similar to those discussed in the national sphere, characteristics included socio-economic background (for example, economic hardship and employment), family background and upbringing, education, and moral character. Environmental factors include the abstract notion of corruption and contagion, proximity or engagement with vice, and a perceived breakdown in social and moral order. This discussion of recidivism was used as a vehicle through which to support or criticise various penal approaches, as also seen in Chapters One and Two. Recidivism was used as a tool in discussions about the merits of Tickets of Leave, short sentences, policing, and a reformative versus deterrent approach to punishment. The purpose of these documents and the social or penal cause of the author are indeed much clearer in this local context, given the specific penal and governmental roles of many of the authors. These themes encompass the way in which recidivism was understood, but also the way in which recidivism bolstered arguments about various social and penal issues.

At the most basic level, the committal and recommittal of crime was linked to an offender’s or a community’s socio-economic situation. Links drawn between poverty and recidivism ranged from a disparaging view of the lower classes to a more paternalistic approach where authors sought to examine and understand the social issues that led people to commit crime. For the most part, Birmingham’s authors took the latter approach. In a speech given in 1857 and published in the Transactions of the National Association for the Promotion of Social Science in 1862, JT Burt, chaplain of Winson Green prison, drew links between economic hardship and the committal of crime. Burt focused on the ‘causes which determine the amount of crime in a given locality’, as opposed to potential causes of crime in an individual.[[470]](#footnote-470) In comparing an increase of crime in Birmingham to rates around the country, Burt argued that crime levels in any locality could be determined ‘partly by the extent to which the population was subjected to the pressure of poverty, and obviously by the accumulation of valuable property in places which make it easily available for plunder.’[[471]](#footnote-471) This was a direct link between, on the one hand, economic hardship, and on the other, the presence of valuable goods. He went on to state that ‘among the causes which determine the great fluctuations in crime, the pressure of want is paramount.’[[472]](#footnote-472) As prison chaplain and patron of the Discharged Prisoner’s Relief Society (a society founded to help discharged prisoners obtain work and accommodation), Burt was clearly invested in a philanthropic approach to resolving the social issues which induced people to crime and rendered him well placed to assess and act upon hardship through their engagement and experiences with such matters. Whilst concerned with breaking the cycle of crime and promoting moral values, however, Burt did come to more seemingly divisive conclusions in pamphlets, emphasising the habitual hard-to-break nature of offending (‘Crime was reproductive’).[[473]](#footnote-473) Despite this, through his role as chaplain and his writings Burt appears to have engaged with attempts to understand and help these sections of society, rather than simply conceptually segregating the lower classes and attributing crime to them. In recognising the effect of socio-economic hardship on the committal and recommittal of crime, Burt’s associate Hill, writing on Tickets of Leave in 1856, argued that these licenses ‘embodied reformatory spirit’ in that they required holders to find gainful employment.[[474]](#footnote-474)

In contrast, Richard B. Phipson, a local industrialist, saw crime and recidivism as a matter of direct class conflict. In a letter to Secretary of State Walpole regarding the ‘present state of crime in Birmingham, its extent, cause and remedy’, printed in 1859 and available for three pence, Phipson made a direct distinction between the haves and the have nots. He noted the thefts and deceptions committed by less affluent clerks and servants against their masters for material gain or out of hardship, and the ‘innumerable thefts of metal by workpeople from their employers’.[[475]](#footnote-475) A commentator named Bunce (referred to previously), writing for the Journal of the Statistical Society of London in 1865, reinforced the relationship between socio-economic background and recidivism, stating that better modes of policing allowed for the identification of ‘every person belonging to the criminal class (that is, known to be living by crime or to be a professional vagrant).’[[476]](#footnote-476)

The lack of both an academic and moral education was also highlighted by Birmingham’s writers as a cause and characteristic of recidivism. Burt, responsible for the education of inmates at Winson Green, published his thoughts on the matter. In his speech to the *National Association for the Promotion of Social Science*, he discussed the educational attainment of his charges in great detail.[[477]](#footnote-477) Interestingly, although noting that criminals ‘possess less than average mental capacity’, Burt found that levels of educational attainment did not necessarily affect recidivists (i.e. an offender could be well-educated and continue to reoffend), but that low levels impacted greatly on those induced to commit crime in times of need.[[478]](#footnote-478) Like Burt, Hill was concerned with education and its effect on an individual’s tendency to commit crime. However, his focus was on a lack of moral training and guidance rather than the ability to read or write. In his response to MP C. B. Adderley’s criticism of his charge regarding Tickets of Leave, Hill stated that the criminal class was ‘… in the main composed of individuals who, from want of good training, are not amenable to the restraints which are found sufficient to keep the bulk of society within the boundaries prescribed by the law.’[[479]](#footnote-479) Here he referred to appropriate moral guidance, presumably encompassing religious education, academic education, and upbringing. Taking a broad definition of education, Hill saw prison as a chance to remedy the lack of moral training which led offenders into lives of crime. ‘Prison training’, he argued, should encompass educational, moral and industrial aspects, in order to furnish offenders with a full capacity to take up the ‘reins of self-government’.[[480]](#footnote-480)

A more abstract facet of recidivism explored by contemporaries was the notion of contagion and corruption. A common trope existed in which proximity to or involvement with bad characters or bad neighbourhoods set people on a path of crime and made it very difficult to escape. In his first letter (printed in 1820) to the magistrates of Warwickshire on the causes of and remedies for a perceived increase in crime in the area, John Eardley Eardley-Wilmott utilised this familiar image of a contagious environment in expressing his views and suggesting change, stating that ‘I am aware, that where an extensive population is crowded together in a comparatively confined circumference, the temptations to vice must be necessarily more strong; the opportunities of gratification more frequent; and the attractions of bad example and bad company more seductive and more general.’[[481]](#footnote-481) After a series of rhetorical questions regarding the links between poverty, vice, education and religion, and crime, he further illustrated this abstract notion, asking ‘To what then shall we ascribe this apparent increase of evil? How shall we with any degree of satisfaction, account for this appalling demoralisation of character, which marks a population under not natural disadvantages?’[[482]](#footnote-482) Burt also drew links between recidivism and the negative influence of others (‘crime was reproductive’), but also highlighted the power of positive influence.[[483]](#footnote-483) After noting the low rate of female committals to Winson Green, he stated that ‘A rate of commitments so remarkably low was submitted to be evidence that there must be moral agencies at work in Birmingham which go far towards counteracting those causes of crime…’[[484]](#footnote-484) He did not, however, speculate as to what these moral agencies might be. Hill also touched upon the negative influence of others and of environment, noting not only the increase in population and wealth which ‘create new temptations to crime’, but also the impact of the actions of others, stating ‘… a very large class of the community, such are the gambling propensities of mankind, are willing to incur enormous risks…’[[485]](#footnote-485) In commenting on the weakness and temptations of humanity in the broadest sense, and community at a more local level, he drew a link between recidivism and the influence of temptations and vices that all people can fall foul to.

Perhaps the most notable way in which Birmingham’s writers reproduced and used discourses of recidivism was in furthering their own penal arguments. Phipson’s published letter is perhaps the most extreme and direct expression of a penal approach, featuring heavy criticism of the work and opinions of others. Writing to the Secretary of State in 1859, he began by stating that ‘[o]ur laws for the suppression of crime, I boldly assert, are a disgrace to the age in which we live.’[[486]](#footnote-486) His criticisms were based on his approach to criminality and his beliefs about the purpose of punishment. He used lurid and divisive depictions of recidivists to bolster his criticisms of the existing penal system, describing thieves as ‘vermin- vermin of the most dangerous sort; and it is the imperative duty of the government to root them out, and either remove or destroy them.’[[487]](#footnote-487) His approach to criminals influenced his lack of faith in reformative systems, stating ‘I believe it is about as easy to convert a well-known thief into an honest man, as to wash the Negro white!’[[488]](#footnote-488) These outbursts, accompanied by a postscript describing the release on license and subsequent arrest for heinous crimes of two recidivists, bolstered his criticisms of the Ticket of Leave system. He termed Tickets of Leave an ‘atrocious piece of humbug… letting loose upon society some hundreds of villains that, had real justice been done ought to have terminated their career long before on the gallows.’[[489]](#footnote-489) He went on to criticise MD Hill and his support for the license system, calling Hill’s reformative programmes ‘nonsense and cant’, and stating that Hill ‘appears to have a vast deal more sympathy for the thief than for the honest man who suffers.’[[490]](#footnote-490) The solution proposed by Phipson took the form of a three strike system, resulting in transportation for life after a third conviction for felony.[[491]](#footnote-491) Phipson’s sensationalistic diatribe was indeed effective in promoting his points of view, but one must consider the reaches of its impact and its reception, particularly by the secretary of state.

Eardley-Wilmott’s comments on contagion noted earlier relate specifically to his ideas about prison treatment, specifically separation and the treatment of juveniles. He also used this platform to critique and suggest remedies for specific local legal issues. A Warwickshire Magistrate, he wrote a series of letters to his peers in 1820 criticising the ‘Increase of crime… in the county of Warwick’. He used familiar recidivist tropes to discuss the poor state of Warwickshire’s county governance, and suggested remedies for it. As well as pointing to population growth, economic distress, and the spread of vice as being causes of a growing group of criminals, Eardley-Wilmott, like many others, critiqued the mechanisms and deterrent factor of the law.[[492]](#footnote-492) He argued that the present state of the criminal justice system did little to detect, deter or reform those who would ‘gamble with his life on any adventure which his wickedness or his necessities may offer to him.’[[493]](#footnote-493) He subscribed to the familiar trope of corruption in prison leading first time offenders, and particularly juveniles, into a life of crime.[[494]](#footnote-494) He admitted that whilst the many causes of crime identified in the letter are a nationwide problem they were:

… peculiarly applicable to the count of Warwick, and more especially to the town of Birmingham; where an increase of crime has taken place beyond the united power of common causes to have produced, and beyond what, in comparison with other places, can be satisfactorily accounted for.[[495]](#footnote-495)

Hidden amongst his more general points about crime and recidivism are issues he identified with the county’s prosecution systems and legal machinery, to which he attributed the crime problem. Eardley-Wilmott’s answer, amongst several other suggestions he made, was that it was the lack of separation in prisons, leading primarily to the corruption of juvenile offenders. He went as far to say that numerous prosecutions for petty offences did the country more harm than good.[[496]](#footnote-496) Eardley-Wilmott’s argument was a complex one, encompassing crime rates, conflict between town (Birmingham) and county (Warwick), and the desire to change penal/judicial systems. Whilst not a novel point of view, what is significant in this locally-focused piece is that recidivism was a latent concern and Eardley-Wilmott used familiar tropes to express the problem of crime and re-offending, but also to bolster his own arguments.

Eardley-Wilmott’s letter inspired a response from another ‘unnamed’ Warwickshire magistrate, focusing particularly on Eardley-Wilmott’s suggestion that the county should cease to pay for all prosecutions out of the public purse. This respondent goes further in discussing this increase of crime as a particularly local problem, drawing comparisons with other manufacturing towns and pointing to Birmingham’s precious metal trade as an additional temptation.[[497]](#footnote-497) This exchange highlights the way in which recidivism was used as a vehicle for social and penal arguments at a very local level. There were complex legal matters pertaining to the county which were in part expressed through the issue of recidivism and crime, and their related tropes.

In many ways, we can view the Birmingham press and printed output as a microcosm of the discourse expressed in the printed sphere discussed in Chapter One. However, the nature of the town and of its press and print industries lends a particular character to printed discussions of crime. Birmingham had a strong provincial press akin to that of other towns, but was unique in character due to the influence of its middle class and intelligentsia, and its history of radical politics. It is important not to overstate social cohesion, but there is evidence pertaining to it and this searching and introspective outlook potentially provided greater awareness and sympathy towards social issues and a tendency towards the criticism of central government. Moreover, putting the identification of similarities and differences to the side, the reporting of and writing about crime in a specific locale which is both inward- and outward-looking is significant; it sheds light on the expressions of attitudes towards recidivism in new and previously unseen ways. The local and national roles played by key figures in Birmingham’s local governance and criminal justice system impacted on their printed output and its content, thus rendering printed discourses of crime and recidivism in Birmingham more detailed, thoughtful, and provocative. Whilst these men also played a national role, the local context and their positions of local governance afforded them greater influence. Birmingham’s printed output developed a unique character in line with the town’s nascent administrative and criminal justice institutions, inspiring a continued focus on social issues. This, combined with the role of vocal individuals aided in the development of a different, more engaged and pragmatic approach to recidivism, influenced by civic pride and the desire for self-improvement.

*Section Two: penal sources*

This chapter will now turn to an exploration of the manuscript records pertaining to penal institutions left by some of the individuals discussed in the preceding section, pertaining to the multitude of issues surrounding Birmingham’s nascent criminal justice system. These key individuals and their peers left a wealth of manuscript material relating to their official positions, including the roles of prison governor, prison chaplain, and local magistrate. Manuscript records provide a different lens through which to explore the nature and expression of attitudes towards recidivism in Birmingham. These sources are not only evidence of the day-to-day running of the town’s penal institutions, but also the professional experiences and thoughts of its criminal justice practitioners, made and expressed away from the public eye. Through, for example, Governor’s and Chaplain’s reports we hear the voices and opinions of criminal justice practitioners. In hearing these voices we can step away from the printed discourse, enabling us to trace and assess use of accepted recidivist discourse (or otherwise) in different contexts.

The vast majority of sources used in this section are lengthy and detailed quarterly reports for Winson Green Prison, found in the *Gaols Sessions Minute Books*, from its opening in 1849 until the end of the period of this study (1870). These documents followed the same format throughout the period, beginning with a brief opening statement and report from the visiting justices, a brief report by the Governor including general returns (statistics regarding the population and day-to-day running of the prison), a ‘certificate’ pertaining to the good and proper management of the prison, and then reports and resolutions from the visiting justices regarding business, staffing and construction issues. These quarterly reports were necessarily very pragmatic and matter of fact, but the annual Michaelmas reports included much lengthier discussions. Nineteenth-century committee reports were by nature discursive and inquiry-based. The inquisitive focus both reflected and impacted upon the approach to the issue at hand. These end of year reports included detailed returns and statistics, a lengthy Governor’s report, and reports from the chaplain and surgeon of the prison. Indeed, the contributors to the detailed Michaelmas reports appear to have adopted a considerable degree of licence in writing about more general penal matters and outlining their own opinions and suggestions. Although these records were created in largely private, bureaucratic forums (thus for the most part lacking a public audience), it is important to bear in mind the discursive and interactive nature of these committee meetings, in which individuals still needed to explain and support themselves rhetorically.

This section will follow a thematic structure, encompassing familiar themes and characteristics contemporaries associated with, and used in discussions of, recidivism. The themes explored include socio-economic background, family relationships, juvenile criminality, morality, education, and the nature and purpose of punishment. However, given the nature of the sources and purpose of utilising them, it will begin with a discussion of the way in which the individuals involved engaged with recidivism through their roles, and end with a discussion of the overlap between their public and internal platforms.

In his end of year report, printed as a pamphlet ‘by order of the visiting justices’ in 1850, Governor of Winson Green Prison Alexander Maconochie wrote extensively of the ‘pleasing individual proofs’ of the fruits of his labours.[[498]](#footnote-498) After discussing the nature and meritorious effects of his ‘mark system’ for juvenile inmates (both in the prison and after discharge), he explained that he ‘generally [took] the address of those who leave me, and enquire about them afterwards.’[[499]](#footnote-499) Though most of the individual stories he detailed were positive, even the ‘failed’ cases he noted illustrated his direct and personal engagement with inmates and the issue of recidivism. After placing two brothers with a master after discharge, he lamented that ‘I am sorry to say that since the above was written, the eldest of these boys has left… He is the one who has been already twice in prison, and I now fear may come again, though I may in this do him injustice.’[[500]](#footnote-500) Here, Maconochie displayed what appears to be a real concern for the prospects of his charges upon their release. It is evident that Maconochie made efforts to interact with and understand inmates, and that he had a desire to ensure continued good conduct and rehabilitation. This example is indicative of Birmingham’s criminal justice practitioners engagement with recidivists. They encountered it on a daily basis and their professional (and, in some cases, personal) successes and failures were measured or illustrated by re-committals.

Indeed, the manuscript sources used in this section are littered with examples of how the practitioners who wrote and contributed to them perceived of their roles. This impacted greatly on the way in which they experienced and viewed recidivism, and how they expressed these attitudes. In the same 1850 Governor’s report, Maconochie expressed a direct link between his activities as governor and re-committal rates (i.e. recidivism). Detailing a reduction in both committals and re-committals (the latter at a rate of one in three), Maconochie stated:

I attribute this success, then, partly to the extreme importance that I attach to the object of improving boys through their punishment, and partly to the means that I employ to attain this. They hear so much of reform while in the prison, that gradually it becomes an object with themselves. They begin to think it possible and desirable, better than perseverance in evil. [[501]](#footnote-501)

Despite the expressions of pride and success associated with rehabilitation, however, recidivism for Maconochie was also an issue which presented continual challenges. Maconochie explained that ‘I have studied, with much care, the particulars regarding the re-committals to our own prison… but I cannot find any general rule, or even striking coincidence, among them.’[[502]](#footnote-502) While Birmingham’s criminal justice practitioners were able to engage with and rehabilitate recidivists inside the walls of their prisons, the external causes of crime and its re-committal remained unclear and in need of constant evaluation. In a succinct conflation of recidivism and penal policy, Maconochie wrote:

The great and increasing number of re-committals throughout the kingdom does not shew the increase of criminality in the population, for on the contrary in a given amount of crime the more that is perpetuated by the re-committed, the fewer are first offences. But they shew very strikingly the very slight reformatory action in our usual punishments, and the vast amount of vicious purpose that we daily discharge from our prisons. These men are all apostles of evil, and there can be little doubt are the direct causes of many first, as well as renewed offences.[[503]](#footnote-503)

Here, Maconochie’s attitudes towards recidivism relate directly to the nature and purpose of punishment, a key concern due to his role. Whilst his direct engagement with inmates underlined his hope in reformatory treatment, his attitudes towards recidivism were also coloured by what he saw as failures within the penal system as a whole. In the above statement, the unreformed, hardened by unproductive penal regimes, go on to corrupt and harden others.

The role of prison chaplain also necessitated direct engagement with the issue of recidivism, and Winson Green’s chaplains often took great delight and pride in their moral reformatory purpose. In his end of year report of 1850, Chaplain Henry Pixell began by underlining that it was his duty ‘in accordance with regulation 132, to direct my observations principally to the moral behaviours, and the religious and secular instruction of the prisoners.’[[504]](#footnote-504) Indeed, the regulations of the prison, printed in 1849, stated that the chaplain should ‘direct his advice and instruction with reference to the peculiar character and state of mind of each prisoner’ and that he should ‘pay particular attention to the state of mind of every prisoner…’[[505]](#footnote-505) In fact, these regulations stipulated that ‘It is the duty of all officers to treat the prisoners with kindness and humanity’.[[506]](#footnote-506) A suggestion was made by a magistrate (whose letter was copied out in this Michaelmas report) that another member of staff should be employed, in addition to the chaplain and school master, to ‘possess himself of as much of their history and feelings as would enable him to take such steps and make such arrangements for their future well doing as would lead to their ultimate reformation.’[[507]](#footnote-507) In another letter appended to the report, a criminal justice practitioner stated ‘It is truly gratifying to see the effects produced in some of the most hardened delinquents when directed into right channels. May it be my privilege so long as I shall be permitted to labour in so glorious a cause as the reclaiming of criminals.’[[508]](#footnote-508) Prison officers were thus encouraged to establish connections, and often took pride in their personal relationships with inmates in order to understand their criminality, inspire rehabilitation and furnish them with the mental tools to do so. Ambrose Sherwin, who took over from Henry Pixell as chaplain in 1851, stated that

…it is to me a cause of thankfulness that whilst deeply [?] with a sense of the responsibilities- to society and to god- in service by him who undertakes the spiritual care of criminals, the encouraging impressions of my mind presents at this moment, frequent instances wherein the power of the divine truth has manifested its wonder-working agency on transforming the vicious, and elevating the debased.[[509]](#footnote-509)

Whilst acknowledging his duty to society, Sherwin’s driving force was clearly his religious faith. His attitudes towards recidivism and subsequent expressions were thus deeply influenced by his role as chaplain. Chaplain’s reports throughout the period illustrated their interpersonal relationships with inmates and the bearing this had on their attitudes towards recidivism. But perhaps more significantly, the individual nature of Chaplain’s experiences and world views illustrates just how varied attitudes towards recidivism could be.

A continual theme in discussions of recidivism throughout the period was the impact of socio-economic background and employment. Manuscript judicial records provide further evidence of this, although in a somewhat different character. Whilst Birmingham’s criminal justice practitioners did consider the impact of economic hardship on the committal of crime, they were more concerned with the introduction of industrious habits and the availability of acceptable (and legal) modes of employment upon release. When discussing his mark system, for example, Maconochie explained the importance of industrial training and opportunity. He stated ‘I do not teach any of them trades… but I put all of them in succession to every different employment that I can think of. I thus make them *generally* [emphasis in text] handy; and while enlarging their minds, this gives them at the same time confidence in their own powers of turning to anything their young ambition is thus awakened.’[[510]](#footnote-510) This suggests that Maconochie did attribute recidivism to a lack of economic opportunity to some degree. He also acknowledged the impact of socio-economic conditions on recidivism and desistance, stating that employment opportunities and placements on release were to some extent due to the ‘favourable state of trade and season’.[[511]](#footnote-511)

The favourable contexts which inspired desistance, outlined by Winson Green’s governors and chaplains, suggested that they felt that a lack of opportunities available after release were somewhat to blame for recidivism. Chaplain Henry Pixell lamented that the situation of many inmates upon release led them to commit further crimes. He stated that ‘The committal of many of the juveniles is to be attributed, not to crime, but to misfortune; and a large portion of them, on their discharge from prison, are perfectly destitute.’[[512]](#footnote-512) Pixell went on to ask ‘Without money, character, or friends, how are they to subsist? Where are they to procure employment? Many are thus abandoned to want, and have no other means of procuring food than by the renewal of their depredations.’[[513]](#footnote-513) A correspondent whose letter regarding opportunities for inmates after release was included in this report echoed these sentiments, stated that ‘By procuring them places of employment to go to immediately upon their discharge and thus affording the means of subsistence; the necessity or excuse for visiting their old haunts of vice would be precluded.’[[514]](#footnote-514) This correspondent further argued that ‘A discharged prisoner…. Is cut off from the sympathy and confidence of those who otherwise would have assisted and befriended him, and having no resources at his command he is as it were necessitated to seek amongst his former companions in crime that countenance and support which the more virtuous part of the community would indignantly deny him’.[[515]](#footnote-515)

The examples detailed above suggest that it was not only a lack of socio-economic stability and opportunity that led to the committal and re-committal of crime, but the influence (both positive and negative) of family and friends. Although not necessarily specific to Winson Green itself, the prison’s governors afforded space to statistics and commentary regarding the demographic and personal characteristics of inmates. Despite largely taking the form of returns, there was sometimes commentary regarding these characteristics. For example, after detailing the ages and gender of inmates, Maconochie focused on two juveniles, describing them thus: ‘One, a helpful lad of 16, wanting a hand, brought in for trial; the other, a child of nine years of age, brought up by his own parents for inveterate habits of idleness and vagrancy.’[[516]](#footnote-516) The family relationships are not entirely clear here; the phrase ‘wanting a hand’ suggests that the sixteen year old did not have a support network (or alternatively, was disabled), and it is unclear as to whether it is the nine year old or his parents being criticised for such habits. The phrase ‘brought up’ suggests that it may have been the parents of the nine year old boy that took him to court. However, both instances illustrate the perceived significance of the relationship between familial relationships and social support and recidivism in a variety of different guises. In this report, Maconochie went on to draw conclusions about offender’s marital statuses, and the impact of being an orphan. With regard to marital status, he noted that there were more single inmates than married inmates (particularly amongst the re-committals), and argued that ‘the inference is strong, that the married state is a preservative against crime in all circumstances, but especially so, when the loss and misery entailed on families by punishment have been once experienced.’[[517]](#footnote-517) Here, he alluded to the support and responsibility incurred by marriage, but also perhaps its effect on conscience and behaviour. Referring to the returns regarding the existence of living parents (for juvenile inmates only), Maconochie asked ‘[m]ay it not be inferred, that the early responsibility placed on orphans is a more favourable circumstance than the possession of idle, careless, or ill-judging parents?’[[518]](#footnote-518) Using individual cases as evidence, as he often did, Maconochie explained that ‘[v]ery nearly the two least hopeful boys that have been discharged have each parents living, the one unreasonably severe, the other carelessly indulgent. And a third, now a transport, but, as I think still very hopeful, was allowed to grow wild in the charge of servants, without other care taken of him by his parents than to feed him.’[[519]](#footnote-519) What is interesting here is that Maconochie did not simply blame ‘idle, careless’ parents, and did not appear to draw stereotypical links between poverty and poor parenting. In fact, the familial circumstances of one of the three boys he described suggested a more wealthy background (taken care of by servants). Rather, the links he drew between family background and recidivism were based in part on his own attitudes towards wholesome and appropriate parenting. Maconochie maintained this interest in family background throughout his term as governor. He continued to compare demographic statistics year on year, suggesting that he considered family background to be a central component in crime and its re-committal. In his 1851 Michaelmas report he again noted that ‘marriage is a preservative against crime seems thus still confirmed’, based on the demographic returns he collected.[[520]](#footnote-520)

These contextual factors linked by criminal justice practitioners to recidivism were perhaps best illustrated by discussions of juvenile crime. Juvenile offenders and the proposed penal treatment of them represented an important dimension of contemporary attitudes towards recidivism in that they were not yet ‘hardened’. Their youth and perceived lack of responsibility for their own actions meant that factors attributed to recidivism could be dealt with. In his 1851 Michaelmas report, Chaplain Sherwin argued that

The more we feel this difficulty of reforming the hardened criminal, the more should our energies be directed to the best means of dealing with the young- young thieves, vagrants, and prostitutes; - and of such are anxious to escape from their horrible degradation, shall we stand coldly by and watch their struggles, without lending a hand to help them before repeated crimes and imprisonments, have destroyed all their good feeling and they have become totally depraved, in disposition and habit?[[521]](#footnote-521)

Discussions of age and family background, and a focus on industrial training thus combined the twin issues of juvenile offending and recidivism.

The interpersonal engagement between criminal justice practitioners and their charges and the influence of professional roles discussed previously fed into intriguing attitudes towards the moral state of recidivists. Birmingham’s criminal justice practitioners did not conceive of recidivists as morally base or depraved; rather, they lacked the proper education and moral training necessary to deter them from committing crimes. Moreover, the attitudes expressed by these individuals with regard to the morality of recidivists were indicative of a continuation of the ‘slippery slope’ mentality. Rather than lambasting inmates (whilst of course still acknowledging their wrong doing), prison staff (and in particular, the chaplains), expressed great faith in reformatory discipline and hope for rehabilitation.

When discussing what he saw as misguided religious attitudes of prisoners, Maconochie acknowledged a shared lack of proper religious and moral knowledge, stating that ‘we are probably all of us apt in like manner to appropriate the promises of scripture without regard to the conditions on which alone they are held out’.[[522]](#footnote-522) However, he distinguished between the moral status of recidivists and the rest of society, stating that ‘Their consciences become so seared by long addiction to their several vices… that they cease to look on them as bars to the divine favour at all- in this, unfortunately, resembling many better taught, who regard with equal indulgence their own addiction to other familiar, and yet forbidden, indulgencies.’[[523]](#footnote-523) Maconochie did indeed highlight differences in the morality and piety of prisoners, but his statements alluded to the notion that everyone could succumb to this. The difference lay in the resistance, or lack thereof, to temptations which everyone is subject to.

Chaplain Henry Pixell continued in this everyman tone, lamenting that a ‘want of scriptural instruction, is sufficient to account for the lapse of all classes into vice and criminality’.[[524]](#footnote-524) Pixell argued that a lack of proper piety and morality was a wholesale problem, but that criminals were the ones who most readily succumbed. This ‘slippery slope’ attitude was also evident in reverse, in the hope that Winson Green’s chaplains and governors expressed for the reformation of the recidivists they dealt with. Pixell noted that ‘although their minds are in a state of the darkest ignorance and the grossest vice, there is many a latent yet strong desire to forsake their criminal habits, and many there are whose entire destitution, and earnest assurances of repentance, render them, in an especial manner, objects of compassion.’[[525]](#footnote-525) For Pixell, recidivists were not repellent, but objects of hope, to be saved and aided in their quests for redemption. Pixell used a metaphor with an everyman tone, stating that ‘The slender branch may be inclined any way; but, who can bend the bark of the finest’. [[526]](#footnote-526) Indeed, as juveniles who had not yet fallen so far down the slippery slope, they were potentially the easiest to reform.

Chaplain Ambrose Sherwin further emphasised this notion of reclamation in his 1851 Michaelmas report. He began by stating that ‘the prevailing characteristic (with but few exceptions) of the 1300 prisoners with whom I have had to do in that space has been that of willingness to hear advice patiently and receive instruction with some show of grateful feeling’.[[527]](#footnote-527) He noted, however, a ‘solitary instance’ of ‘decided incorrigibleness’, telling the tale of ‘a man, whose head and heart seemed equally deranged, and who at the time of his wildly rejecting admonition however mildly administered, was chained by the ankle to the wall of a refractory cell.’[[528]](#footnote-528) Sherwin explained that, following two floggings, the greatest change in this prisoner’s demeanour came about when he injured himself on the crank wheel, requiring amputation. Sherwin celebrated the fact that this made him ‘indicate a fear of god’ (although acknowledging the fact that this temporary subjugation was due to pain and shock), and looked on the incident as one of divine providence which ‘compelled an attention to many of the truths of the word of god which he rejected before.’[[529]](#footnote-529) Later in his report, Sherwin went on to further praise the conduct of the prisoners (noting, for example, that the female prisoners ‘expressed regret for the occasional outrage’), and highlighted their lack of religious education before entering the prison.[[530]](#footnote-530) He expressed an approach towards recidivism in which criminality was negated by a basic level of moral decency, rendering crime and its recommittal the result of situation and context rather than inherent depravity.

This notion of a shared morality and hope for reformation was also evident in the regulations for Winson Green, printed in 1849. The governor was required to ‘exercise his authority with firmness, temper, and humanity, abstain from all irritating language, and not strike a prisoner’.[[531]](#footnote-531) This regulation sought to enforce and instil sound morality and positive relationships throughout the prison. Though this is unlikely to be particular to Winson Green, it sets out a framework of shared morality and a belief in the possibilities of reformation which the prison staff reflected in their work.

This focus on moral and religious improvement went hand in hand with the prison staff’s approach to education. The chaplain was responsible for the inmate’s education, both religious and academic. As seen in previous discussions of the links drawn between education and recidivism, contemporaries differed in their attitudes; a lack of education on one hand, and too much education (especially of the wrong kind) on the other, were both seen to lead to recidivism amongst communities and within individuals. As prison chaplain, these men were best placed to assess and discuss the links between education and crime, and they used the role to further their own approaches to education. In seeking to understand the background and character of inmates, Winson Green’s chaplains found evidence to both support and contradict arguments regarding the educational attainment of criminals. Pixell was ‘astonished’ by the ‘general knowledge’ of the adult and juvenile male inmates, but noted their ‘extreme ignorance’ with regard to religious matters.[[532]](#footnote-532) His comments could be seen to lend some humanity or normalcy to the inmates, in that Pixell acknowledged his own prejudices and found them, through direct engagement with criminals, to be false.

In his 1851 report, Sherwin illustrated the way in which contemporaries grappled with the links between education and crime. He began by noting that ‘[v]ice, it is readily conceded, is frequently (not always), the progeny of ignorance, ignorance is in no case desirable.’[[533]](#footnote-533) He thus acknowledged the important role that prisons held in providing basic education, stating firmly that ‘no question can arise as to the expectancy of communicating to the untaught criminal as much elementary information as he can receive.’[[534]](#footnote-534) He noted, however, that whilst inmates may have gained some basic education outside of prison, that this kind of ‘mere secular education’ did not necessarily ‘eradicate evil nor confer value’.[[535]](#footnote-535) Mirroring arguments made in external printed discussions of crime, he implied that too much education could in fact be dangerous:

It is equally plain that where two individuals, the one illiterate and the other educated, are alike depraved in the heart, the latter possesses an enlarged power to be mischievous, and is the more dangerous member of the community.[[536]](#footnote-536)

In encompassing the reformatory purpose of his own role, and indeed that of the prison, he concluded by stating that ‘every effort therefore to instruct the criminal should be directed so as to produce a moral effect, and, should consequently derive its vitality from the motives and precepts of pure and honest religion, the only basis of genuine morality’.[[537]](#footnote-537)

Discussions of recidivism were as prevalent, if not more so, in attitudes towards or expressions of the purpose of punishment in Birmingham’s criminal justice records as they were in printed discourse. Birmingham’s criminal justice practitioners were extremely vocal and active in their belief in the rehabilitative purpose of punishment, both in their public and private documents. This, naturally, impacted upon their attitudes towards recidivism and influenced discourse accordingly. The manuscript sources assessed in the section suggest that the town’s criminal justice practitioners were unique in ascribing to the same purpose in such similar ways. Their united approach to reformation encompassed the development of habits of industry, coming to terms with one’s offence, penitence, and moral improvement.

Governor Maconochie’s mark system for juvenile inmates focussed heavily on the establishment of industrial habits. After detailing his scheme of work, he concluded that ‘the stimulus to exertion thus afforded has at the same time proved so effacious, that among the prison earnings for the year the sum of £65 12s and 10d has been credited to the juvenile department.’[[538]](#footnote-538) Here, he highlighted the practical and moral aims and successes of his system of prison discipline. He attributed the successful reformation of juvenile inmates to ‘the extreme importance that I attach to the object of improving the boys through their punishment’.[[539]](#footnote-539) He described this reformatory purpose as a process in which ‘their capabilities are thus also cultivated’, and that prison ‘… while enlarging their minds… gives them at the same time confidence in their own powers of turning to anything.’[[540]](#footnote-540)

In promoting their own approach to criminal justice and punishment, Birmingham’s criminal justice practitioners voiced criticism of others in their manuscript records. This mirrors the trend in printed material in which recidivism was used as a vehicle to promote or critique different penal systems.

Pixell also felt it appropriate to make a statement on the purpose of punishment, arguing thus:

It has long been admitted, that the end of punishment is the prevention of crime; and I trust it will be felt and admitted, that, next to the correction and reformation of the criminals themselves, such prevention must be accomplished by the religious and moral improvement of those classes which are most exposed to temptation.[[541]](#footnote-541)

The accordance of other officials and bureaucrats in this reformatory purpose is evident in reactions to the prison’s suicide scandal in 1853. Notably, a group of ‘memorialists’, whose letter expressing their upset at the case, was copied into the Gaol Committee Minutes, made a statement supporting their belief in the reformatory purpose of punishment. Using this case of neglect as an object of comparison between rehabilitative and deterrent approaches to punishment, they argued:

Surely in a wise and beneficial legislature it was never intended that the punishment they provided for criminals should plunge them into still deeper crimes. It never was intended that a criminal should in addition to his hard labour punishment and confinement in a gaol be incarcerated therein for the additional punishment of starvation.[[542]](#footnote-542)

Though the town’s criminal justice practitioners were aligned in their reformatory approach to punishment, the methods they chose to attain this differed somewhat. As in printed discourse, these men used both their roles and records to explain and promote their own penal schemes. Maconochie used his reports to detail and promote his ‘mark system’, both in print and within the more private confines of the town’s gaol committee.[[543]](#footnote-543) Using re-committal statistics and evidence of recidivism as a barometer for the success of his scheme, he stated that ‘in the last two quarters, during which this system has been in operation, of 94 boys discharged only eight have as yet returned… being only one in 12-13- a difference for which it seems impossible to account, but upon the principle of superior management’.[[544]](#footnote-544) Later in the report Maconochie wrote strongly in support of his principles, explaining that:

That really to check crime the true policy is to subordinate everything in the management of prisons to the moral and industrial reform of their existing inmates; - that for such purpose we must furnish motives, religious and other, for their guidance, and not merely issue commands; - and that the special aim of those immediately over them should be to try to gain, direct, and if possible, permanently elevate their wills, and not merely temporarily constrain and exercise their obedience.[[545]](#footnote-545)

A key debate in penal policy, the conflicting merits of the separate versus silent systems, was also evident in Birmingham’s criminal justice records, in which individuals used discourses of recidivism to promote their own approach. Pixell used his 1850 report to explain his support for the separate system, using his relationship with inmates to provide a unique approach. He argued that although the ‘bad and hardened criminals dislike it exceedingly’, it was ‘invaluable’ to the ‘penitent and improving’.[[546]](#footnote-546) He explained that through their ‘hatred of sin and crime’, morally improving inmates would ‘rather be alone, than with those who are decidedly bad; - a feeling produced by a desire to avoid temptation and by a wholesome distrust of themselves.’[[547]](#footnote-547)

Members of the gaol committee also used discourses of recidivism to critique an issue which attracted great discussion in the public sphere; the use of short prison sentences. In an appended letter to Sherwin’s 1851 report, the correspondent used the common metaphor of sewing seed to at once express the benefits of rehabilitative punishment, and the futility of short sentences. After highlighting the ‘pious’ and ‘zealous’ activities of prison staff, the correspondent lamented that ‘it is to be feared that the good seed which has been sown with an unsparing hand and which has brought forth a plentiful crop of good resolutions is extremely liable to be withered and dried up as soon as the prisoner is at large again’.[[548]](#footnote-548) Criticising a combination of short sentences and lack of reformatory purpose, he went on to question how a prisoner could succeed upon release, having lost their position in society and having been ‘confined within the four walls of a prison for some months upon a low diet [which] is greatly calculated to deprive him of that moral stamina necessary to battle with life under ordinary circumstances.’[[549]](#footnote-549) Sherwin’s aversion to short sentences was further mentioned by in the Visiting Justices 1852 general report, where they noted that:

The chaplain reports that he cannot speak with [unclear in original] as to the result of the instruction imparted in the gaol; that very few cases among the prisoners whose sentences range from 7 days to 2 months but that a considerable number sentenced to lengthened periods have been very much improved.[[550]](#footnote-550)

These manuscript records of local criminal justice practice are significant in a number of ways. Firstly, they enable us to ascertain the relationship between public discourse and practice. Unsurprisingly, there is overlap between minute books and print, and the use of traditionally printed discussion in manuscript and vice versa. Indeed, the production of a report for the minute books still gave the author a platform despite it not being so public. The audience here were other figures in local governance and criminal justice practice. These manuscript records show us that attitudes towards recidivism were informed in a two-way exchange; these men were informed by their roles and experiences of day to day prison life, but also discussions within the public sphere. Each component impacted on the other. However, these records also provide evidence that attitudes expressed depended on context and possibility. The individuals who created these records were at once constrained by practicalities, national policy, and public opinion. Comparing the printed and professional output of criminal justice practitioners only serves to further the argument that discourses of recidivism, whilst often stemming from direct engagement, were a tool in the administrator’s and politician’s discursive arsenal. There is significant evidence of continuities between national discourse and the views and ideas expressed in these manuscripts, but they diverge in their confident, positive, and engaged manner.

*Section three: voluntary associations*

The records of Birmingham’s voluntary associations further emphasise the unique character of the town’s approach to recidivism. Sources identified cover groups operating in the 1850s and 60s. These groups endeavoured to provide pragmatic and holistic responses and solutions to the problem of crime, at a time when the moral panic regarding the criminal classes was supposedly at its height. As (in the case of the Birmingham Discharged Prisoners’ Association at least) a public extension of the activities of the individuals discussed above, these records are key in identifying acceptance of and support for Birmingham’s unique discourse of recidivism.

The Birmingham Discharged Prisoners’ Association, established in 1856, was closely aligned to the town’s prison (committee members and subscribers included the prison’s Governor Hilliard, Chaplain Burt and Surgeon Rogers). In endeavouring to provide support for discharged prisoners and aid in their desistance, the association provides us with further evidence of the town’s attitudes towards recidivism. They did not seek to provide purely financial aid, but rather raised money to employ mentors and to provide temporary accommodation, sustenance, or trade tools to inmates upon release. Their goal was not to support discharged prisoners, but to provide them as quickly as possible with the means to re-enter society. The group’s first report detailed their operations thus:

If discharged prisoners are destitute, or if they have no home, food is given to them, or they are placed in lodgings, for a short time, until work is procured for them. A few tools or materials for work, are sometimes given to them; or they are assisted to return to their friends.[[551]](#footnote-551)

Whilst we can identify some similarities with familiar discourses of recidivism, including the un/deserving poor narrative, and a strong religious impetus and penal arguments, the group’s approach was also distinctive in intriguing ways seemingly unique to Birmingham. The group displayed a strong belief in the capacity of offenders to reform and improve, bolstered by an everyman approach to sin and crime through which recidivism was explained, understood, and to some extent mediated.

Despite being run largely by the staff of Winson Green, the association accepted the familiar narrative that prison produced and reproduced recidivists. The Mayor, chair of the association, stated at the first meeting to establish the group that ‘[i]t was a melancholy fact that every day, men and women, boys and girls were discharged from gaol who, having lost their characters by the very fact of their being there… were almost of necessity driven into a life-long course of crime, however anxious they might have been to make their first offence their last.’[[552]](#footnote-552) The Mayor thus reinforced the notion that existing penal systems had the propensity to induce recidivism, using recidivism as a vehicle to further his own opinions.

The Association’s first report utilised a universalist tone, acknowledging the similar temptations of criminals and ordinary men. They argued that ‘[w]e must all plead guilty to giving the present moment and the present life too much weight in the government of our actions, but the criminal is emphatically the slave of his immediate desires, and his future lot no more troubles him than if it were the lot of another individual.’[[553]](#footnote-553) Following a religious tone, the Association proclaimed their aims to return criminals to the flock, stating that ‘It was kindness under the guidance of sober sense, but nevertheless ardent and unclouded, which was the first want of the outcast- that Christian superintendence which may lead the poor creature to feel that he has some friend who he can look upon with respect and gratitude…’[[554]](#footnote-554) This focus on everyone’s capacity to sin was taken further, expressed again in religious terms. The Association sought to provide discharged prisoners with friends, those who ‘will speak with him as a fellow man to a fellow man, as Christian to Christian, as sinner to sinner.’[[555]](#footnote-555)

The Penitent Female Prisoner’s Relief Fund, established in 1850 by and for women in particular held similar hopes in aiding the continued redemption of female prisoners. However, rather than providing these women with the practical and moral support outlined by the above Association, the Relief Fund gave financial aid. In their opening address it was stated that:

The object in view is not to elicit professions, or even passing good purposes, but to stimulate, and, where indispensably necessary assist, a brave womanly spirit in the endeavour to recover lost ground. And it is not in such cases desirable to make the path of return to virtue too easy. We not unfrequently prize the more what we pursue, from the difficulties with which its attainment is beset.[[556]](#footnote-556)

Setting women on the path to virtue primarily involved assisting them ‘to return, decently clothed, to their friends at a distance.’[[557]](#footnote-557) This association’s activities thus seem to have involved encouraging female offenders to leave Birmingham, speaking to the discourse of environmental contagion surrounding recidivism.

In addition to the views these groups espoused, their physical make up and organisation is also significant. The groups were organised by people who in theory should have been most anxious about recidivism and the ‘criminal classes’; they were middle and upper class individuals and stakeholders in the maintenance of local security given their personal interest in the protection of property. The committee and subscription lists of the Birmingham Discharged Prisoner’s Association read like a who’s-who of Birmingham’s administrative and economic elites, and the compilers of its reports were not afraid to acknowledge this. In the report of the group’s first meeting to establish the association, among those present were listed the mayor, the recorder, the ‘eminent philanthropist’ Mr Joseph Sturge, and ‘many ladies’.[[558]](#footnote-558) Whilst the list of attendees is impressive in illustrating the town’s commitment to remedying social ills, the language used to describe them is also telling.

Both groups also provide us with evidence of the intersection between the problem of crime and punishment and the public sphere. Both were self-aware and often self-congratulatory. Their role within the public sphere was evidenced by their wide ranging subscription base, the printing and circulation of their reports and records, and the advertisements of their meetings and activities within the local press. The Discharged Prisoner’s Association appear to have had a particularly interesting relationship with the public sphere. They were eager to espouse their good deeds (frequent mentions of M. D. Hill’s reformed domestic servant, and detailed narratives of success stories being just two examples).[[559]](#footnote-559) They were, however, also aware of the sensitive nature of their project, and keen to promote it in an appropriate and careful way. Discussing a deficit in funding in their first report, it was explained that its members were reluctant to raise income due to the experimental and controversial nature of the project.[[560]](#footnote-560) This illustrates that not everyone in Birmingham was committed to such activities. The religious rhetoric of the Penitent Female Prisoner’s Relief Fund and their lack of proper practical solutions could be seen to be influenced by, and more greatly concerned with, public philanthropy as an act in itself, rather than the utility and success of its aims.

The records of these groups provide evidence of a public extension of paternalistic and holistic approaches to crime reduction. They were, at least in the case of the Discharged Prisoners Aid Society, the brainchild of criminal justice practitioners. It is particularly striking that these fairly positive approaches to criminality would exist in the 1850s and 60s, seemingly directly at odds with the moral panics of the London-centric press. The pro-reformatory lobby who were so influential in Birmingham at least partly explains this, as does a smaller local context which arguably lent itself more easily to such activities. In a local environment where participants have greater knowledge and engagement with their neighbours and their area’s social issues, it seems more likely that such activities and groups could spring up.

Conclusions

By drawing together print, policy, and criminal justice ‘expertise’, this case study represents a microcosm of patterns in attitudes towards reoffending identified throughout this thesis. It allows for a comparison of criminal justice practice at a local level, and the spread and response of seemingly national ideas in the local public sphere and vice versa. On a practical level, Birmingham’s nascent municipal administration and criminal justice system, public sphere and voluntary organisations inspired a fervent engagement with, and desire to ameliorate, multiple social issues of the day. This trend, combined with the input of vocal key individuals inspired what historians of the town have termed ‘civic pride’. As one of the country’s largest towns and economic centres, crime was of course a central social issue in Birmingham. But its economic and demographic patterns also fostered a citizenry who had both the means and the desire to think about and act on social issues, through a thriving public sphere and culture of civic engagement. Birmingham’s middle class and ‘intelligentsia’ are well documented in the town’s historiography; their development and influence supported by the existence of multiple presses, printers, booksellers, and places for the consumption of literature and news. Birmingham’s radical political history, linked to the civic pride of a rapidly developing town, stimulated high levels of public engagement.

The chronology of evidence by nature centres on the development of the local criminal justice system. The lack of evidence from the late eighteenth and earliest decades of the nineteenth century is problematic with regard to the central chronological argument of this thesis. However, the evidence available is useful in illustrating the diversity of discourse. Even at ‘hot moments’ of penal debate and change, despite the importance of key events and individuals in determining the nature of attitudes towards recidivism, the continuity of a holistic and ‘everyman’ approach to criminality is evident.

Section one, regarding the nature and expression of attitudes towards recidivism within the town’s public sphere, highlighted both similarities and differences to the national discourse. Birmingham’s press utilised familiar tropes and expressions seen at a national level. However, some of these tropes were less frequently seen and often used only at specific points. The town’s press was not littered with depictions of ‘hardened’ or ‘old’ offenders suggesting a problem of rampant recidivism, but rather these terms were used only sparingly to describe certain types of people and particular moments. Moreover, these tropes were often used as monikers in a more light-hearted or witty manner than the anxiety-provoking reports of the national press. Newspaper reports of arrests and trials were both more detailed, locally-focused, and personal, providing longer life histories or moral warnings passed down by the judge. In addition to the more individualised nature of crime reporting, a significant amount of space in the town’s newspapers was allotted to lengthy discussions of crime and the criminal justice system. This was likely due to the chronology of local events and the prominent municipal as well as national roles of local criminal justice practitioners. These discussions and opinion pieces often espoused quite radical opinions and staunch support for a reformatory focus in punishment, particularly on behalf of local criminal justice practitioners and the charitable offshoots of their work. They included advertisements for voluntary organisations, refuges, and reformatory schools. Whilst reader response is challenging to gauge, the space allotted to these issues suggests at least that Birmingham’s public were confronted with such ideas, and that they were issues and opinions which potentially held support within the town, as evident in its voluntary societies. Whilst no direct evidence of local opposition to these groups was uncovered, the problems they faced in raising funds might suggest that less support existed within Birmingham’s general population. Key figures such as M. D. Hill appeared to have had an almost didactic role within the local press *and* criminal justice system.

Printed output in the forms of pamphlets, published letters, and books, continued these themes. Works by prominent local individuals were even advertised and discussed in newspapers. As seen in Chapters One and Two, recidivism was used as a tool to express certain approaches or attitudes. Associated themes included the role of employment, education, and upbringing in recidivism and desistance. The more abstract theme of moral corruption and contagion was also prevalent in Birmingham’s attitudes towards recidivism, but this took the more empathetic form of the ‘everyman’ understanding of crime, as opposed to innate depravity more commonly seen in the national press. As in the national press, these approaches to recidivism were used to debate and uphold various penal causes. Yet there existed a unique quality to Birmingham’s printed discussions of crime and recidivism due to the nature of its public sphere, the demographics of the town’s inhabitants, and the relative youth of its criminal justice system and municipal authorities. The town’s radical political character fed in to the attitudes expressed, as did the voices of key local individuals.

Section Two of this chapter explored the manuscript records of the local penal practice, which were often created by those discussed in the previous section. Whilst these documents did not have the same kind of public audience as printed works, much of the source body consulted was borne out of bureaucratic forums with the potential to be published. These manuscript records illustrated a strong personal and direct engagement with recidivism due to the nature of the roles of those who created them. The documents were often self-searching, reflecting on experiences and roles, which impacted greatly on the attitudes towards recidivism expressed in these documents. Recidivism was not only a measure of professional success, but a daily occurrence, and was thus treated accordingly. Criminal justice practitioners displayed a keen and wholly necessary engagement with the nature and causes of recidivism, but also an awareness and acceptance of its ongoing existence. Certain positions, such as prison chaplain, produced more holistic approaches by nature, rendering their records somewhat distinctive, but still useful within the context of a wider recidivist discourse. Manuscript records of local penal practice showed a concern with some familiar themes identified in recidivist discourse, such as socio-economic background, family background, and education. But discussions of these issues took a more practical route, rather than being divisive. The attitudes towards the morality of offenders seen in these documents had a more hopeful ‘everyman’ tone. Despite the lack of a public audience, these manuscript records still illustrate how recidivism was used as a tool for penal debate, reflected in the evidence gathering and thought processes behind the strongest voices.

The voices and arguments of ‘experts’ is a significant trend throughout this thesis. The methodology of this case study allows us to see the origins and development of such ‘expertise’ as it played out in a local context. The combination of print and manuscript sources used in this chapter illustrates the experiences and work of key individuals, the forces that governed them, and the relationship between both their private and official activities, and their public expressions. The varied backgrounds and causes of key individuals made identifiable by an in-depth study present us with continuities of recidivist discourse as seen throughout this thesis, but with a distinctive character. The use of tropes of recidivism as a vehicle through which to discuss and promote related issues and causes is clearly seen in action in Birmingham. Whilst there appeared to be a general consensus that punishment should be reformatory in purpose and nature (an unusual degree of agreement regarding overarching penal thought compared to the national context), variations in penal approach still existed. Examples of local penal debate included the separate versus silent system, the best mode of educating inmates, and disputes regarding prison regimes between Governor Austin and his predecessor Maconochie.

The records of Birmingham’s voluntary associations, which focussed on recidivism and desistance, were in some ways shaped by a combination of the forces previously discussed. The membership and operation of these groups reflected the social makeup of the town, and the central roles of local criminal justice practitioners within the public sphere. Operating in the chronological context of the ‘moral panics’ of the 1850s and 60s, and made up of a similar social strata, Birmingham’s elites established philanthropic groups to aid desistance. These groups were surprisingly pragmatic in their approach to recidivism and in identifying how to reduce it. Whilst maintaining a paternalistic tone, they acknowledged the structural inequalities that fostered crime and its related social problems. They used the town’s thriving print culture to their advantage, representing an intersection of criminal justice practice and the public sphere.

Birmingham as a case study is revealing in that we can compare and contrast the multiple strands which contributed towards contemporary attitudes towards recidivism. The attitudes espoused throughout the documents were not necessarily new, but show how the issue of recidivism was manipulated accordingly. Attitudes towards recidivism expressed in Birmingham mirrored national discussions in understandings, when and why it was mentioned, the social issues and demography associated with it, and arguably most importantly the way it functioned as a vehicle for penal debate. The range of sources consulted also highlights the way in which attitudes expressed differed according to document or purpose, and the way that anxiety-inducing or hyperbolic language existed mainly in print. Varied penal causes and ideologies held central importance in the development of the town’s nascent criminal justice and municipal administration.

These nascent administrative systems, however, also led to significant differences between Birmingham’s attitudes towards recidivism, and those expressed nationally. The town developed a specific dialogue due to the development of these institutions and its dynamic public sphere. Birmingham’s reformatory consensus and largely holistic and humanitarian approach to recidivists was surprisingly different to some of the more dominant national narratives, especially within the context of the 1850s and 60s. This disparity further serves to emphasise not only the sheer variety of attitudes towards recidivism in England, thus contradicting the notion that the moral panics of the time represented the dominant discourse of recidivism, but also underlines the fact that these more negative approaches developed out of specific contexts (for example, the London press and the role of certain government figures). This more holistic approach in Birmingham was bolstered by an apparent continuation of the ‘everyman’ attitude towards crime, in which a belief in original sin rendered everyone susceptible to the temptation to offend. This everyman attitude was evident throughout the body of sources consulted for this chapter, including chaplain’s reports, governor’s reports, charitable organisations and printed opinion pieces.

The local focus on evidence gathering and quasi social scientific analysis often looks very different to the attitudes expressed in national printed discourse. The attitudes towards recidivism expressed in Birmingham instead took a pragmatic and engaged approach necessitated by direct engagement with local social and penal issues. This case study has shown that tropes and discourses of recidivism were not necessarily determined by the political leaning or cause of individuals, but on the context in which they wrote and expressed themselves. A divisive and derogatory ‘criminal class’ discourse was rarely used by the criminal justice practitioners themselves, but, held a specific discursive role in print and the public sphere. For the people and criminal justice practitioners of Birmingham, the ‘criminal classes’ existed not as a group to be feared or hated, but as an issue in and of itself, and one through which to assess and remedy the town’s problems in both an individualistic and socially scientific manner.

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# Conclusion

Existing historical and criminological research exploring the history of recidivism has informed us that the 1869 Habitual Criminals Act (and, indeed, the related legislative lead up and amendments occurring in the years either side) was a significant moment in which recidivism became a defined legal category with unprecedented penal and social implications. In the run up to 1869, a combination of policy factors have been viewed as significant in explaining the passage of the Act itself, but also more general penal developments. These included new approaches to release, probation and police supervision, embodied in the Penal Servitude Acts of 1853 and 1857, and 1864. This period has been seen as one in which efforts to detect and monitor recidivists were developed, termed an ‘othering process’ by Godfrey et al, and seen as the apogee of a ‘contingent, discursive lineage that produced the habitual criminal’ by Pavlich.[[561]](#footnote-561) The earliest Penal Servitude Acts heralded the decline of transportation but not its end. Rather, they gave the authorities flexibility about where servitude could take place; offenders no longer needed to be physically removed, but could be imprisoned at home, rendering their release and subsequent behaviour a pressing legislative matter. The Penal Servitude Acts of 1853 and 1857 also increased the minimum sentence following a second conviction for felony. The 1864 Penal Servitude Act built on this need to deal with punishment domestically, legislating for increased supervision and imposing license conditions. It reiterated sentencing procedures for subsequent offences and firmed up approaches to supervision and the revocation of licenses, and officially criminalised recidivism by implementing a three month prison sentence for failure to report.[[562]](#footnote-562) Occurring concurrently with these legislative developments was a period of increased media frenzy regarding recidivists. The London Garrotting Panics (occurring at various points in the 1850s and 1860s) were fuelled by contemporary anxieties about licensing and penal policy more generally, but more specifically by a wave of particularly violent street robberies affecting the highest echelons of London society. This media frenzy has been seen by scholars to have added to the pressure to legislate against recidivism.[[563]](#footnote-563)

Following these legislative developments and a concerted effort to place severity at the forefront of punishment, the Habitual Criminals Act was passed in 1869. Terry Thomas has called this act the ‘starting point for the statutory collation of the United Kingdom’s national repository of criminal records’.[[564]](#footnote-564) The Act legislated for a register of everyone convicted of a serious offence in England and the official police supervision of and potential re-call of those on license, and required criminal justice practitioners to submit recidivist information and statistics. Moreover, it legislated for summary jurisdiction on the grounds of suspicion of reoffending, including short sentences for recidivists found in compromising locations or behaving suspiciously whilst under license.[[565]](#footnote-565) This act was consolidated and amended in the 1871 Prevention of Crimes Act which further rendered ‘suspicious’ behaviour an offence resulting in the possible revocation of an offender’s licence. License-breaking behaviour included, as listed by Godfrey et al: ‘1. Living by dishonest means. 2. Giving false name and address to a court. 3. Found on enclosed premises and with intent to commit felony. 4. Acting suspiciously in enclosed areas.’[[566]](#footnote-566) The 1871 Act further enabled the more efficient identification and monitoring of offenders by introducing mandatory photographic portraits of the nation’s prisoners.[[567]](#footnote-567) This coincided with increased efforts by the Metropolitan police to note the physical details of offenders including height, complexion, and identifying marks, though this information had been collected in prison registers for some time.[[568]](#footnote-568)

The passage of such legislation shows us that the 1850s and 60s were clearly a key moment in the history of recidivism policy. Moreover, this accepted chronological focus could lead one to believe that a discourse of judicial responses to recidivism was cumulative, reaching an apogee at this point. However, what an examination of this longer period from 1770 onwards actually shows us is that there was continuity in discourse that flared up at specific moments. The Habitual Criminals Act was not inevitable, but a specific legislative moment occurring in response to specific circumstances. In fact, it is possible to overemphasise the significance of the Habitual Criminals Act; it was not the cumulative result of the longer, more detailed story, but rather the product of a specific discourse and set of events, while also part of a much longer story.

The narrative of the passage of these acts not only introduces us to one example of change in discursive and legislative attitudes towards recidivism, but also introduces us to different ways of thinking about the issue. Focusing on this single moment detracts from and underestimates the latency and centrality of recidivism over a much longer period of penal change. A focus on specific legislative moments obscures the issue’s more complex and lengthy nature. Despite focussing on legislation targeting juvenile delinquency, Heather Shore identifies a similar issue in her work. Explaining that it is tempting to view social categories or problems as extant only after they have been subject to legislation, she states that ‘It is possible to argue that juvenile delinquency emerged as a distinct social problem once it came to be named in new ways through juvenile-specific legislation; once it came to be managed in new ways within juvenile-specific institutions by specialised staff; and once the families of deprived and disorderly children came to be subject to new forms of external intervention and regulation.’[[569]](#footnote-569) What this doesn’t account for, she goes on to argue, is that trends can be traced beyond legislative acts.[[570]](#footnote-570) A desire to identify moments of change, or even ‘progress’, leaves us with a limiting focus on recognisable legislation. In a similar vein, Andrea McKenzie’s exploration of a similar yet distinct topic shows us how contemporary attitudes towards recidivism might be unearthed and analysed through numerous different avenues and over a long period of time. Through an analysis of seventeenth and eighteenth-century execution practices, Ordinary’s Accounts and criminal biographies, McKenzie highlighted a contemporary ‘belief in the existence of a coherent (and often hereditary) criminal underworld [dating] from at least the Tudor period.’[[571]](#footnote-571)

The preceding three chapters have explored the nature and fluctuations of a discourse of habitual criminality and its impact and latency in both national and local policy from 1770 until the significant legislative developments of 1869. Recidivism highlights a fundamental problem of crime and punishment (one which is not specific to a particular time period), reflects failings in the criminal justice system and the subject of repeated discussion. Thus, when considering England’s significant penal developments of the eighteenth and nineteenth centuries, it is an important aspect to consider. Recidivists presented a continual challenge and represented the failure of the criminal justice system. Discussions about the problem of recidivism, lying at an intersection of both offending realities and attitudes towards crime, allows us to better understand the penal developments of the time through both an official and public lens. There are a number of ways in which this discourse was influential, regarding the significant relationship of habitual offending to developments in criminal justice in this period. These include legislative developments, but also the pervasive notion of the ‘criminal class’, and the links between recidivism and burgeoning positivist and criminological understandings of crime. However, these factors centre on a particular period (that of the mid-nineteenth century) and present a static understanding of recidivism and one which leaves gaps in our understanding. The fact that the existence of a ‘criminal class’ has recently been called into question (termed ‘fallacious’ by Godfrey, Cox and Farrell in 2010), only serves to emphasise the need for a deeper understanding.[[572]](#footnote-572) This thesis focuses on the ‘constructed’ nature of the criminal classes, arguably a more useful term than ‘fallacious’. Exploring the creation of and meaning behind the category of the ‘criminal class’, Emsley makes inroads into this task by noting the convenient and pervasive nature of the idea in identifying and soothing contemporary anxieties about crime.[[573]](#footnote-573)

Historians’ current focus on the 1850s and 1860s provides an incomplete picture of the nature and evolution of a discourse of recidivism. Victorian perceptions of criminality have been seen to reflect the idea that crime was committed by an identifiable, degenerate subsection of the working class. Existing historiography often assumes that this premise was influential and accepted as fact by contemporaries, and neglects the fact that similarly powerful representations of criminality existed from the 1770s onwards. Gatrell, for example, plainly associates the legislative developments of the 1850s and 1860s with the creation of the ‘criminal class discourse’. He argued ‘[a]fter the 1869 Habitual Criminals Act and the 1871 Prevention of Crime Act and its subsequent amendments, they became an especially well- defined target of law-enforcement.’[[574]](#footnote-574) The result is a narrative of an unexplained or overly simplified transition from the well-documented eighteenth-century ‘everyman’ understanding of criminality to an end-point akin to biological determinism. For example, in his study of burgeoning efforts at policing, Gatrell described the treatment of persistent offenders (and in particular, members of the lowest socio-economic ranks), as a ‘distinct species’.[[575]](#footnote-575) Transposing class-based power relations onto eighteenth and nineteenth century policing reforms, Gatrell argued that ‘The criminal- always the working-class criminal- fast assumed a privileged position in this constellation of bogeys. Onto him were displaced fears about these other changes which were otherwise difficult to express, and must otherwise remain diffuse and without focus.’[[576]](#footnote-576) The fears Gatrell alluded to included reactions to social upheaval through industrial and economic change. He saw developments in policing not as part of broader social and penal trends, but as a tool to uphold social hierarchy, stating that ‘the underclasses were differentiated the better to rule them’.[[577]](#footnote-577) Viewing this discourse as a product of mid-nineteenth-century class conflict which prepared the way for a tightening of penal control has also obscured the influence of key developments in both eighteenth-century penal policy and the function of influential and varying printed discourses of crime. It assumes nineteenth-century penal discourse to be homogenous and static.

Looking at the longer trajectory of this discourse, and viewing it in different abstract and geographical contexts, allows us to better understand the nature and development of understandings of criminality. Moreover, this method illuminates the sources of this discourse, their chronological and geographical origins, the impact they had on both local and national policy in light of implicit contradictions and variations, and it helps to explain mid nineteenth-century developments. Despite some limitations in chronological focus and over-zealous subscription to a narrative of class conflict, much of the literature on habitual offending identifies common discursive trends and themes which support the efforts and findings of this thesis.

Treating recidivism as a wider discursive issue beyond its statistical reality and in the longer term, this thesis has explored recidivism from three different angles; print material including tracts, pamphlets and newspapers; records of official discussions of national policy including parliamentary debates, committees, and background correspondence; and records of local criminal justice practise including gaol committee minutes, newspapers and miscellaneous documents pertaining to the running of local criminal justice institutions. Analysing discussions of recidivism in each of these different contexts, with different audiences and purposes, has allowed for an identification of common strands in public and official understandings of crime, highlighting the complexity and importance of the public arena in the criminal justice reform process throughout the period.

This research has three main findings, each of which will be explored in greater detail in this conclusion. First, this thesis argues that from the very start of the period, perceptions of criminality were not homogenous, but varied and contradictory, functioning as they did as vehicles for multifarious social and penal arguments which fluctuated over time. There existed a great deal of both continuity and variation in attitudes; authors commonly invoked the tropes of moral temptation and provocation well into the nineteenth century, in addition to expressing self-criticism of elite lifestyles and values, and paternalistic concerns about poverty and living conditions. Moreover, those within the criminal justice system used the tropes of recidivist discourse to lobby for penal reform and to justify and defend their actions, opinions and reputations throughout the period. In sum, it is evident that discussions about recidivism and shared understandings were neither peculiar to the mid-nineteenth century, nor were shared understandings wholly prevalent; representations of criminality were not simple manifestations of attempted social control, but reflective of a huge range of opinion on social and penal issues. This conclusion will follow these lines of argument, looking at: firstly, the longer and more complex chronology of recidivist discourse; secondly, the existence of a set of shared expressions and tropes over time through which recidivism and related social and penal issues was discussed; and thirdly, a previously unrecognised complexity and variety behind these shared ideas and tropes.

Finding one: a different chronology of recidivism

Recidivist discourse was not specific to the anti-recidivist legislation of the 1850s and 60s, but rather a continuing feature of public debate regarding crime and criminality since 1770, if not before. The focus on print media in this thesis has aided in coming to this conclusion given the popularity and importance of crime and criminality in print culture from the eighteenth century onwards. Peter King has explored the ways in which the media, and more specifically the moral panics borne out of it, could have an impact on attitudes to and reactions against crime. For example, he argued that media reporting of the ‘crime wave’ experienced during the garrotting panics ‘… not only produced an immediate increase in crime control measures… it may also have helped produce a number of important legislative changes.’[[578]](#footnote-578) Although this approach is somewhat problematic in ascribing a direct link between media and legislation, it allows us to explore the significance of printed discourse. In a more nuanced exploration of the links between print culture and attitudes towards criminality, Andrea McKenzie explained how criminal biographies and printed ephemera both influenced and reflected contemporary understandings.[[579]](#footnote-579)

Common understandings and tropes of recidivism were present throughout the period in question. Naturally, moments of penal importance inspired more explicit discussion, and it is these moments that lay behind the chronology of this thesis. From 1770 onwards there was an increasing and fluctuating amount of penal debate due to what has been termed a ‘penal crisis’ following the suspension of transportation to America. Of course, habitual criminality had been discussed prior to this moment. Both before and after the crisis in the 1770s and 80s, contemporaries still understood recidivism in terms of the slippery slope narrative. This narrative was a form of recidivist discourse in itself, explaining how readily a descent into crime might take place, and its subsequent repetition. This was, however, a very traditional idea with Biblical roots so it is not fruitful to trace earlier recidivist discourse (and, indeed, difficult to choose an earlier start date). The first 5-10 years of the chosen period were thus examined a discourse which had a very long history.

Discussions of recidivism were prompted by the process of penal reform, given their inextricable relationship – the failure of punishment highlighted the issue of recidivism and vice versa. Indeed, policy developments inspired and reflected discussion in the arena of penal debate. Penal and policing chronology is particularly important here. Recidivism featured in the scramble to support various penal options from the earliest points in the period: in the move from the traditional reliance on the death penalty (and later transportation), in the blueprints for the establishment of the first national penitentiary, in the frenzied debate about prison regime and practice, in efforts to establish a metropolitan (and later, national) police force, and throughout soul-searching about the purpose of punishment itself. The process of penal reform was long term and episodic, happening repeatedly and unevenly throughout the period in question. Thus it is imperative that we look at attitudes towards recidivism throughout the period as a whole. For example, despite the lack of legislation which specifically targeted recidivism, penal and social events and trends in the 1820s, 30s and 40s were significant in shaping varied and influential attitudes towards habitual offenders. This was due to intense debate about the minute detail of prison regimes, as an established mode of punishment.

Whilst a longer chronological view succinctly illustrates continuities, it also helps us identify shifts in attitudes beyond moments of key legislation. One of the most notable shifts identified was the rise of a social scientific gaze. Throughout the period in question, contemporaries began to take a more empirical approach to social problems ranging from poverty to education, and sought pragmatic solutions. This trend was present in thinking about and dealing with crime and criminality. Taking this broader chronological view thus illustrates that, as well as continuities in moralistic approaches and attitudes towards crime, contemporaries also increasingly sought to understand (or at least show that they understood) criminality as an objective problem with logical solutions.

Finding two: shared expressions and their uses

Going beyond the actualities of offending and sentencing, recidivism was a loaded issue, at best signifying the criminal’s disengagement with acceptable social norms, and at worst presenting a threat to wealth and security. It is understandable, then, that it was discussed through explicit terminology that readily defined it. This thesis has focused not on the realities of reoffending, but rather the terminology used to discuss it, and what this meaning and usage might be able to tell us, over time.

On the surface, a shared understanding of recidivism (across time and across participants in the public sphere) has been evident throughout the research conducted for this thesis. There existed surprising continuities in the language used to denote or discuss recidivism, and its usage suggests a common understanding. This common understanding is perhaps exemplified by the continual use of a range of tropes and phrases which seemed to signify recidivism, needing no explanation. These interchangeable tropes included phrases such as: ‘criminal class’; ‘dangerous class’; ‘old offender’; ‘hardened’; and ‘notorious’. These tropes can be identified throughout the period in question, some more common at different times, but their implicit suggestions often rendered them more suited to certain periods.

Taking a closer look at these five tropes, we can identify key strands or trends in thinking about recidivism as a whole. The ‘criminal class’ was arguably the most pervasive and recognisable phrase with recidivist connotations. The term ‘class’ denoted a distinct subsection of society, rather than a social class in the Marxist sense denoting strict economic divisions. The phrase, however, certainly carried socio-economic undertones in a significant proportion of instances of its usage and in these contexts undoubtedly spoke to contemporary attitudes regarding the links between poverty and the committal of crime. What is perhaps more interesting about this particular trope, however, is the fact that it could denote an absolute or ontological category, rather than always carrying socio-economic implications. As a phrase that divided, it could be used to account for a variety of differences rather than simply wealth. The phrase ‘dangerous classes’ again denoted a sub-section of society, and played up to both contemporary anxieties about crime and the state of social relations more generally. Prevalent in the 1820s, 1830s, and 1840s, the ‘dangerous classes’ were very much a part of discourse regarding political reform and fears about mass social upheaval. In certain contexts of usage, these two phrases symbolised division and often pre-empted direct criticisms or upheavals of the criminal justice system; their forceful and negative nature bolstered critique.

The remaining three phrases (‘hardened offender’, ‘old offender’, and ‘notorious’) were present from the start of the period in question. They all spoke to a more universalist understanding of crime in which an accumulation of sin and poor moral choices were the driving forces in a recidivist career. Whilst this was certainly a key facet of eighteenth-century attitudes towards criminality, this thesis has identified continued use of these tropes (and the implications of their inherent meanings) well in to the nineteenth. The term ‘notorious’, when used in discussions of recidivism, had many implications including the gravity and extent of their crimes and the problematic nature of an offender’s disengagement with social norms. ‘Notorious’ also spoke to how offenders were perceived of by the rest of society; to be notorious within a community was to be known as an habitual offender, highlighting the fact that recidivism was not solely a concern of the nineteenth century but that an awareness of the issue existed long before. With arguably the strongest links to the ‘accumulative’ narrative in criminality, ‘old offender’ signified an individual’s entrenched habitual criminality with implications respecting criminal experience and, potentially, an abstract ageing process of moral decay and degradation. ‘Hardened offenders’ also symbolised this accumulation of sin and criminality, in which ‘hardened’ suggested their callous and unfeeling nature. In this trope, their hardness represents a resistance to reform, or a criminality which could not be effectively treated by the criminal justice system.

Whilst these phrases all signified recidivism to the reader, their full meaning and tone depended on chronology and document type. Despite their slight variations and vagaries, these continuities existed across time, genre, context (official records or the public sphere) and space (geography). The use of print material is particularly important here as the exposure of such ideas in widely disseminated newspapers, pamphlets and monographs further hints at the shared nature of attitudes towards recidivism. It is, however, notoriously difficult to ascertain readership and understanding.

The significance of these shared recidivist tropes and understandings goes beyond continuities and commonality of attitudes. It suggests that recidivism had a widely-held discursive function which contemporaries were aware of. The recidivist ‘bywords’ mentioned above were used, sometimes offhandedly and sometimes with deeper meaning, in a range of different penal and social debates. The issue of recidivism was used as a spark to further discussions on wider issues, and the terminology used to illustrate or sensationalise points. Recidivist tropes were used to bolster or criticise various penal and social approaches and particular policies in printed sources, national policy documents and local criminal justice records. The use of the concept of recidivism as a tool illustrates the discursive nature of the penal arena. One of the most significant findings of this thesis centres on the use of recidivism as a tool in penal debate. It was continually used to criticise existing modes of punishment, but also to support new approaches. Recidivism thus featured at every level of penal discussion, from execution practices to the minutiae of day to day prison life. The urgency or popularity of an issue affected the nature and explicitness of recidivist discourse but it was always latent.

Finding three: complexity and variations in recidivist discourse

It is important, however, not to see these shared tropes as denoting a homogeneity in understanding. Despite commonalities in expressions and tropes of recidivism, these were often merely signposts to an individual’s past engagement with the criminal justice system. Moreover, the varied usage and implicit meanings of recidivist tropes reflected a variety in understandings. For example, the phrase ‘criminal class’ could as much be used by a staunch supporter of severe deterrent penal regimes as it could by a philanthropist founding a discharged prisoner’s aid society. The fact that recidivism was inextricably linked to much broader arenas of penal and social debate meant that a range of approaches, explanations and understandings existed. Moreover, the use of three different ‘arenas’ in this thesis has enabled an examination of the nature and reasons behind variations and complexities in attitudes towards recidivism. The purpose of exploring these different arenas was to ascertain not only the temporal, geographical and social spread of ideas, but to consider how different contexts and impulses may have affected the output and acceptance of attitudes towards recidivism.

Chapter One explored the context of a public sphere which had national reaches, but remained London-centric in terms of production and input. Indeed, the nature of the metropolis as the seat of government and source of a significant proportion of print output meant that work coming from London often had an air of officiality or importance. This chapter’s analysis of printed materials, encompassing newspapers, pamphlets, ephemera and lengthier ‘expert’ commentaries, helped to locate discourses of recidivism with an arena of public debate. This arena aligns loosely with the Habermasian notion of a public sphere in which print and discussions informed by news and print constituted a forum for public debate. This context was fundamental in identifying trends in attitudes, the language used to express these attitudes, and the moments at which to look more closely due to heightened discussion or explicitness in discourse. It is in this context that we see perhaps the widest variety of recidivist tropes as, by its very nature, this public context allowed for the expression of multiple attitudes and understandings. This context was especially influential in illustrating the symbiosis between attitudes, language, and both prevailing policy direction and critique of it. Even more so, it showed how discourses of recidivism were genre-specific, in which different tropes and attitudes were expressed depending on the nature and purpose of the document. Research unearthed lurid descriptions of monstrous or bestial creatures in investigative journalism, damning prejudicial stereotypes in the tracts of religious campaigners, and emphatic narratives of poverty and want from philanthropists reporting on or advertising their activities. Letters to the editor, one of the few examples of reader reception, illustrated how, although recidivist tropes were shared, attitudes towards recidivism were varied according to individual outlook and opinion.

Chapter Two took a small step back from the public sphere to explore the nature and use of these attitudes and tropes in documents pertaining to national penal policy. There was, of course, some considerable overlap given the nature of policy, politics and legislation. Recidivist discourse was no less prevalent or important within this context, but did differ slightly due to the nature and purpose of the debates surrounding policy. In attempting to provide legislative solutions to the perennial problem of crime, policy documents were very much focussed on the social characteristics and impetus behind recidivism. It was also commonly used as a benchmark issue against which to critique or support various policy directions. In several examples, recidivism was posited to be inherently linked to prevailing policy, a direct result of perceived failings. Investigatory royal inquiries and commissions again illustrated just how varied attitudes and expressions of recidivism were, but also how useful such discourse could be in following a specific line of argument (some commissions, for example, had particular bias). This policy context also gave some examples of the interplay between role, experience, and attitude. This was more apparent in the Birmingham case study, but the public role or voice of specific contributors to policy did have some impact on the nature or privileging of the evidence they provided.

Chapter Three explored these issues not only within a different geographical context, but within a specific criminal justice context. Birmingham’s civic engineers were, to an extent, undertaking the construction of their own local criminal justice system which in some ways constitutes a fresh and experimental context through which to explore attitudes towards recidivism. The Birmingham case study was significant in highlighting the complexity and variations in attitudes towards recidivism given the unique socio-cultural context, and the influence of key individuals with both a local and national role. Whilst shared recidivist tropes were identified in Birmingham sources, they were employed in different ways to their sometimes derogatory and divisive use in national print material. Language which had been used disparagingly or divisively elsewhere, was used in Birmingham to explain and promote a holistic and practical approach to recidivism and desistance. This case study further illustrated the importance of context, and indeed the discursive and manipulated nature of recidivist tropes, through its use of sources that shed light on the interpersonal engagement between criminal justice practitioners and criminals themselves in Birmingham. The spread and variety of discourse across these different contexts was in fact also mirrored within the micro-context of individual sources. Authors, politicians, or criminal justice practitioners used different recidivist tropes to suit different ends depending on the context or purpose of their document, and sometimes even within the same source. This finding is of course most evident in printed sources given that these authors wrote for a variety of different contexts and purposes. The value of the Birmingham case study lies in the nature of the case study approach which facilitated an exploration of the influence and nature of different factors within a different context. The town’s individual social and penal context influenced local attitudes towards recidivism but we cannot assume that this was not the case elsewhere. Further case studies would provide fruitful evidence supporting the role of localised penal trends and key individuals, and the importance of context.

Issues of socio-economic class were naturally present in Chapter Three, but particularly complex. We can’t escape the conflation of poverty and crime in contemporary discussions, nor class based language, but this did not render ideas about recidivism as a tool in class conflict as has previously been assumed. Numerous approaches existed in understanding the social and moral context of recidivism, including focusing on family background, neighbourhood, sin, temptation, and moral contagion and corruption. These themes suggested social solutions to recidivism and lent a degree of empathy to discussions. Rather than being divisive, the multiple uses for recidivism and the multiple ways in which it was discussed illustrates a contemporary desire to understand and investigate.

Final thoughts

Contemporary understandings of criminality were integral to eighteenth and nineteenth-century penal policy, and recidivists even more so, as they were persistently problematic. This is of particular importance in understanding the significant and influential penal developments of the period, and also today. In combining these three strands of influence (print, policy, and local practice), this thesis has highlighted a need to re-evaluate the ways in which we understand and analyse debates about penal policy. Writing the history of attitudes towards recidivism changes the way in which we can approach and understand the legislative changes of 1869; it needs to be viewed as both a complex and unique event, but also as part of broader trends.

The problem of crime is a perennial one and reoffenders still present both a challenge to the system, and reflect its failings. Unfit ‘Victorian’ prisons remain a popular news item, with the same issues (such as the inefficacy of short sentences) still discussed. Through exploring discourse and stereotypes, this research emphasises the importance of considering context. There is no right or wrong way of understanding and approaching criminality. Rather, this research shows that the most fruitful approach is a multifaceted one. We need to take a step back and recognise the constructed nature of what we hear and read about punishment and criminality. A detailed exploration of attitudes towards recidivism shows us that crime (its committal and its representations) is not a black and white issue but the product of a multitude of factors and forces demanding a complex and fluid response. The key issue is thus how we interpret representations. It cannot be met with an approach which uses a particular ‘stereotype’ as its basis. Crime and punishment requires a humanitarian approach in which we continually seek to re-evaluate our understandings. Moreover, this thesis has gone some way in highlighting the power of language. In light of this, it is important to critique our own language, especially the use of value-laden terms. Terms in common parlance contain implications about what it means to be a recidivist and thus impact our perceptions and actions. Recidivism is a precise and professional term and perhaps, considering the findings of this thesis, the most appropriate one to use.

In addition to providing some suggestions as to how we might think about crime and punishment today, this thesis has laid the groundwork for future avenues of research. One such avenue would be to further explore individual criminal records to ascertain how far these ideas shaped day to day practise within the criminal justice system, and how those behind prison walls conceived of and experienced them. A rural case study would also further research in this field, providing a wider geographical comparison and illustrating the impact of different contexts. This thesis has endeavoured to explore the chronological and geographical spread of recidivism discourse, and this issue could be further explored across a wider range of social actors. This was not something which was possible to ascertain from the existing source base given the middle-to-upper class backgrounds of the authors and criminal justice practitioners who left these records. Thus the understanding of this topic would benefit from an assessment of the extent of the shared nature of these attitudes between the upper, middle, and lower classes (the latter are currently missing). This would serve to deepen our understanding of the origins, development, spread, and uses of eighteenth and nineteenth century attitudes towards recidivism.

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563. Examples include: Davis, ‘The London Garotting Panic of 1862’; Sindall, ‘The London garrotting panics’. [↑](#footnote-ref-563)
564. T. Thomas, *Criminal Records: A Database for the Criminal Justice System and Beyond* (2007), p. 11. [↑](#footnote-ref-564)
565. Godfrey, Cox and Farrall, *Serious Offenders*, p. 81 [↑](#footnote-ref-565)
566. *Ibid.,* p. 82 [↑](#footnote-ref-566)
567. *Ibid.* [↑](#footnote-ref-567)
568. *Ibid.,* p. 97 [↑](#footnote-ref-568)
569. H. Shore, ‘ “Inventing” the Juvenile Delinquent in Nineteenth-Century Europe’ in B. Godfrey, C. Emsley, and G. Dunstall, (eds) *Comparative Histories of Crime* (New York, 2003), pp. 110-124, p. 111. [↑](#footnote-ref-569)
570. *Ibid.* [↑](#footnote-ref-570)
571. McKenzie, *Tyburn’s Martyrs*, p. 90. [↑](#footnote-ref-571)
572. Godfrey, Cox and Farrall, *Serious Offenders*. [↑](#footnote-ref-572)
573. C. Emsley, *Crime and Society in England: 1750-1900*, (London, 1996), p. 173. [↑](#footnote-ref-573)
574. Gatrell, ‘Crime, authority and the policeman-state’, p. 302. [↑](#footnote-ref-574)
575. *Ibid.* [↑](#footnote-ref-575)
576. *Ibid.,* p. 250. [↑](#footnote-ref-576)
577. *Ibid.,* p. 302. [↑](#footnote-ref-577)
578. King, ‘Moral panics and violent street crime’. [↑](#footnote-ref-578)
579. McKenzie, *Tyburn’s Martyrs* (especially Chapter Three). [↑](#footnote-ref-579)