Chapter outline

• What Is Crime?
• The Criminal Justice System
• Values of the Criminal Justice System
• Criminal Justice in Action—Gun Control versus Gun Rights

Learning objectives

After reading this chapter, you should be able to:

1. Describe the two most common models of how society determines which acts are criminal.
2. Define crime and identify the different types of crime.
3. Outline the three levels of law enforcement.
4. List the essential elements of the corrections system.
5. Explain the difference between the formal and informal criminal justice processes.
6. Describe the layers of the “wedding cake” model.
7. Contrast the crime control and due process models.
Just after 3 P.M. on February 14, 2008, Stephen Kazmierczak kicked in an exit door that led into a lecture hall on the campus of Northern Illinois University (NIU) in DeKalb, Illinois. The twenty-seven-year-old, armed with a 12-gauge shotgun and three handguns, proceeded to fire more than fifty rounds of buckshot and bullets into the terrified crowd of students before turning one of the weapons on himself. Including the shooter, six people died and sixteen were wounded as a result of Kazmierczak’s violent outburst.

Silver linings were notably absent on that dark day, as the DeKalb community struggled to come to grips with the carnage. NIU’s response to Kazmierczak’s actions did, however, merit praise. Only ten months earlier, another university had become the scene of the deadliest shooting rampage in American history when Cho Seung Hui killed thirty-two people at Virginia Tech in Blacksburg, Virginia. Officials from that school came under widespread criticism for failing to notify the campus community about the first two deaths, providing Cho with several hours of preparation time before continuing his murderous assault in a separate building.

Putting into operation a plan designed in the wake of the Virginia Tech killings, NIU officials placed the campus on alert at 3:07 P.M., with all students and personnel confined to dorms, classrooms, and administrative offices. Within twenty minutes, the university posted a warning on its Web site and through e-mail: “There has been a report of a possible gunman on campus. Get to a safe area and take precautions until given the all clear.” By 4:14 P.M., the school issued another message, announcing that the threat had passed. “Their response time was amazing,” said one appreciative NIU student. “They had this whole campus on lockdown in seven minutes.”

Despite the difference in response times, the situations at Virginia Tech and Northern Illinois University did have a common result: a well-armed gunman was able to kill many people in a relatively short period of time. And putting aside questions of response times altogether, many observers were asking how Stephen Kazmierczak could have been prevented from getting into that classroom with those guns—a Remington shotgun, a Glock 9mm pistol, a Sig Sauer 9mm pistol, and a Hi-Point .380 pistol—in the first place. As it turned out, Kazmierczak had a state-issued Firearms Owner’s Identification Card, giving him the right to purchase and own the weapons. We address the controversial topic of gun control later in this chapter and throughout the textbook.

The rampage at NIU raised a number of other issues as well. Would it be practical for college officials to install metal detectors at school buildings such as dormitories, large halls, and libraries? We examine crime prevention strategies at various points in this course, particularly in Chapters 6 and 15 with regard to law enforcement. The legislatures of twelve states are also considering...
new laws that would allow students who obtained concealed-weapons permits to carry their own weapons on campuses—an issue of self-defense, covered in Chapter 4. Finally, why did Kazmierczak do it? After months of intensive investigation by police, Kazmierczak's motives remained a mystery. In Chapter 2, we consider just how difficult it is for experts to determine why any given individual commits a crime.

As you proceed through this textbook, you will see that few aspects of American criminal justice are ever simple, even though you may have clear opinions about them. In this first chapter, we introduce you to the criminal justice system by discussing its structure and the values that it is designed to promote.

What Is Crime?

On June 1, 2008, a new law went into effect in Illinois requiring health professionals to report to state officials any patient "whose mental condition is of such a nature that it is manifested by violent, suicidal, threatening or assaultive behavior." This individual will subsequently be barred from receiving a state gun permit. (It is unlikely that Stephen Kazmierczak's ability to purchase his weapons would have been affected by the statute, despite family members' concerns that he was acting "erratically" in the weeks before the shootings. Kazmierczak had stopped taking antianxiety medication around that time.) Under the new Illinois law, any state gun merchant who sells a firearm to someone who has been designated violent, suicidal, or threatening has committed a felony and faces a year or more in prison. Before June 1, however, the designation did not exist, and any such sale would have been legal.

Does this overnight change in the treatment of certain gun sales mean that the new law is arbitrary or unfair? Not necessarily. It does mean that, in general, an act becomes a crime only when it meets the legal definitions that designate it as such. A crime can thus be defined as a wrong against society proclaimed by law and, if committed under certain circumstances, punishable by society.

The problem with this definition is that it obscures the complex nature of societies. A society is not static—it evolves and changes, and its concept of criminality evolves and changes as well. The Illinois law—along with similar legislation passed by a number of other states and the federal government—was a direct response to the Virginia Tech killings of April 2007. Cho Seung Hui had been found to be mentally unstable by a health care professional about a year and a half before he legally purchased the weapons used in his assault. Many Americans felt that this "loophole" in our nation's gun laws needed to be closed.

To more fully understand the concept of crime, it will help to examine the two most common models of how society "decides" which acts are criminal: the consensus model and the conflict model.

THE CONSENSUS MODEL

The consensus model assumes that as people gather together to form a society, they naturally come to a basic agreement with regard to shared norms and values. Those individuals whose actions deviate from the established norms and values are considered to pose a threat to the well-being of society as a whole and must be sanctioned (punished). The society passes laws to control and prevent deviant behavior, thereby setting the boundaries for acceptable behavior within the group. Use of the term consensus implies that a majority of the citizens agree on what activities should be outlawed and punished as crimes.

The consensus model, to a certain extent, assumes that a diverse group of people can have similar morals—that is, that they share an ideal of what is "right" and "wrong." Consequently, as public attitudes toward morality change,
In 2001, the Netherlands became the first nation to legalize physician-assisted suicide and euthanasia (“mercy killing”). The new law simply formalized practices that had been taking place since 1973, when this European nation’s courts decided that doctors can help terminate a patient’s life if certain conditions are met: the patient must explicitly request such an action, the request must be voluntary, and the patient’s suffering must be unbearable and without any hope of improvement. The law requires youths aged twelve to sixteen to obtain parental consent before requesting assisted suicide. From the age of sixteen, all patients have the right to discuss the matter with their doctors of their own volition.

In explaining why the Netherlands accepts actions that many other countries would consider objectionable, observers point to several characteristics of Dutch society. First, physicians hold exalted positions, and their actions are rarely questioned. Not only are doctors authorized to terminate “meaningless” lives, but they are also expected to do so. Second, the country lacks a strong religious influence, which might place the question of assisted suicide in a different moral perspective. As it is, hopelessly ill patients who fail to request euthanasia are seen as adhering to outdated ethical values. Third, and most important, is the Dutch emphasis on personal autonomy; the choice to die is considered the responsibility of the individual, not of the state.

In 1998, an elderly Oregon woman whose breast cancer left her unable to breathe easily became the first American to legally commit suicide with the aid of a physician. Oregon’s Death with Dignity Act—which is modeled in many respects after the Dutch system—was upheld by the United States Supreme Court in 2006 in a decision that reconfirmed each state’s authority to legalize assisted suicide. By 2008, 341 people had ended their lives with a physician’s help in Oregon, which is still the only state that allows such a practice.

**FOR CRITICAL ANALYSIS**

What social attitudes make it unlikely that physician-assisted suicide and euthanasia will become widely accepted in this country?

![Protestors for a religious group called “Cry for Life” gather outside the upper house of Parliament in The Hague, Netherlands, to condemn the Dutch government’s legalization of euthanasia.](image)

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so do laws. In colonial times, those found guilty of adultery were subjected to corporal punishment. A century ago, a person could walk into a pharmacy and purchase heroin. Today, social attitudes have shifted to consider adultery a personal issue, beyond the purview of the state, and to consider the sale of heroin a criminal act. What happens when no consensus exists as to whether a certain act falls within the parameters of acceptable behavior? Society experiences a period of uncertainty as it struggles to formalize its attitudes as law. (For an example of the consensus model at work, see the feature *International CJ—Doctor-Assisted Death and the Dutch.*)

**THE CONFLICT MODEL**

Some people reject the consensus model on the ground that moral attitudes are not absolute. In large, democratic societies such as the United States, different segments of society will inevitably have different value systems and shared norms. According to the conflict model, these different segments—separated by social class, income, age, and race—struggle constantly with each other for control of society. The victorious groups exercise their power by codifying their value systems into criminal laws.

Consequently, what is deemed criminal activity is determined by whichever group happens to be holding power at any given time. Because certain groups
do not have access to political power; their interests are not served by the criminal justice system. To give one example, until recently the penalty (five years in prison) for possession of 5 grams of crack cocaine was the same as for possession of 500 grams of powdered cocaine. This 1:100 ratio has had widespread implications for African Americans, who represent 90 percent of all defendants charged with crack-related offenses.\(^7\) (White users appear to favor cocaine in its powered form.) In December 2007, the U.S. Sentencing Commission attempted to alleviate this situation by lowering the punishment for those convicted of federal crack-related offenses,\(^8\) a controversial decision discussed further in Chapter 10.

### AN INTEGRATED DEFINITION OF CRIME

Considering both the consensus and conflict models, we can construct a definition of crime that will be useful throughout this textbook. For our purposes, crime is an action or activity that is:

1. Punishable under criminal law, as determined by the majority or, in some cases, by a powerful minority.
2. Considered an **offense against society as a whole** and prosecuted by public officials, not by victims and their relatives or friends.
3. Punishable by statutorily determined sanctions that bring about the loss of personal freedom or life.

At this point, it is important to understand the difference between crime and **deviance**, or behavior that does not conform to the norms of a given community or society. Deviance is a subjective concept; some segments of society may think that smoking marijuana or killing animals for clothing and food is deviant behavior. Deviant acts become crimes only when society as a whole, through its legislatures, determines that those acts should be punished—as is the situation today in the United States with smoking marijuana but not with killing animals for food. Furthermore, not all crimes are considered particularly deviant; little social disapproval is attached to those who fail to follow the letter of parking laws. In essence, criminal law reflects those acts that we, as a society, agree are so unacceptable that steps must be taken to prevent them from occurring.

### TYPES OF CRIME

The manner in which crimes are classified depends on their seriousness. Federal, state, and local legislation has provided for the classification and punishment of hundreds of thousands of different criminal acts, ranging from jaywalking to first-degree murder. For general purposes, we can group criminal behavior into six categories: violent crime, property crime, public order crime, white-collar crime, organized crime, and high-tech crime.

**Violent Crime** Crimes against persons, or **violent crimes**, have come to dominate our perspectives on crime. There are four major categories of violent crime:

- **Murder**, or the unlawful killing of a human being.
- **Sexual assault**, or **rape**, which refers to coerced actions of a sexual nature against an unwilling participant.

\(\text{ Former track star Marion Jones, shown here speaking outside a federal courthouse in White Plains, New York, pled guilty to two counts of lying to federal investigators about her use of performance-enhancing drugs. As a result, in January 2008, a federal judge sentenced Jones to six months in prison. How does society benefit when lying to law enforcement officers is treated as a serious crime? Is the use of performance enhancers such as steroids deviant behavior or criminal behavior? }\)
A threat or an attempt to do violence to another person that causes the other person to fear immediate physical harm.

The act of physically contacting another person with the intent to do harm, even if the resulting injury is insubstantial.

The act of taking property from another person through force, threat of force, or intimidation.

The act of taking property from another person without the use of force with the intent of keeping that property.

Behavior that has been labeled criminal because it is contrary to shared social values, customs, and norms.

Nonviolent crimes committed by business entities or individuals to gain a personal or business advantage.

Assault and battery, two separate acts that cover situations in which one person physically attacks another (battery) or, through threats, intentionally leads another to believe that he or she will be physically harmed (assault).

Robbery, or the taking of funds, personal property, or any other article of value from a person by means of force or fear.

As you will see in Chapter 4, these violent crimes are further classified by degree, depending on the circumstances surrounding the criminal act. These circumstances include the intent of the person committing the crime, whether a weapon was used, and (in cases other than murder) the level of pain and suffering experienced by the victim. We take a closer look at the controversy surrounding the regulation of illegal firearms—one of the factors in America’s violent crime rate—in the Criminal Justice in Action feature at the end of this chapter.

Property Crime The most common form of criminal activity is property crime, in which the goal of the offender is to achieve economic gain or to damage property. Pocket picking, shoplifting, and stealing that is not accomplished by force are covered by laws against larceny, also known as theft. Burglary involves unlawfully entering a structure with the intention of committing a serious crime, such as theft. Motor vehicle theft describes the theft or attempted theft of a motor vehicle, including all cases in which automobiles are taken by persons not having lawful access to them. The willful and malicious burning of a home, automobile, commercial building, or any other construction, known as arson, is also a property crime.

Public Order Crime The concept of public order crimes is linked to the consensus model discussed earlier. Historically, societies have always outlawed activities that are considered contrary to public values and morals. Today, the most common public order crimes include public drunkenness, prostitution, gambling, and illicit drug use. These crimes are sometimes referred to as victimless crimes because they often harm only the offender. As you will see throughout this textbook, however, that term is rather misleading. Public order crimes may create an environment that gives rise to property and violent crimes.

White-Collar Crime Business-related crimes are popularly referred to as white-collar crimes. The term white-collar crime is broadly used to describe an illegal act or series of acts committed by an individual or business entity using some nonviolent means to obtain a personal or business advantage.

Figure 1.1 lists various types of white-collar crimes; note that certain property crimes fall into this category when committed in a business context. Although the extent of this criminal activity is difficult to determine with any certainty, the Association of Certified Fraud Examiners estimates that white-collar crime costs U.S. corporations as much as $652 billion a year.

Traditionally, penalties for white-collar crime have been light. Between 1991 and 2001, the average sentence for a white-collar crime was around twenty months, about a quarter of the average sentence for a drug offense. In the early 2000s, however, four of the six largest corporate bankruptcies in U.S. history took place, fueled by a frenzy of management misconduct. Public attitudes toward business-related crimes hardened, and, consequently, prosecutors began seeking, and getting, harsher punishments for white-collar criminals. For example, in 2006, a judge sentenced former Enron chief Jeffrey Skilling to twenty-four years behind bars for his role in fraudulent business deals that destroyed more than $2 billion worth of employee pension plans. Another case involved former hedge-fund manager Daniel Marino, who defrauded investors of more than $400 million over an eight-year period. “You are as much a . . . criminal as any mobster or any drug kingpin,” scolded U.S. District Judge Colleen McMahon when she handed down a
Organized Crime White-collar crime takes place in the context of legal business facilities. In contrast, organized crime describes illegal acts by illegal organizations, usually geared toward satisfying the public's demand for unlawful goods and services. Organized crime broadly implies a conspiratorial and illegal relationship among any number of persons engaged in unlawful acts. More specifically, groups engaged in organized crime employ criminal tactics such as violence, corruption, and intimidation for economic gain.

The hierarchical structure of organized crime operations often mirrors that of legitimate businesses, and, like any corporation, these groups attempt to capture a sufficient percentage of any given market to make a profit. For organized crime, the traditional preferred markets are gambling, prostitution, illegal narcotics, and loan sharking (lending money at higher-than-legal interest rates), along with more recent ventures into counterfeiting and credit-card scams. Although much of the public sees "the mob" as little more than a fictional device made popular by media creations such as the television series The Sopranos and the Godfather films, organized crime is an ongoing concern for law enforcement. In September 2007, for example, a federal jury convicted five men of conducting mob-related activities in Chicago that included eighteen murders.

High-Tech Crime The newest typology of crime is directly related to the increased presence of computers in everyday life. The Internet, with approximately 1.3 billion users worldwide, is the site of numerous cyber crimes, such as selling pornographic twenty-year sentence to Marino in 2008.11 (See the feature You Be the Judge—The Party's Over on the following page.)
materials, soliciting minors, and defrauding consumers with bogus financial investments. The dependence of businesses on computer operations has left corporations vulnerable to sabotage, fraud, embezzlement, and theft of proprietary data. (See Figure 1.2 for a description of several types of cyber crimes.)

You Be the Judge The Party’s Over

THE FACTS “There is a relentless push throughout the entire organization to reduce costs in good times and bad,” wrote Parker, the chief executive officer (CEO) of Tyro Corporation, in the company’s annual report. Two months later, he threw a $2 million birthday party for his wife on the Italian island of Sardinia—the party featured models in Roman-style gowns tossing flower petals into the air and a performance by pop star Jimmy Buffett. Because Parker wrote the party off as a business expense, he was able to charge $1 million of its costs to Tyro. Eventually, the sixty-year-old businessman was found guilty of conspiring to steal about $170 million from his company.

THE LAW By law, the judge must sentence Parker to between one and thirty years in prison for his white-collar crimes.

YOUR DECISION Parker’s attorneys argue for leniency, pointing out that Tyro’s economic performance did not suffer because of their client’s “extravagances.” Furthermore, at his advanced age, a lengthy term in prison would amount to a life sentence. Prosecutors counter that a harsh penalty would deter other businesspersons from behaving similarly. How much time behind bars do you think that Parker deserves? Keep in mind that the average sentence for murder in this country is about twenty-two years.

[To see how a New York judge ruled in a case with similar facts, go to Example 1.1 in Appendix B.]
Self Check Fill in the Blanks

A criminal act is a wrong against _______ and therefore is “avenged,” or prosecuted, by _______, not by the individual victims of a crime. A crime is not the same as an act of _______, the term for behavior that is nonconformist but not necessarily criminal. Murder, assault, and robbery are labeled _______ crimes because they are committed against persons. The category of crime that includes larceny, motor vehicle theft, and arson is called _______ crime. When a person commits a crime in a business context, he or she has committed what is commonly known as a ________ crime. Check your answers on page 23.

The Criminal Justice System

Defining which actions are to be labeled “crimes” is only the first step in safeguarding society from criminal behavior. Institutions must be created to apprehend alleged wrongdoers, determine whether these persons have indeed committed crimes, and punish those who are found guilty according to society’s wishes. These institutions combine to form the criminal justice system. As we begin our examination of the American criminal justice system in this introductory chapter, it is important to have an idea of its purpose.

THE PURPOSE OF THE CRIMINAL JUSTICE SYSTEM

In 1967, the President’s Commission on Law Enforcement and Administration of Justice stated that the criminal justice system is obliged to enforce accepted standards of conduct so as to “protect individuals and the community.”12 Given this general mandate, we can further separate the purpose of the modern criminal justice system into three general goals:

1. To control crime
2. To prevent crime
3. To provide and maintain justice

Controlling and Preventing Crime Though many observers differ on the precise methods of reaching them, the first two goals are fairly straightforward. By arresting, prosecuting, and punishing wrongdoers, the criminal justice system attempts to control crime. In the process, the system also hopes to prevent new crimes from taking place. The prevention goal is often used to justify harsh punishments for wrongdoers, which some see as deterring others from committing similar criminal acts.

Maintaining Justice The third goal—providing and maintaining justice—is more complicated, largely because justice is a difficult concept to define. Broadly stated, justice means that all citizens are equal before the law and that they are free from arbitrary arrest or seizure as defined by the law. In other words, the idea of justice is linked with the idea of fairness. Above all, we want our laws and the means by which they are carried out to be fair.

Justice and fairness are subjective terms; different people may have different concepts of what is just and fair. If a woman who has been beaten by her husband retaliates by killing him, what is her just punishment? Reasonable persons could disagree; some might think that the homicide was justified and that she should be treated leniently, while others might insist that she should not have taken the law into her own hands. Police officers, judges, prosecutors, prison administrators, and other employees of the criminal justice system must
decide what is “fair.” Sometimes, their course of action is obvious; often, as we shall see, it is not.

Society places the burden of controlling crime, preventing crime, and determining fairness on those citizens who work in the three main institutions of the criminal justice system: law enforcement, courts, and corrections. In the next section, we take an introductory look at these institutions and their role in the criminal justice system as a whole.

THE STRUCTURE OF THE CRIMINAL JUSTICE SYSTEM

To understand the structure of the criminal justice system, you must understand the concept of federalism, which means that government powers are shared by the national (federal) government and the states. The framers of the U.S. Constitution, fearful of tyranny and a too-powerful central government, chose the system of federalism as a compromise. The appeal of federalism was that it allowed for state powers and local traditions while establishing a strong national government capable of handling large-scale problems.

The Constitution gave the national government certain express powers, such as the power to coin money, raise an army, and regulate interstate commerce. All other powers were left to the states, including police power, which allows the states to enact whatever laws are necessary to protect the health, morals, safety, and welfare of their citizens. As the American criminal justice system has evolved, the ideals of federalism have ebbed somewhat; in particular, the powers of the national government have expanded significantly. Crime is still primarily a local concern, however, and the majority of all employees in the criminal justice system work for local government (see Figure 1.3).

Law Enforcement The ideals of federalism can be clearly seen in the local, state, and federal levels of law enforcement. Though agencies from the different levels cooperate if the need arises, they have their own organizational structures and tend to operate independently of one another. We briefly introduce each level of law enforcement here and cover them in more detail in Chapters 5, 6, and 7.

Local Law Enforcement On the local level, the duties of law enforcement agencies are split between counties and municipalities. The chief law enforcement officer of most counties is the county sheriff. The sheriff is usually an elected post, with a two- or four-year term. In some areas, where city and county governments have merged, there is a county police force, headed by a chief of police.
The bulk of local police officers—nearly 580,000—are employed by municipalities. The majority of these forces consist of fewer than ten officers, but large cities may have thousands of police officers. New York City, for example, has a police force of more than 35,000.

Local police are responsible for the “nuts and bolts” of law enforcement work. They investigate most crimes and attempt to deter crime through patrol activities. They apprehend criminals and participate in trial proceedings, if necessary. Local police are also charged with “keeping the peace,” a broad set of duties that includes crowd and traffic control and the resolution of minor conflicts between citizens. In many areas, local police have the added obligation of providing social services, such as dealing with domestic violence and child abuse.

**State Law Enforcement** Hawaii is the only state that does not have a state law enforcement agency. Generally, there are two types of state law enforcement agencies, those designated simply as “state police” and those designated as “highway patrols.” State highway patrols concern themselves mainly with infractions on public highways and freeways. Other state law enforcers include fire marshals, who investigate suspicious fires and educate the public on fire prevention, and fish, game, and watercraft wardens, who police a state’s natural resources and often oversee its firearms laws. Some states also have alcoholic beverage control officers, as well as agents who investigate welfare and food stamp fraud.

**Federal Law Enforcement** The enactment of new national gun, drug, and violent crime laws over the past thirty years has led to an expansion in the size and scope of the federal government’s participation in the criminal justice system. Federal agencies with police powers include the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), the U.S. Secret Service, and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). In fact, almost every federal agency, including the postal service and the forest service, has some kind of police power. In 2002, President George W. Bush created the Department of Homeland Security, which combines the police powers of twenty-two federal agencies in order to protect the United States from terrorist attacks. The crucial law enforcement role of this department is examined in detail in Chapters 5 and 15.

**The Courts** The United States has a dual court system; that is, we have two independent judicial systems, one at the federal level and one at the state level. In practice, this translates into fifty-two different court systems: one federal court system and fifty different state court systems, plus that of the District of Columbia. The federal system consists of district courts, circuit courts of appeals, and the United States Supreme Court. The state systems include trial courts at the local and state levels, intermediate courts of appeals, and state supreme courts.

The criminal court and its work group—the judge, prosecutors, and defense attorneys—are charged with the weighty responsibility of determining the innocence or guilt of criminal suspects. We cover these important participants, their roles in the criminal trial, and the court system as a whole in Chapters 8, 9, and 10.

**Corrections** Once the court system convicts and sentences an offender, she or he is delegated to the corrections system. Depending on the seriousness of the crime and their individual needs, offenders are placed on probation, incarcerated, or transferred to community-based corrections facilities.
Probation, the most common correctional treatment, allows the offender to return to the community and remain under the supervision of an agent of the court known as a probation officer. While on probation, the offender must follow certain rules of conduct. When probationers fail to follow these rules, they may be incarcerated.

If the offender’s sentence includes a period of incarceration, he or she will be remanded to a corrections facility for a certain amount of time. Jails hold those convicted of minor crimes with relatively short sentences, as well as those awaiting trial or involved in certain court proceedings. Prisons house those convicted of more serious crimes with longer sentences. Generally speaking, counties and municipalities administer jails, while prisons are the domain of federal and state governments.

Community-based corrections have increased in popularity as jails and prisons have been plagued with problems of funding and overcrowding. Community-based correctional facilities include halfway houses, residential centers, and work-release centers; they operate on the assumption that all convicts do not need, and are not benefited by, incarceration in jail or prison.

The majority of those inmates released from incarceration are not finished with the correctional system. The most frequent type of release from a jail or prison is parole, in which an inmate, after serving part of his or her sentence in a correctional facility, is allowed to serve the rest of the term in the community. Like someone on probation, a parolee must conform to certain conditions of freedom, with the same consequences if these conditions are not followed. Issues of probation, incarceration, community-based corrections, and parole are covered in Chapters 11, 12, and 13.

THE CRIMINAL JUSTICE PROCESS

In its 1967 report, the President’s Commission on Law Enforcement and Administration of Justice asserted that the criminal justice system...
is not a hodgepodge of random actions. It is rather a continuum—an orderly progression of events—some of which, like arrest and trial, are highly visible and some of which, though of great importance, occur out of public view.13

The commission’s assertion that the criminal justice system is a “continuum” is one that many observers would challenge.14 Some liken the criminal justice system to a sports team, which is the sum of an indeterminable number of decisions, relationships, conflicts, and adjustments.15 Such a volatile mix is not what we generally associate with a “system.” For most, the word system indicates a certain degree of order and discipline. That we refer to our law enforcement agencies, courts, and correctional facilities as part of a “system” may reflect our hopes rather than reality.

The Assembly Line Just as there is an idealized image of the criminal justice system as a smooth continuum, there also exists an idealized version of the criminal justice process, or the procedures through which the criminal justice system meets the expectations of society. Professor Herbert Packer, for example, compared the idealized criminal justice process to an assembly line, down which moves an endless stream of cases, never stopping, carrying the cases to workers who stand at fixed stations and who perform on each case as it comes by the same small but essential operation that brings it one step closer to being a finished product, or, to exchange the metaphor for the reality, a closed file.16

As Packer himself was wont to point out, the daily operations of criminal justice are not nearly so perfect. In this textbook, the criminal justice process is presented as the end product of thousands of decisions made by police officers, courtroom

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Coordinator, Joint Terrorism Task Force

hundreds of individuals who had been involved with the Taliban and the war in Afghanistan were detained for questioning. Working at Guantánamo made it especially clear to me how important the FBI’s role was in preventing attacks in the United States, although there has since been controversy over the appropriateness of detaining so many for so long. A key challenge in the area of antiterrorism is to balance individual liberties with national security. This is always a fine line, but I feel that the FBI in general and the Joint Terrorism Task Force in particular have been very successful at achieving that balance.

WORKING FOR THE FBI My background includes a law degree (J.D.) and experience working as a prosecutor in Howard County, Maryland. Before that, I had spent about seven years in other jobs and two years in the Army. All of these experiences helped me in making the career switch from attorney to FBI Special Agent.

What advice would I give a job seeker looking for a position in the FBI? Get a college degree in any subject that interests you because the FBI is looking for individuals with expertise in a wide range of areas. For example, if you’re interested in fields that range from criminal justice, to biology, to psychology, to business administration, there are relevant jobs in the FBI. Also, if you’re especially interested in terrorism, you can access much unclassified information to educate yourself. For example, just exploring the Web will yield much information about terrorist groups, ideologies, and tactics. Of course, it’s necessary to evaluate this material carefully and to use a variety of resources.

Most positions in the FBI now require at least a bachelor’s degree and three years of full-time related experience. Given the number of applicants for each position, however, you would have a better chance with a master’s degree. You must also have the highest ethics, not only because that’s a core value, but you may end up testifying under oath at a trial.

Go to the Careers in Criminal Justice Interactive CD for a video of Patrick Connolly discussing his career and more profiles in the field of criminal justice. Also check the list at the end of the table of contents for career profiles in the book.
workers, and correctional administrators. It should become clear that, in fact, the criminal justice process functions as a continuous balancing act between its formal and informal nature.

The Formal Criminal Justice Process In Packer’s image of assembly-line justice, each step of the process “involves a series of routinized operations whose success is gauged primarily by their tendency to pass the case along to a successful conclusion.” These “routinized” steps are detailed in the foldout exhibit in this chapter.

The Informal Criminal Justice Process Each step described in the foldout exhibit is the result of a series of decisions that must be made by those who work in the criminal justice system. This discretion—which can be defined as the authority to choose between and among alternative courses of action—leads to the development of the informal criminal justice process discussed below.

Discretionary Basics One New York City public defender called his job “a pressure cooker.” That description could apply to the entire spectrum of the criminal justice process. Law enforcement agencies do not have the staff or funds to investigate every crime; they must decide where to direct their restricted resources. Increasing caseloads and a limited amount of time in which to dispose of them constrict many of our nation’s courts. Overcrowding in prisons and jails affects both law enforcement agencies and the courts—there is simply not enough room for all convicts.

The criminal justice system uses discretion to alleviate these pressures. Police decide whether to arrest a suspect; prosecutors decide whether to prosecute; magistrates decide whether there is sufficient probable cause for a case to go to a jury; and judges decide on sentencing, to mention only some of the occasions when discretion is used. (See Figure 1.4 for a description of some of the most important discretionary decisions.) Collectively, these decisions are said to produce an informal criminal justice system because discretion is informally exercised by the individual and is not enclosed within the rigid confines of the law. Even if prosecutors believe that a suspect is guilty, they may decide not to prosecute if the case is weak or if they know that the police erred in the investigative process. In most instances, prosecutors will not squander the scarce resource of court time on a case they might not win. Some argue that the informal process has made our criminal justice system more just. Given the immense pressure of limited resources, the argument goes, only rarely will an innocent person end up before a judge and jury.

Discretionary Values Of course, not all discretionary decisions are dictated by the scarcity of resources. Sometimes, discretion is based on political considerations, such as when a police administrator orders a crackdown on public order crimes because of citizen complaints. Furthermore, employees of the criminal justice system may make decisions based on their personal moral values, which, depending on what those values are, may make the system less just in the eyes of some observers. For that reason, discretion is closely connected to questions of ethics in criminal justice and is discussed in that context throughout this textbook. (For a look at the role that personal values play in the criminal justice system, see the feature A Question of Ethics—Death of a Cowgirl.)
The “Wedding Cake” Model of Criminal Justice

Some believe that the prevailing informal approach to criminal justice creates a situation in which cases are not treated equally. As anecdotal evidence, they point to a cultural landmark in the American criminal justice system—the highly publicized O. J. Simpson trial of 1994, during which the wealthy, famous defendant had an experience far different from that of most double-murder suspects. To describe this effect, criminal justice researchers Lawrence M. Friedman and Robert V. Percival came up with a “wedding cake” model of criminal justice. This model posits that discretion comes to bear depending on the relative importance of a particular case to the decision makers. Like any wedding cake, Friedman and Percival’s model has the smallest layer at the top and the largest at the bottom (see Figure 1.5).

1. The “top” layer consists of a handful of “celebrity” cases that attract the most attention and publicity. Recent examples of top-level cases include the trials of former FBI agent John Connolly, connected to the mob-related death of a Miami gambling executive; Mark Jensen, convicted of killing his ex-wife by poisoning her with antifreeze in Wisconsin; and O. J. Simpson, again, who was found guilty on twelve counts of kidnapping and armed robbery following a violent dispute in a Las Vegas hotel room.

2. The second layer consists of “high-profile” felonies. A felony is a serious crime such as murder, rape, or burglary. This layer includes crimes committed by persons with criminal records, crimes in which the victim was seriously injured, and crimes in which a weapon was used, as well as crimes in which the offender and the victim were strangers. These types of felonies are considered “high profile” because they usually draw a certain amount of public attention, which puts pressure on prosecutors to bring such a case to trial instead of accepting a guilty plea for a lesser sentence.

The “Wedding Cake” Model of Criminal Justice
3. The third layer consists of “ordinary” felonies, which include less violent crimes such as burglaries and thefts or robberies in which no weapon was used. Because of the low profile of the accused—usually a first-time offender who has had a prior relationship with his or her victim—these “ordinary” felonies often do not receive the full, formal process of a trial.

4. Finally, the fourth layer consists of misdemeanors, or crimes less serious than felonies. Misdemeanors include petty offenses such as shoplifting, disturbing the peace, and violations of local ordinances. More than three-quarters of all arrests made by police are for misdemeanors.

The irony of the wedding cake model is that the cases on the top level come closest to meeting our standards of ideal criminal justice. In these celebrity trials, we get to see committed (and expensive) attorneys argue minute technicalities of the law, sometimes for days on end. The further one moves down the layers of the cake, the more informal the process becomes. Though many of the cases in the second layer are brought to trial, only rarely does this occur for the less serious felonies in the third level of the wedding cake. By the fourth level, cases are dealt with almost completely informally, and the end goal appears to be speed rather than what can be called “justice.”

Public fascination with celebrity cases obscures a truth of the informal criminal justice process: trial by jury is relatively rare (only about 5 percent of those arrested for felonies go to trial), and most cases are disposed of with an eye more toward convenience than ideals of justice or fairness. Consequently, the summary of the criminal justice system provided by the wedding cake model is much more realistic than the impression many Americans have obtained from the media.

Self Check

Fill in the Blanks

To protect against a too-powerful central government, the framers of the U.S. Constitution relied on the principle of _______ to balance power between the national government and the states. Consequently, the United States has a ______ court system—one at the federal level and one at the ______ level. At every level, the criminal justice system relies on the ______ of its employees to keep it from being bogged down by formal rules. Some critics think that this freedom to make decisions leads to the _______ model of court proceedings, in which only the “top” layer of criminal court cases meets ideal standards. Check your answers on page 23.

Values of the Criminal Justice System

If the general conclusion of the wedding cake model—that some defendants are treated differently than others—bothers you, then you probably question the values of the system. Just as individuals have values—a belief structure governing individual conduct—our criminal justice system can be said to have values, too. These values form the foundation for Herbert Packer’s two models of the criminal justice system, which we discuss next.

CRIME CONTROL AND DUE PROCESS: TO PUNISH OR PROTECT?

In his landmark book *The Limits of the Criminal Sanction*, Packer introduced two models for the American criminal justice system: the crime control model and the due process model. The underlying value of the crime control model is that the
most important function of the criminal justice process is to punish and repress criminal conduct. Though not in direct conflict with crime control, the underlying values of the due process model focus more on protecting the civil rights of the accused through legal constraints on police, courts, and corrections. Civil rights are those rights guaranteed to all Americans in the U.S. Constitution.

The Crime Control Model  
Under the crime control model, law enforcement must be counted on to control criminal activity. “Controlling” criminal activity is at best difficult, and probably impossible. For the crime control model to operate successfully, Packer writes, it must produce a high rate of apprehension and conviction, and must do so in a context where the magnitudes being dealt with are very large and the resources for dealing with them are very limited.21

In other words, the system must be quick and efficient. In the ideal crime control model, any suspect who most likely did not commit a crime is quickly jettisoned from the system, while those who are transferred to the trial process are convicted as quickly as possible. It was in this context that Packer referred to the criminal justice process as an assembly line.

The crime control model also assumes that the police are in a better position than the courts to determine the guilt of arrested suspects. Therefore, not only should judges operate on a “presumption of guilt” (that is, any suspect brought before the court is more likely guilty than not), but as few restrictions as possible should be placed on police investigative and fact-gathering activities. The crime control model relies on the informality in the criminal justice system, as discussed earlier.

The Due Process Model  
Packer likened the due process model to an obstacle course instead of an assembly line. Rather than expediting cases through the system, as is preferable in the crime control model, the due process model strives to make it more difficult to prove guilt. It rests on the belief that it is more desirable for society that ninety-nine guilty suspects go free than that a single innocent person be condemned.22

The due process model is based on the assumption that the absolute efficiency that is the goal of the crime control model can be realized only if the power of the state is absolute. Because fairness, and not efficiency, is the ultimate goal of the due process model, it rejects the idea of a criminal justice system with unlimited powers. As a practical matter, the model also cautions that human error in any process is inevitable. The members of the criminal justice system must be aware of this fallibility and take all necessary measures to protect the rights of the citizenry from any of its ill effects.

Finally, whereas the crime control model relies heavily on the police, the due process model relies just as heavily on the courts and their role in upholding the legal procedures of establishing guilt. The due process model is willing to accept that a person who is factually guilty will go free if the criminal justice system does not follow legally prescribed procedures in proving her or his culpability.23 Therefore, the due process model relies on formality in the criminal justice system. Mastering Concepts on the following page compares and contrasts the two models.

WHICH MODEL PREVAILS TODAY?  
Though both the crime control and the due process models have always been present to a certain degree, during different time periods one has taken precedence over the other. The twentieth century saw such an ebb and flow. The influx of immigrants and problems of urbanization in the early 1900s caused something of a panic within the American upper class. Considering that most, if not all, politicians and legal theorists were members of this class, it is not surprising that crime control principles prevailed during the first half of the last century.

Civil Rights  
The personal rights and protections guaranteed by the Constitution, particularly the Bill of Rights.

Crime Control Model  
A criminal justice model that places primary emphasis on the right of society to be protected from crime and violent criminals. Crime control values emphasize speed and efficiency in the criminal justice process; the benefits of lower crime rates outweigh any possible costs to individual rights.

Due Process Model  
A criminal justice model that places primacy on the right of the individual to be protected from the power of the government. Due process values hold that the state must prove a person’s guilt within the confines of a process designed to safeguard personal liberties as enumerated in the Bill of Rights.
The nation became more secure and prosperous in the 1950s and 1960s, a “due process revolution” took place. Under the leadership of Chief Justice Earl Warren, the United States Supreme Court significantly expanded the rights of the accused in a series of landmark cases. (These cases are referred to throughout this textbook, and some of them are featured in the timeline on the back of the foldout exhibit in this chapter.) Suspected offenders were guaranteed, among other things, that an attorney would be provided to them by the state if they could not afford one and that they would be notified of their right to remain silent and retain counsel on being arrested. The 1960s also saw severe limits placed on the power of the police, as the Court required law enforcement officers to strictly follow specific guidelines on gathering evidence or risk having that evidence invalidated.

**Goals of the Criminal Justice System:**
- Deter crime.
- Protect the public from crime.
- Incapacitate criminals.
- Provide quick and efficient justice.

**Goals Can Best Be Met by:**
- Promoting discretion and limiting bureaucratic red tape in criminal justice institutions.
- Making it easier for police to arrest criminals.
- Reducing legal restrictions on proving guilt in a criminal trial.

**Favored Policies:**
- More police.
- More jails and prisons.
- Harsher penalties (including increased use of the death penalty) and longer sentences.

**View of Criminality:**
- Wrongdoers are responsible for their own actions.
- Wrongdoers have violated the social contract and can therefore be deprived of many of the rights afforded to law-abiding citizens.

**Case in Point:**
- *Ohio v. Robinette* (519 U.S. 33 [1996]), which allows police greater freedom to search the automobile of a driver stopped for speeding.

**Goals of the Criminal Justice System:**
- Protect the individual against the immense power of the state.
- Rehabilitate those convicted of crimes.

**Goals Can Best Be Met by:**
- Limiting state power by assuring the constitutional rights of the accused.
- Providing even guilty offenders with full protection of the law and allowing those offenders to go free if due process procedures are not followed.
- Assuring that all accused criminals receive the same treatment from the law, regardless of class, race, gender, or sexual orientation.
- Protecting the civil rights of prisoners.

**Favored Policies:**
- Open the criminal justice process to public scrutiny.
- Abolish the death penalty.
- Limit police powers to arbitrarily search, interrogate, and seize criminal suspects.
- Limit discretion and formalize criminal justice procedures so that all suspects and convicted offenders receive the same treatment.
- Increase funding for rehabilitation and education programs in jails and prisons.

**View of Criminality:**
- Criminal behavior can be attributed to social and biological factors.
- Criminals can be rehabilitated and returned to the community after incarceration.

**Case in Point:**
- *Mapp v. Ohio* (367 U.S. 643 [1961]), which invalidates evidence improperly gathered by the police, even if the evidence proves the suspect’s guilt.
Rising crime rates in the late 1970s and early 1980s led to increased pressure on politicians and judges to “get tough on crime.” This development slowed down the due process revolution and returned the principles of the crime control model to our criminal justice system. In 1984, for example, three Supreme Court cases reinstated the investigative leeway that police had enjoyed in the first half of the century. Even if evidence was obtained illegally, the Court ruled, it could be admitted at trial if the police officers could prove they would have obtained the evidence legally anyway.27 Furthermore, in two separate cases the Court created the “good faith” exception to evidence-gathering rules, which basically allowed illegally obtained evidence to be admitted if the police officers were unaware that they were acting unconstitutionally.28 According to many criminal law experts, the values of crime control gained undue leverage as a result of this trio of cases.29 (The role of the Bill of Rights in determining police power is covered in Chapter 7.)

Responding to Terrorism The values of the criminal justice system are reflected not only in court decisions but also in public policy. On September 11, 2001, terrorists hijacked four commercial airliners and used the planes to kill 3,021 people in New York City, northern Virginia, and rural Pennsylvania. Broadly defined as the random use of staged violence to achieve political goals, terrorism suddenly became a crucial issue in criminal justice. Six weeks after the attacks, President George W. Bush signed the Patriot Act into law.30 In an effort to prevent future strikes, the law strengthened the ability of federal law enforcement agencies to investigate and incapacitate suspects; thus, it represented a dramatic shift toward the crime control model (see Figure 1.6). Other efforts to support homeland security, or the national effort to prevent future terrorist strikes, have generally reflected crime control values as well.

Even though many Americans recognize that the government must take strong steps to protect the United States from terrorist attacks, the Patriot Act has been intensely criticized for “going too far” in infringing on individual civil rights. Several incidents have intensified this backlash. First, in 2005, the National Security Agency admitted that it had been eavesdropping on Americans without first obtaining a court order (a topic we discuss in Chapter 7) since the September 11 attacks. Then, as you will see in Chapter 15, in 2007 the FBI conceded that its agents had been misusing the Patriot Act to gather records on telephone company and Internet service provider customers. Although President Bush expressed “concern” over civil rights abuses connected with antiterrorism efforts, he also signaled that his administration remained committed to the values of crime control in the post-9/11 criminal justice landscape.

Self Check Fill in the Blanks

The ______ model of criminal justice places great importance on high rates of apprehension and conviction of criminal suspects. In contrast, the ______ model emphasizes the rights of the ______ over the powers of the state. On September 11, 2001, the pendulum swung toward the ______ model, as our government responded to the challenges of fighting acts of violence motivated by political grievances, also known as ______. Check your answers on page 23.
GUN CONTROL VERSUS GUN RIGHTS

For many Americans, gun ownership provides a comforting feeling of safety. In the six-month period following the terrorist attacks of September 11, 2001, for example, handgun sales increased by 455,000 over the same period the year before.\(^3\) The vast majority of Americans who own guns are law-abiding citizens who keep their firearms at home for self-protection. This chapter’s Criminal Justice in Action feature deals with the thorny issue of how best to protect the rights of this group while at the same time limiting the harm done by the illegal or improper use of firearms in the United States.

**AS AMERICAN AS . . .**

The Second Amendment to the U.S. Constitution states, “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” Forty-four states have added similar guarantees to their constitutions, as well as giving gun owners various rights—such as the rights to carry a concealed weapon and to shoot at intruders—not found in the original document.\(^2\) Law enforcement efforts in this area are mostly concerned with keeping guns out of the hands of those—such as children, the mentally ill, and criminals—who might use guns to harm themselves or others.

Critics of our nation’s relatively lax gun laws argue for greater restrictions on ownership. They consider gun use to be a public health problem with disastrous consequences for American society. According to government data, on an average day in the United States firearms are used to kill about 80 people and wound 160 more.\(^3\) Nevertheless, in the entire country, only the cities of Washington, D.C., and Chicago, Illinois, have passed local ordinances banning firearms.

### The Case for More Restrictive Gun Laws

- Guns kill. A recent survey found that homicide rates are highest in states with the highest levels of gun ownership.\(^3\)
- Guns in a household are more likely to harm the occupants than protect them. A household that contains guns is three times more likely to be the site of a fatal shooting and five times more likely to experience a suicide than households that have no firearms.\(^3\)

Furthermore, according to the federal government, guns are used for defensive purposes only about 108,000 times each year—a figure that is dwarfed by the 1.3 million gun crimes occurring each year.\(^3\)

- The Second Amendment protects the rights of states to maintain militias without federal government interference, not the rights of individual citizens to have guns.

### The Case against More Restrictive Gun Laws

- Gun control laws do not decrease crime, for the simple reason that someone who is going to commit a crime with a gun is probably going to obtain that firearm illegally. So, for example, fifteen years after Washington, D.C.’s ban went into effect in 1977, the city’s murder rate had increased 300 percent.\(^3\) In 2006, District police confiscated more than 2,600 guns. As one observer points out, “the D.C. gun control laws irrationally prevent only law-abiding citizens from owning handguns.”\(^3\)
- Handguns offer protection from criminal attacks beyond that provided by public law enforcement.
- About a quarter of a billion handguns are privately and legally owned in this country. Putting restrictions on that ownership would create a huge new criminal class in this country, not to mention the anger toward the government that such measures would provoke.

### Your Opinion—Writing Assignment

In an historic 2008 decision, the United States Supreme Court struck down Washington, D.C.’s handgun ban, ruling that the Second Amendment provides individuals with a constitutional right to bear arms.\(^3\) The Court ruled that while the federal government can regulate and require registration of handguns, it cannot prevent private ownership in the home, as the D.C. statute did.

Following the decision, city officials in Chicago insisted that its ban remained valid, as the Supreme Court’s decision only applied to the federal law that covered Washington, D.C. Do you think that the Court should allow states and cities to restrict gun ownership if a majority of citizens in those jurisdictions wish to do so? Do you agree with the Court’s recent decision, or would our society benefit from stricter gun control provisions? Before responding, you can review our discussions in this chapter concerning:

- Consensus and conflict models of crime (pages 5–7).
- Federalism and the structure of the criminal justice system (pages 12–14).
- The purpose of the criminal justice system (pages 11–12).

Your answer should include at least three full paragraphs.
Describe the two most common models of how society determines which acts are criminal.
The consensus model argues that the majority of citizens will agree on which activities should be outlawed and punished as crimes; it rests on the assumption that a diverse group of people can have similar morals. In contrast, the conflict model argues that in a diverse society, the dominant groups exercise power by codifying their value systems into criminal laws.

Define crime and identify the different types of crime. Crime is any action punishable under criminal statutes. Because crime is considered an offense against society, alleged criminals are prosecuted by the state rather than by victims. Crimes are punishable by sanctions that bring about a loss of personal freedom or, in some cases, fines. There are six groups of crimes: (a) violent crimes—murder, rape, assault, battery, robbery; (b) property crimes—pocket picking, shoplifting, larceny/theft, burglary, and arson; (c) public order crimes—public drunkenness, prostitution, gambling, and illicit drug use; (d) white-collar crime—fraud and embezzlement; (e) organized crime—crime undertaken by a number of persons who operate their activities much as legal businesses do; and (f) high-tech crime—sabotage, fraud, embezzlement, and theft of proprietary data from computer systems, as well as cyber crimes, such as selling child pornography over the Internet.

Outline the three levels of law enforcement. Because we have a federal system of government, law enforcement occurs at the (a) national, or federal, level and the (b) state level and within the states at the (c) local level. Because crime is mostly a local concern, most employees in the criminal justice system work for local governments. Agencies at the federal level include the FBI, the DEA, and the U.S. Secret Service, among others.

List the essential elements of the corrections system. Criminal offenders may be placed on probation, incarcerated in a jail or prison, transferred to community-based corrections facilities, or released on parole.

Explain the difference between the formal and informal criminal justice processes. The formal criminal justice process involves prescribed procedures such as booking, setting bail, and the like. For every step in the formal process, though, someone has discretion, and such discretion leads to an informal process. Even when prosecutors believe that a suspect is guilty, they have the discretion not to prosecute, for example.

Describe the layers of the “wedding cake” model. The top layer consists of celebrity cases, which are most highly publicized; the second layer involves high-profile felonies, such as rape and murder; the third layer consists of property crimes such as larcenies and burglaries; and the fourth layer consists of misdemeanors.

Contrast the crime control and due process models. The crime control model assumes that the criminal justice system is designed to protect the public from criminals; thus, its most important function is to punish and repress criminal conduct. The due process model presumes that the accused are innocent and provides them with the most complete safeguards, usually within the court system.

Key Terms

assault 8  
battery 8  
burglary 8  
civil rights 19  
conflict model 6  
consensus model 5  
crime 5  
crime control model 19  
criminal justice system 11  
deviance 7  
discretion 16  
due process model 19  
federalism 12  
homeland security 21  
larceny 8  
organized crime 9  
public order crime 8  
murder 7  
robbery 8  
sexual assault 7  
terrorism 21  
"wedding cake" model 17  
white-collar crime 8

Self Check

Page 11:  i. society; ii. public officials/the government; iii. deviance; iv. violent; v. property; vi. white-collar  
Page 18:  i. federalism; ii. dual; iii. state; iv. discretion; v. "wedding cake"

Page 21:  i. crime control; ii. due process; iii. individual; iv. crime control; v. terrorism.
Questions for Critical Analysis

1. How is it possible to have a consensus about what should or should not be illegal in a country with several hundred million adults from all races, religions, and walks of life?
2. Why are criminals prosecuted by the state, rather than by the victims themselves?
3. Why are public order crimes sometimes referred to as victimless crimes?
4. At what political level is most law enforcement carried out? Relate your answer to the concept of federalism.
5. Suppose that all of the officials involved in the criminal justice process were deprived of the discretion they now have. What might some of the results be?
6. What is the name of the federal legislation passed in 2001 to enhance the federal government’s ability to combat terrorism? What are some of the “tools” this law provides law enforcement officials to aid their antiterrorism efforts?

Maximize Your Best Possible Outcome for Chapter 1

1. Maximize Your Best Chance for Getting a Good Grade on the Exam. CengageNOW Personalized Study Plan is a diagnostic study tool containing valuable text-specific resources—and because you focus on just what you don’t know, you learn more in less time to get a better grade. How do you get CengageNOW? If your textbook came with an access code card, follow the directions on the card to access CengageNOW via academic.cengage.com/login. If your textbook did not come with an access code card, go to www.ichapters.com to purchase access to CengageNOW before your next exam.
2. Get the Most Out of Your Textbook by going to the book companion Web site at www.cjinaction.com to access a tutorial quiz, use the flash cards to master key terms, and check out the many other study aids you’ll find there. Under chapter resources you will also be able to access the Stories from the Street feature and the Web links mentioned in the textbook.
3. Learn about Potential Criminal Justice Careers discussed in this chapter by exploring careers online at www.cjinaction.com. You will find career descriptions and information about job requirements, training, salary and benefits, and the application process. You can also watch video profiles featuring criminal justice professionals.

Notes

1. Tim Rutten, “‘Prayers’ Just Won’t Do,” Los Angeles Times (February 13, 2008), 25.
2. 740 ILCS 110/12(b)(2) (2008).
13. Ibid.
17. Ibid.
21. Ibid.
22. Givelber, 1317.
24. Gideon v. Wainwright, 372 U.S. 335 (1963). Many United States Supreme Court cases will be cited in this book, and it is important to understand these citations. Gideon v. Wainwright refers to the parties in the case that the Court is reviewing. “U.S.” is the abbreviation for United States Reports, the official publication of United States Supreme Court decisions. “372” refers to the volume of the United States Reports where the case appears, and “335” refers to the page
number. The citation ends with the year the case was decided in parentheses. Most, though not all, case citations in this book will follow this formula. For general information on how to read case citations and find court decisions, see the appendix at the end of this chapter.

Chapter One Appendix

HOW TO READ CASE CITATIONS AND FIND COURT DECISIONS

Many important court cases are discussed throughout this book. Every time a court case is mentioned, you will be able to check its citation using the endnotes on the final pages of the chapter. Court decisions are recorded and published on paper and on the Internet. When a court case is mentioned, the notation that is used to refer to, or to cite, the case denotes where the published decision can be found.

Decisions of state courts of appeals are usually published in two places, the state reports of that particular state and the more widely used National Reporter System published by West Group. Some states no longer publish their own reports. The National Reporter System divides the states into the following geographic areas: Atlantic (A. or A.2d), North Eastern (N.E. or N.E.2d), North Western (N.W. or N.W.2d), Pacific (P., P.2d, or P.3d), Southern (So. or So.2d), and South Western (S.W., S.W.2d, or S.W.3d). The 2d and 3d in these abbreviations refer to the Second Series and Third Series, respectively.

Federal trial court decisions are published unofficially in West's Federal Supplement (F.Supp. or F.Supp.2d), and opinions from the circuit courts of appeals are reported unofficially in West's Federal Reporter (F, F.2d, or F.3d). Opinions from the United States Supreme Court are reported in the United States Reports (U.S.), the Lawyers' Edition of the Supreme Court Reports (L.Ed.), West's Supreme Court Reporter (S.Ct.), and other publications. The United States Reports is the official publication of United States Supreme Court decisions. It is published by the federal government. Many early decisions are missing from these volumes. The citations of the early volumes of the United States Reports include the names of the actual reporters, such as Dallas, Granch, or Wheaton. McCulloch v. Maryland, for example, is cited as 17 U.S. (4 Wheat.) 316. Only after 1874 did the present citation system, in which cases are cited based solely on their volume and page numbers in the United States Reports, come into being. The Lawyers' Edition of the Supreme Court Reports is an unofficial and more complete edition of Supreme Court decisions. West's Supreme Court Reporter is an unofficial edition of decisions dating from October 1882. These volumes contain headnotes and numerous brief editorial statements of the law involved in the case.

Citations to decisions of state courts of appeals give the name of the case; the volume, name, and page number of the state's official report (if the state publishes its own reports); and the volume, unit, and page number of the National Reporter. Federal court citations also include the name of the case and the volume, name, and page number of the report. In addition to the citation, this textbook lists the year of the decision in parentheses. Consider, for example, the case Miranda v. Arizona, 384 U.S. 436 (1966). The Supreme Court's decision in this case may be found in volume 384 of the United States Reports on page 436. The case was decided in 1966.
Causes of Crime

Chapter outline

• Exploring the Causes of Crime
• Victimology and Victims of Crime
• Criminology from Theory to Practice
• Criminal Justice in Action—The Link between Violent Video Games and Crime

Learning objectives

After reading this chapter, you should be able to:

LO1 Explain the assumption on which choice theories of crime are based.
LO2 Distinguish between social disorganization theories and social conflict theories of why people commit crimes.
LO3 Identify two social process theories of crime.
LO4 Describe how life course criminology differs from many other theories addressed in this chapter.
LO5 Discuss the evolution of victimology from its beginnings in the 1940s until today.
LO6 Interpret the term *system revictimization* and explain its role in the victims’ rights movement.
LO7 Describe the chronic offender and explain how research involving chronic offenders has influenced law enforcement strategies.
Often, in the wake of a violent act such as a homicide, first reactions tend toward bewilderment. "Why?" ask the family and friends of the perpetrator or the victim. "Why would anyone do such a horrible thing?" The motives behind workplace violence, however, are generally more transparent. Take the case of William Phillips, who, on April 16, 2007, sneaked a snub-nosed revolver past security at the Johnson Space Center in Houston, a branch of the National Aeronautics and Space Administration (NASA). Once inside, Phillips, a sixty-year-old contract worker who had been affiliated with NASA for more than a decade, walked into the office of engineer David Beverly and killed him with shots to the leg and chest. Phillips then bound Fran Crenshaw, who happened to be in the office, to a chair and taped her mouth shut. Law enforcement personnel soon arrived on the scene, but Phillips watched televised news reports of the standoff for more than three hours before killing himself.

Investigators quickly uncovered the crime's underlying drama. Just over a month earlier, Phillips, who lived alone, had received an e-mail from superiors detailing deficiencies in his job performance. Two days later, he purchased a .38 caliber revolver and twenty rounds of ammunition. Before killing Beverly, Phillips said, "You're the one that's going to get me fired." He never had any intention of harming Crenshaw and only taped her mouth so that she would not scream and alarm the police officers outside the room when he shot himself.

Ironically, the Johnson Space Center's security team had reviewed the center's procedures earlier in the week. As a NASA staffer, however, Phillips still had little trouble getting his gun into the building. "When an employee has decided that he wishes to avenge a grudge . . . and is willing to die in the process, it is virtually impossible to stop that person," said NASA administrator Mike Griffin. "[Phillips] was determined that he was going to die."

The study of crime, or criminology, is rich with theories as to why people commit crimes. In this chapter, we discuss the most influential of these theories, some of which complement each other and some of which do not. We also look at the factors most commonly, if not always correctly, associated with criminal
Exploring the Causes of Crime

William Phillips may seem to fit the pattern of persons likely to commit workplace violence. Criminologists, or researchers who study the causes of crime, warn against using such models to predict violent behavior, however. After all, not every middle-aged white man who has a grudge against his employer and owns a gun is a potential criminal. Studies may show a correlation between these factors and workplace violence, but very few criminologists would go as far as to claim that these factors cause violent behavior. Correlation between two variables means that they tend to vary together. Causation, in contrast, means that one variable is responsible for the change in the other. Research shows, for example, that ice cream sales and crime rates both rise in the summer. Thus, there is a correlation between ice cream sales and crime. Nobody would seriously suggest, though, that increased sales of ice cream cause the boost in crime rates.

This is the quandary in which criminologists find themselves. We can say that there is a correlation between violent workplace crime and certain characteristics of violent workplace criminals. But we cannot say what actually caused William Phillips to kill David Beverly without knowing much more about his background and environment, and possibly not even then. Consequently, the question that is the underpinning of criminology—what causes crime?—has yet to be fully answered.

THE ROLE OF THEORY

Criminologists have, however, uncovered a wealth of information concerning a different, and more practically applicable, inquiry: Given a certain set of circumstances, why do individuals commit criminal acts? This information has allowed criminologists to develop a number of theories concerning the causes of crime. For our purposes, a theory is an explanation of a happening or circumstance that is based on observation, experimentation, and reasoning. Scientific and academic researchers observe facts and their consequences to develop theories about what will occur when a similar fact pattern is present in the future. They then test these theories to determine whether they are valid. Criminological theories are primarily concerned with determining the reasons behind criminal behavior, but they can also provide practical guidance for law enforcement, court, and corrections officials. In the following sections, we examine the most widely recognized theories: choice theories, trait theories, sociological theories, social process theories, social conflict theories, and life course theories.

CHOICE THEORIES

For those who subscribe to choice theory, the answer to why a person commits a crime is rather straightforward: because that person chooses to do so. Social scientist James Q. Wilson sums up rational choice theory as follows:

At any given moment, a person can choose between committing a crime and not committing it. The consequences of committing a crime consist of rewards (what psychologists call "reinforcers") and punishments; the consequences of not committing the crime also entail gains and losses. The larger the ratio of the net rewards of crime to the net rewards of [not committing a crime], the greater the tendency to commit a crime.5

In other words, before a person commits a crime, he or she acts as if weighing the benefits (which may be money in the case of a robbery) against the costs (the

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After admitting to their part in an arson spree that destroyed nine churches in rural Alabama during the winter of 2006, college students Russell DeBusk, left, and Ben Moseley claimed that they set the fires as “a joke.” According to choice theory, why should criminal law deter most rational people from making these kinds of “jokes”? If the perceived benefit is greater than the costs, the person is more likely to commit the crime.

In expanding on rational choice theory, sociologist Jack Katz has stated that the “rewards” of crime may be sensual as well as financial. The inherent danger of criminal activity, according to Katz, increases the “rush” a criminal experiences on successfully committing a crime. Katz labels the rewards of this “rush” the *seduction of crime.* For example, serial killer John Wayne Gacy claims to have “realized that death was the ultimate thrill” after murdering the first of his more than thirty victims. Katz believes that seemingly “senseless” crimes can be explained by rational choice theory only if the intrinsic reward of the crime itself is considered.

The theory that wrongdoers choose to commit crimes is a cornerstone of the American criminal justice system. Because crime is seen as the end result of a series of rational choices, policymakers have reasoned that severe punishment can deter criminal activity by adding another variable to the decision-making process. Supporters of the death penalty—now used by thirty-eight states and the federal government—emphasize its deterrent effects, and legislators have used harsh mandatory sentences in attempts to control illegal drug use and trafficking. (To get a better idea of how a convicted criminal's ability to choose might affect his or her punishment, see the feature *You Be the Judge—The Tumor Made Me Do It.*)

**TRAIT THEORIES**

The Italian physician Cesare Lombroso (1835–1909), who is known as the father of criminology, believed that criminals were throwbacks to the savagery of early humankind and could therefore be identified by certain physical characteristics such as sharp teeth and large jaws. These individuals, according to Lombroso, had no free choice when it came to wrongdoing—their criminality had been predetermined at birth. Such far-fetched notions have long been relegated to scientific oblivion. Nevertheless, many criminologists do believe that *trait theories* have validity. These theories suggest that certain biological or psychological traits in individuals could incline them toward criminal behavior given a certain set of circumstances. Biology is a very broad term that refers to the scientific study of living organisms, while psychology pertains more specifically to the study of the mind. “All behavior is biological,” points out geneticist David C. Rowe of the University of Arizona. “All behavior is represented in the brain, in its biochemistry, electrical activity, structure, and growth and decline.”

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**Biology** The science of living organisms, including their structure, function, growth, and origin.

**Psychology** The scientific study of mental processes and behavior.
Biochemical Conditions and Crime One trait theory holds that biochemistry, or the chemistry of living matter, can influence criminal behavior. To give one example, chemical messengers known as hormones have been the subject of much criminological study. Criminal activity in males has been linked to hormones—specifically, testosterone, which controls secondary sex characteristics and has been associated with traits of aggression. Testing of inmate populations shows that those incarcerated for violent crimes exhibit higher testosterone levels than other prisoners. Elevated testosterone levels have also been used to explain the fact that younger males commit more crimes than older males, as the average testosterone level of men under the age of twenty-eight is double that of men between thirty-one and sixty-six years old.

Many scientists think that criminal behavior can also be influenced by neurological defects that are acquired early in life. This theory relies on electroencephalographic (EEG) scans of brain activity. An EEG records the electric oscillations, or waves, given off by the part of the brain that controls functions such as learning and memory. These brain waves are measured according to their frequency and strength, and certain patterns can be associated with criminal behavior. One study of a sample of 333 EEG subjects found that those who exhibited lifelong patterns of violence had an incidence of EEG abnormality three times higher than those who had been charged with only one violent offense. (For more information on “mapping crime” in the brain, see the feature CJ and Technology—Neuroimaging on the following page.)

Psychology and Crime Trait theories have also incorporated ideas from psychology, particularly the study of extreme disturbances in a person’s behavior, or personality disorders. The behavioral disturbance most closely associated with crime is antisocial personality disorder (ASPD). A person is diagnosed with ASPD...
if he or she is at least eighteen years old and exhibits certain characteristics, such as repeated unlawful behavior, deceitfulness, impulsiveness, reckless disregard for his or her own safety or the safety of others, irresponsibility, and aggressiveness. According to one estimate, 40 percent of all convicted criminals suffer from ASPD. Other personality disorders also interest criminologists. Post-traumatic stress disorder, a condition that occurs after a person has been exposed to a terrifying physical or emotional event, is relatively common in repeat violent offenders. People with borderline personality disorder suffer severe mood swings and often act aggressively. Many, though by no means all, medical experts also believe that drug abuse—defined as the use of any drug that causes either physiological or psychological harm to the abuser or third parties—is a mental disorder strongly linked to criminal behavior. One study found that about one-third of all state prisoners and one-fourth of all federal prisoners admitted to being under the influence of either drugs or alcohol when they committed the crime for which they were arrested.

CJ and Technology

WHAT IS NEUROIMAGING?
Neuroimaging is the process of using technology to create an image of the functioning brain. By placing electrodes on the subject’s scalp, for example, scientists can use computerized electroencephalography (CEEG) to measure the brain’s electrical responses to visual and auditory stimuli. Other neuroimaging measures include positron-emission computer tomography (PET) scanning, which produces a computerized image of molecular variations in brain metabolism, and magnetic resonance imaging (MRI), which depicts the form and structure of the brain by bombarding it with magnetic fields and radio waves.

WHAT DOES NEUROIMAGING DO?
Although neuroimaging has not become so familiar that it is accepted as evidence in the vast majority of American courtrooms, the procedure has captured the attention of a number of scientists. Using both CEEG and MRI technology, researchers at the Institute of Living in Hartford, Connecticut, claim to have identified striking abnormalities in the brain activity of repeat violent offenders. Specifically, the scientists found that the brains of those with violent tendencies respond differently from those of “normal” subjects when processing emotion. In one experiment, the researchers showed members of each subset a photograph of a distraught woman holding a dead child. While the image triggered heightened activity in the amygdala region of most people’s brains, the violent criminals did not respond to the picture on a subconscious level any differently than they would have responded to any inanimate object. Neuroimaging has also been effective in identifying attention-deficit/hyperactivity disorder, a condition that is believed to affect between 3 and 5 percent of this nation’s children and that has been linked with heightened risks of substance abuse, learning disabilities, and delinquency.

THINKING ABOUT NEUROIMAGING
Suppose, for argument’s sake, that at some time in the future neuroimaging allows scientists to determine, with a reasonable degree of certainty, which children are most likely to exhibit violent behavior as adults. What would be the implications of this technology? How would it help law enforcement officials prevent crimes? What might be some of the drawbacks of the ability to “predict” crime in this manner?

For more information on neuroimaging and other CJ technologies, click on Crime and Technology under Book Resources at www.cjinaction.com.
ity. Though the focus on treatment diminished somewhat in the 1990s, rehabilitation practices in corrections have made something of a comeback over the past few years. The primary motivation for this new outlook is the pressing need to divert nonviolent offenders from the nation’s overburdened prison and jail system.

**SOCIOLICAL THEORIES**

The problem with trait theory, many criminologists contend, is that it falters when confronted with certain crime patterns. Why is the crime rate in Detroit, Michigan, twenty-five times that in Sioux Falls, South Dakota? Do high levels of air pollution cause an increase in abnormal brain activity or higher levels of testosterone? As no evidence has been found to support such conclusions, many reject the idea that crime is something a person is “born to do.” Instead, these criminologists say, crime is the result of social conditions in a person’s environment. Juvenile researchers Clifford Shaw and Henry McKay popularized this idea with their social disorganization theory, developed in the early twentieth century. Shaw and McKay studied various high-crime neighborhoods in Chicago and found that these “zones” were characterized by “disorganization,” or a breakdown of the traditional institutions of social control, such as family, school systems, and local businesses.16 (See Figure 2.1 to better understand social disorganization theory.)

Other sociological theories contend that those who are disadvantaged because of poverty or other factors, such as racial discrimination, are more likely to commit crimes because other avenues to “success” have been closed off. High-crime areas will develop their own cultures, which are in constant conflict with the dominant culture. A cycle of crime claims the youth in the area, who grow into a life of deviance. Of course, if criminal behavior can be explained by the conditions in which certain groups of people live, then it stands to reason that changing those conditions can prevent crime. Indeed, government programs to decrease unemployment, reduce poverty, and improve educational facilities in low-income neighborhoods have been justified to a degree as part of large-scale attempts at crime prevention.

**Figure 2.1 The Stages of Social Disorganization Theory**

Social disorganization theory holds that crime is related to the environmental pressures that exist in certain communities or neighborhoods. These areas are marked by the desire of many of their inhabitants to “get out” at the first possible opportunity. Consequently, residents tend to ignore the important institutions in the community, such as businesses and education, causing further erosion and an increase in the conditions that lead to crime.

![Diagram of the stages of social disorganization theory](source: Adapted from Larry J. Siegel, *Criminology*, 10th ed. (Belmont, CA: Thomson/Wadsworth, 2008), 180.)
Some criminologists reject the sociological arguments just outlined as being too narrow. Surveys that ask people directly about their criminal behavior have shown that the criminal instinct is pervasive in middle- and upper-class communities, even if it is expressed differently. Anybody, these criminologists argue, has the potential to act out criminal behavior, regardless of his or her surroundings.

Social process theories hold that the major influence on any individual is not society in general but the social institutions that dominate that individual's everyday life, such as family, friends, and peer groups. The connection between family and crime is particularly evident: a remarkable 46 percent of jail inmates say that they have close relatives who have done time in a prison or a jail.17 (Another influential "interaction" these days is with violent video games, a subject that is explored in the Criminal Justice in Action feature at the end of this chapter).

Social Process Theories

A school of criminology that considers criminal behavior to be the predictable result of a person's interaction with his or her environment. According to these theories, everybody has the potential for wrongdoing. Those who act on this potential are conditioned to do so by family or peer groups, or institutions such as the media.

Learning Theory

The hypothesis that delinquents and criminals must be taught the practical and emotional skills necessary to participate in illegal activity.

Labeling Theory

The hypothesis that society creates crime and criminals by labeling certain behavior and certain people as deviant. The stigma that results from this social process excludes a person from the community, thereby increasing the chances that she or he will adopt the label as her or his identity and engage in a pattern of criminal behavior.

STUMBLING UPON STRAIN THEORY

My research led to the "strain" or anomie theories that said when a person stumbles in achieving financial success or middle-class status due to social factors beyond his or her control, he or she may turn to crime. That is, if you didn’t have access to a good education because your local school was poor, or perhaps your parents just didn’t have the money to send you to college, or you couldn’t land a good job because of your background, you might respond to these kinds of frustrations by turning to crime. While strain theory made a lot of sense to me, I felt that the theory was incomplete.

When I looked around me, it was easy to spot other sources of frustration and anger, such as harassment by peers, conflict with parents or romantic partners, poor grades in school, or poor working conditions. In addition, strain theory did not explain why some people reacted to strain by turning to crime, while others did not.

My dissertation proposed additional sources of strain besides failure to achieve monetary success. I continued to

Learning and Labeling Theories

One type of social process theory is learning theory. Introduced by Edwin Sutherland in the 1940s, learning theory sees crime as learned behavior.18 The "teacher" is usually a family member or friend who exposes the "student" to criminal activity. People who participate in these destructive social relationships have a better chance of engaging in criminal activities themselves. Another social process theory known as labeling theory contends that if someone is labeled delinquent or criminal by authority figures, the person is more likely to consider himself or herself as such and continue to engage in criminal behavior.19

Social Process Theory and Public Policy

Because adult criminals are seen as too "hardened" to unlearn their criminal behavior, crime prevention policies associated with social process theory focus on juvenile offenders. Many youths, for example, are diverted from the formal juvenile justice process to keep them from being labeled "delinquent." Furthermore, many schools have implemented programs that attempt to steer children away from crime by encouraging them to "just say no" to drugs and to stay in school.
SOCIAL CONFLICT THEORIES

A more recent movement in criminology focuses not on psychology, biology, or sociology but on power. Those who identify power—as the ability of one person or group of persons to control the economic and social positions of other people or groups—as the key component in explaining crime entered the mainstream of American criminology during the 1960s. These theorists saw social ills such as poverty, racism, sexism, and destruction of the environment as the “true crimes,” perpetrated by the powerful, or ruling, classes. Burglary, robbery, and even violent crimes were considered reactions by the powerless against laws that were meant to repress, not protect, them. Thus, social conflict theories are often associated with a critique of our capitalist economic system.

Backlash against Capitalism According to some social conflict theorists, capitalism inevitably leads to high levels of violence and crime because of the disparity of income it encourages. The poor commit property crimes for reasons of need and because, as members of a capitalist society, they desire the same financial rewards as everybody else. They commit violent crimes because of the frustration and rage they feel when these rewards seem unattainable. Laws, instead of reflecting the values of society as a whole, reflect only the values of the segment of society that has achieved power and is willing to use the criminal justice system as a tool to keep that power. Thus, the harsh penalties for “lower-class” crimes such as burglary, robbery, and even violent crimes were considered reactions by the powerless against laws that were meant to repress, not protect, them. Thus, social conflict theories are often associated with a critique of our capitalist economic system.

Relative Wealth and Power It is important to note that, according to social conflict theory, power is not synonymous with wealth. Women and members of minority groups can be wealthy and yet still be disassociated from the benefits of power in our society. For these groups, though, lack of wealth and lack of power remain related problems.

Thinking along racial lines, many observers would assert that African Americans as a group have been “have-nots” since the colonial period. Today, the median income of an African American family is nearly $20,000 less than that of a non-

I’ve explored a number of factors that influence whether a person will respond to strain by turning to crime, including coping skills and resources, social support, and association with delinquent peers.

DO-IT-YOURSELF CRIMINOLOGY If you are planning to do research on strain theory or on the causes of crime more generally, first familiarize yourself with relevant literature. Ask yourself whether a particular theory or argument makes sense—does it jibe with your experiences and your observations of others? If not, you may want to suggest an extension or revision in the theory.

Likewise, ask yourself whether the empirical tests of the theory make sense—are adequate samples employed, are all major concepts measured, and the like. It is not as difficult to make an original contribution as you might think.

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Criminal Justice in Action: THE CORE

Hispanic Caucasian family. In 2007, only four of the nation’s five hundred most profitable companies had a black chief executive. Similarly, women have run up against what has been called the “glass ceiling” as they attempt to assume positions of power in corporations: only nine major U.S. corporations have a female chief executive. Furthermore, those women most likely to be arrested and imprisoned have exactly the characteristics—low income, often raising children without the aid of a partner—that social conflict theorists would predict.

LIFE COURSE THEORIES

Over the past decade, a number of criminologists have begun to fill a gaping hole in the study of the causes of crime. As Francis T. Cullen and Robert Agnew put it, “throughout much of the history of American criminology, scholars simply ignored the fact that humans have a childhood.” Instead, the bulk of research on youthful offending has focused on teenagers. Yet childhood may hold the key to many questions criminologists have been asking for years. Many of the other theories discussed in this chapter attribute criminal behavior to factors—such as unemployment or poor educational performance—that take place long after an individual’s personality has been established. Practitioners of life course criminology believe that lying, stealing, bullying, and other conduct problems that occur in childhood are the strongest predictors of future criminal behavior and have been seriously undervalued in the examination of why crime occurs.

Focusing on childhood behavior raises the question of whether conduct problems established at a young age can be changed over time. Michael Gottfredson and Travis Hirschi, whose 1990 publication *A General Theory of Crime* is one of the foundations of life course criminology, think not. Gottfredson and Hirschi believe that criminal behavior is linked to “low self-control,” a personality trait that is formed before a child reaches the age of ten and can usually be attributed to poor parenting.

“The common argument that crime is caused by poverty is a kind of slander on the poor.” — H. L. Mencken, American journalist (1956)
Someone with low self-control is generally impulsive, thrill seeking, and likely to solve problems with violence rather than intellect. Gottfredson and Hirschi think that once low self-control has been established, it will persist; that is, childhood behavioral problems are not “solved” by positive developments later in life, such as healthy personal relationships or a good job. Thus, these two criminologists ascribe to what has been called the *continuity theory of crime*, which essentially says that once negative behavior patterns have been established, they cannot be changed.

Other life course criminologists, however, disagree. Although they acknowledge that childhood tendencies are strong predictors of continued antisocial behavior, they believe that some offenders may experience “turning points” when they are able to veer off the road to a life of crime. (See Mastering Concepts on the following page for a review of the theories discussed so far in this chapter.)

**Self Check Fill in the Blanks**

Criminologists employ ______, or explanations based on observations and reasoning, to explain the possible causes of crime. ______ theory holds that criminals make a deliberate decision to commit a crime after weighing the possible rewards and costs of the act. ______ theories of crime suggest that the origins of crime can be found in the body, while ______ theories focus on the disorders of the mind. A criminologist who studies the effect of community or neighborhood conditions on criminal activity is testing ______ theories of crime, while one who concentrates on the influence of friends and family is analyzing ______ theories of criminal behavior. Check your answers on page 46.

**Victimology and Victims of Crime**

Since its founding days, criminology has focused almost exclusively on one-half of the crime equation: the offender. If you review our discussion of criminology up to this point, you will find little mention of the other half: the victim. Indeed, it was not until after World War II (1939–1945) that the scientific study of crime victims began to appeal to academicians, and only in the last several decades has *victimology* become an essential component of criminology. The growing emphasis on the victim has had a profound impact on the police, the courts, and corrections administrators in this country. Accordingly, Andrew Karmen, a professor of sociology at the John Jay College of Criminal Justice in New York City, has defined *victimology* as the study of “relationships between victims and offenders [and] the interactions between victims and the criminal justice system.”

**THE EXPERIENCE OF BEING A VICTIM**

Although he never used the term *victimology* to describe his work, the German criminologist Hans von Hentig (1887–1974) has been credited with introducing the notion that the victim’s role in crime merited more attention. In his 1948 book, *The Criminal and His Victim*, von Hentig described the victim as one of the “causative elements” of the crime, consciously or unconsciously provoking the criminal act through his or her behavior. The theory that the victim played an active role in his or her own victimization continued to dominate victimology for several decades. Starting in the 1970s, however, the “art of blaming the victim” came under heavy criticism, and criminologists began...
## The Causes of Crime

### Choice Theories

Crime is the result of rational choices made by those who decide to engage in criminal activity for the rewards it offers. The rewards may be financial, or they may be psychological—criminals enjoy the “rush” that comes with committing a crime. According to choice theorists, the proper response to crime is harsh penalties, which force potential criminals to weigh the benefits of wrongdoing against the costs of punishment if they are apprehended.

### Biological and Psychological Trait Theories

Criminal behavior is explained by biological and psychological attributes of the individual. Those who support biological theories of crime believe that the secret to crime is locked in the human body: in hormones, neurological defects, and the like. Psychological attempts to explain crime focus on such abnormalities as personality disorders.

### Sociological Theories

Crime is not something a person is “born to do.” Instead, it is the result of the social conditions under which a person finds himself or herself. Those who are socially disadvantaged—because of poverty or other factors, such as racial discrimination—are more likely to commit crimes because other avenues to “success” have been closed off. High-crime areas will develop their own cultures that are in constant conflict with the dominant culture and create a cycle of crime that claims the youths who grow up in the area.

### Social Process Theories

The major influence on any individual is not society in general but the interactions that dominate everyday life. Therefore, individuals are drawn to crime not by general factors such as “society” or “community” but by family, friends, and peer groups. Crime is “learned behavior”; the “teacher” is usually a family member or friend. Furthermore, if a person is labeled “delinquent” or “criminal” by the authority figures or organizations in his or her life, there is a greater chance he or she will create a personality and actions to fit that label.

### Social Conflict Theories

Criminal laws are a form of social control. Through these laws, the dominant members of society control the minority members, using institutions such as the police, courts, and prisons as tools of oppression. Crime is caused by the conflict between the “haves” and “have-nots” of society. The poor commit crimes because of the anger and frustration they feel at being denied the benefits of society.

### Life Course Theories

Even though criminal behavior usually begins after the age of fourteen, the factors that lead to that behavior start much earlier. Thus, to fully understand why crime occurs, criminologists must better understand behavioral problems of early childhood and how those problems lead to or predict later wrongdoing. The most pressing question becomes whether early misbehavior necessarily leads to a life of crime, or whether it can be used as a warning signal to prevent such a future from taking place.

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to concentrate on the physical, emotional, and economic damages suffered by individuals as a result of crime.

Taking into account factors ranging from lost wages to medical costs to psychological trauma, federal researchers have estimated the total economic losses for victims of violent crime to be $1.4 billion annually. A number of studies have
also shown that victimization results in mental health problems and substance abuse, as crime victims struggle to deal with the psychological aftermath of the experience.

Furthermore, data show that the same persons tend to be both victims and offenders, perhaps suggesting that being a victim may lead to future criminal wrongdoing.

THE RISKS OF VICTIMIZATION

Anybody can be a victim of crime. This does not mean, however, that everybody is at an equal risk of being victimized. For example, as mentioned, those who commit crimes are often more likely to be victims themselves. In 2007, about 91 percent of those murdered in Baltimore, Maryland, had criminal records, with similar percentages measured in Newark, New Jersey (85 percent), and Philadelphia (75 percent).

Resources such as the National Crime Victimization Survey, which you will learn more about in the next chapter, allow “victimologists” to pinpoint those persons who are most at risk to be victimized by crime. As Figure 2.2 shows, certain demographic groups—particularly young, male African Americans—are statistically more vulnerable than others. Without implying that these groups cause their own victimization, criminologists can explore how aspects of an individual’s life affect the possibility of being a crime victim.

ALCOHOL AND VICTIMIZATION

In the introduction to this chapter, we discussed the differences between correlations and causes. Due to the complexities of their field, criminologists are usually reluctant to declare that any one factor causes a certain result. Richard B. Felson and Keri B. Burchfield of Penn State University, however, believe that alcohol consumption has a causal effect on victimization under certain circumstances. After examining victimization surveys, Felson and Burchfield found that “frequent and heavy drinkers” are at great risk of assault when they are drinking, although they do not show abnormal rates of victimization when they are sober. The authors hypothesize that drinking causes aggressive and offensive behavior, particularly in intoxicated men, which in turn triggers violent reactions in those around them.

WOMEN AND VICTIMIZATION

A study published by Janet L. Lauritsen and Robin J. Schaum of the University of Missouri–St. Louis has similarly expanded our understanding of women at risk of violent crime. Though much research has focused on the victim’s race, ethnicity, or economic status, Lauritsen and Schaum believe that family structure and the family composition of a community may provide more consistent clues to the actual threat of violence faced by women. They found that young women who are raising children without the help of a partner and who live in communities with a higher concentration of other single-mother households suffer consistently elevated victimization rates, regardless of their race or income level. Lauritsen and Schaum’s results may be partly explained by the difficulty these women have in forming the community ties that, in the eyes of social disorganization theorists, help protect individuals against crime.
PROTECTING VICTIMS’ RIGHTS

Female victims of crime, particularly sexual assault, have been integral to perhaps the most remarkable aspect of victimology: its transformation from a solely academic discipline to the basis for a political movement. Historically, victims of crime were virtually absent from the criminal justice system. Once the crime was committed, the victim’s role in the process was generally limited to appearing as a witness for the prosecution. In criminal trials, the state brings charges against the defendant “in the name of the people.” “[T]he purpose of the criminal trial is not to stand by the victim,” says Stephen J. Schulhofer, a professor at the New York University School of Law. “The purpose of the trial is to determine whether the defendant is factually and legally responsible for an offense.”

The Victims’ Rights Movement

A large number of Americans, particularly victims themselves, do not agree with Schulhofer. Advocates of victims’ rights speak of system revictimization, a term used to describe the frustration of victims. “The system saw me as a piece of evidence, like a fingerprint or a photograph, not as a feeling, thinking human being,” said one rape victim. Indeed, the modern victims’ rights movement began with the opening of rape-crisis centers by feminist groups in the early 1970s. Since then, hundreds of grassroots organizations have been formed to deal with the needs of victims. Some, such as Parents of Murdered Children, are primarily concerned with the emotional state of victims. Others, such as Mothers Against Drunk Driving, concentrate on lobbying legislators for victims’ rights laws.

State Laws

Much of this effort has focused on state-level protection, and the impact has been impressive. State legislators have passed nearly 30,000 victim-related laws over the past twenty years, and thirty-two state constitutions now include protections for the rights of crime victims. These laws generally focus on three areas:

- Enabling the victim to receive restitution from the person who committed the crime.
- Allowing the victim to participate in the criminal prosecution and sentencing of the offender (a topic explored in Chapter 9).
- Protecting the victim from harassment or abuse during the criminal justice process (such as intrusive interviews by the police).

This legislation often gives the victim a legal ground on which to challenge the actions of police, judges, and corrections officials. In Arizona, for example, a state parole board granted a rapist parole without notifying his victim of the parole hearing. The woman challenged the decision, noting that the state constitution gave her the right to be present at any such proceeding. Citing this failure to notify the victim, the Arizona Supreme Court ordered a new parole hearing at which the victim was given a chance to tell her “side of the story.” The parole decision was reversed, and the offender was sent back to prison.

Federal Laws

Despite decisions such as the Arizona parole board’s reversal, many observers feel that state laws do not go far enough in protecting victims’ rights. A large-scale study carried out by federal government researchers in the early 2000s found that these laws are not consistently observed. Even in states with “strong” legislative protections for victims, 62 percent of victims were not notified when their offender was released from jail before trial, and 45 percent were not notified of their offender’s sentencing hearing. In states with “weak” protections, the percentages were significantly higher.

Partly as a response to the perceived weakness of various state-level protections, in 2004 President George W. Bush signed federal legislation that provides crime victims with certain rights no matter where they live. These include the right to be notified of and involved in all relevant court procedures and the right to be “reasonably protected” from the accused offender. If the victim believes that his or her rights are being violated, he or she can take the matter before a federal court.

Self Check Fill in the Blanks

According to statistics, ________ are victims of crime more frequently than members of other races, and teenagers are _____ likely to be victimized than those over the age of twenty. Furthermore, research conducted by two criminologists shows that those who consume _______ greatly increase the risk that they will be the victim of an assault under certain circumstances. The ________ movement is a political campaign with a goal of improving treatment of victims in the criminal justice system. Check your answers on page 46.

Criminology from Theory to Practice

You have almost completed the only chapter in this textbook that deals primarily with theory. What follows will concentrate on the more practical and legal aspects of the criminal justice system: how law enforcement agencies fight crime, how our court systems determine guilt or innocence, and how we punish those who are found guilty. As our discussion of victimology’s influence on victims’ rights legislation shows, however, criminology can play a crucial role in the criminal justice system. “A lot of my colleagues just want to write scholarly articles for scholarly journals,” notes Professor James Alan Fox. “But I think if you’re in a field with specialized knowledge that can be useful to the community, you should engage the public and policymakers.”

CRIMINOLOGY AND THE CHRONIC OFFENDER

Perhaps the most useful criminological contribution to crime fighting in the past half century was Delinquency in a Birth Cohort, published by the pioneering trio of Marvin Wolfgang, Robert Figlio, and Thorsten Sellin in 1972. This research established the idea of the chronic offender, or career criminal, by showing that a small group of juvenile offenders—6 percent—was responsible for a disproportionate amount of the violent crime attributed to a group of nearly 10,000 young males: 71 percent of the murders, 82 percent of the robberies, 69 percent of the aggravated assaults, and 73 percent of the rapes.

Further research has supported the idea of a “chronic 6 percent,” and law enforcement agencies and district attorneys’ offices have devised specific strategies to apprehend and prosecute repeat offenders, with dozens of local police agencies forming career criminal units to deal with the problem. Legislators have also reacted to this research: habitual offender laws that provide harsher sentences for repeat offenders have become quite popular. We discuss these statutes, including the controversial “three-strikes-and-you’re-out” laws, in Chapter 10.

CRIMINOLOGY AND THE CRIMINAL JUSTICE SYSTEM

There is a sense, however, that criminology has not done enough to make our country a safer place. Eminent criminologist James Q. Wilson, for one, has criticized his peers for trying to understand crime rather than reduce it. Many criminal justice practitioners also argue that too much of the research done by criminologists is not useful to practitioners.

Chronic Offender A delinquent or criminal who commits multiple offenses and is considered part of a small group of wrongdoers who are responsible for a majority of the antisocial activity in any given community.
A police officer keeps watch over a murder victim in the South End of Boston, a city experiencing increased crime rates and gun violence. Studies conducted by the Boston Police Department show that nearly a third of all persons arrested in the city for firearms charges had one or more prior arrests. Considering the theory of the chronic offender, what steps could Boston law enforcement officials take to reduce their violent crime rate?

Criminologists is inaccessible to them. As Sarah J. Hart, director of the National Institute of Justice, has noted, an overwhelmed police chief simply does not have the time or patience to wade through the many scientific journals in which crime research appears.51 These criticisms notwithstanding, John H. Laub of the American Society of Criminology defends modern criminology’s practical benefits.52 He points out that the work of Clifford Shaw and Henry McKay (see page 35) focused law enforcement efforts on the community, while Travis Hirschi’s research in the 1960s on the root causes of delinquency has had a wide impact on the juvenile justice system. As we discuss further in Chapter 6, Wilson himself (in collaboration with George Kelling) developed the “broken windows” theory, which reshaped police strategy in the 1990s and 2000s. Indeed, in the opinion of many observers, researchers know more today about “what works” in criminology than at any other time in our nation’s history.53

Self Check Fill in the Blanks

In 1972, Marvin Wolfgang and his colleagues established the idea of the ____ offender by showing that a ____ percentage of offenders is often responsible for a disproportionately ____ amount of crime. Research on this subject has led law enforcement agencies to focus resources on ____ offenders. Check your answers on page 46.
THE LINK BETWEEN VIOLENT VIDEO GAMES AND CRIME

According to a blog that he kept on VampireFreaks.com, Kimveer Gill enjoyed playing Super Columbine Massacre, an Internet-based video game based on the 1999 rampage by Dylan Klebold and Eric Harris at a Colorado high school that left thirteen people dead. On September 13, 2006, the twenty-five-year-old Gill, wearing a black trench coat (as had Klebold and Harris), walked into Montreal’s Dawson College and opened fire in the cafeteria (as had Klebold and Harris), killing one person and wounding nineteen others. Gill followed Klebold and Harris, who were aficionados of the first-person shooter video game Doom, in one other way. His actions sparked controversy over the possible links between violent video games and violent crime, a topic we now address in this chapter’s Criminal Justice in Action feature.

THE M GENERATION

Video games—representing a $13 billion industry—have saturated American youth culture. A recent study by the National Institute on Media and the Family found that 87 percent of all eight- to seventeen-year-olds surveyed played video games. Almost half of this group claimed to have purchased games rated “M” (mature) for excessive sex and violence, a category supposedly restricted for sale to those over the age of seventeen. Such statistics worry those, including many scientists and criminologists, who believe that exposure to violent video games increases aggressiveness in certain players, leading to antisocial and criminal behavior. This concern is fueled by anecdotal evidence of the link between video games and crime provided by the actions of offenders such as Klebold, Harris, and Gill.

The Case for a Link between Violent Video Games and Crime

• Studies using magnetic resonance imaging (MRI; see page 34) show that, immediately after playing a violent video game, teenagers exhibit increased brain activity in the areas of the brain related to aggressive behavior and decreased brain activity in the areas of the brain related to self-control.

• Research has found that violent video games, especially those of the first-person shooter type, not only desensitize players to real violence but also train them to commit real acts of violence.

• A consortium of health organizations has concluded that “well over 1,000 studies . . . point overwhelmingly to a causal connection between media violence and aggressive behavior in some children.”

The Case against a Link between Violent Video Games and Crime

• No legal authority has found that any of the studies cited above prove that violent video games actually cause crime. At best, they show a correlation between the games and aggressiveness, which does not always lead to violence.

• The studies cited cast video games as an easy scapegoat, failing to account for the many other possible factors in criminal behavior, such as parental control, socioeconomic status, and hormonal imbalance, that have been discussed in this chapter.

• Over the past decade, as sales of violent video games have skyrocketed, arrests for juvenile violent crimes have plummeted.

Your Opinion—Writing Assignment

Since 2000, more than forty states and municipalities have introduced legislation that attempts to restrict a minor’s access to violent video games. The courts, however, have struck down these laws on the ground that video games are protected under the First Amendment to the U.S. Constitution. Therefore, to restrict the sale and use of these games, a government entity must prove a causal connection between the games and real-life aggression by minors. As noted earlier, no researcher has been able to do that.

Do you think that the correlation between video games and violent behavior is strong enough to support laws that restrict a minor’s ability to purchase or play them? If so, what issues would you make sure were addressed in the legislation? If not, why do you think such a law is unnecessary? Furthermore, what role should parental responsibility play in this debate? Before responding, you can review our discussion in this chapter concerning:

• The difference between cause and correlation (page 31).

• Social process theories of crime, particularly learning theory (pages 36–37).

• Life course theories of crime (pages 38–39).

Your answer should include at least three full paragraphs.
Chapter Summary

1. **Explain the assumption on which choice theories of crime are based.** According to choice theory, people commit crimes because they choose to do so after weighing the possible benefits of the criminal act against the possible costs of getting caught.

2. **Distinguish between social disorganization theories and social conflict theories of why people commit crimes.** Social disorganization theory holds that people who live in neighborhoods or communities characterized by poverty, poor schools, and unsupportive families are more likely to commit crimes because these conditions support a “cycle of crime.” Social conflict theory is based on the idea that criminal law is defined and designed by the “haves” as a means to control the “have-nots”; thus, certain behavior is labeled “illegal” to maintain class and power distinctions.

3. **Identify two social process theories of crime.** Learning theory holds that crime is learned behavior, taught by a family member or friend. Labeling theory contends that once a person is designated delinquent or criminal by authority figures, that person is more likely to act in a delinquent or criminal manner.

4. **Describe how life course criminology differs from many other theories addressed in this chapter.** Many other theories addressed in this chapter link criminal behavior to factors—such as unemployment or poor schools—that affect an individual long after his or her personality has been established. Life course theories focus on behavioral patterns of childhood such as bullying, lying, and stealing as predictors of future criminal behavior.

5. **Discuss the evolution of victimology from its beginnings in the 1940s until today.** When criminologists first began studying the victims of crimes after World War II, they theorized that the victim played an active role in her or his victimization. This line of thinking remained popular for several decades. In the 1970s, however, victims’ rights groups began to criticize the “blame the victim” tendency in criminology, and researchers turned their attention to the experience of being a victim and the victim’s role in the criminal justice system.

6. **Interpret the term system revictimization and explain its role in the victims’ rights movement.** System revictimization reflects a feeling on the part of crime victims that the criminal justice system treats them with indifference and disrespect, increasing the trauma of victimization in the process. One of the major goals of the victims’ rights movement is to remedy this situation by giving crime victims more legal rights in and out of the courtroom.

7. **Describe the chronic offender and explain how research involving chronic offenders has influenced law enforcement strategies.** The chronic offender, also known as the career criminal, is a member of a small group of offenders identified by criminologists as being responsible for a disproportionately large percentage of crime. In response, the criminal justice system has created strategies to target repeat offenders, including career criminal units in local police agencies and habitual offender laws that administer harsher sentences to chronic offenders.

Key Terms

- antisocial personality disorder (ASPD)
- biology
- choice theory
- chronic offender
- criminologist
- criminology
- drug abuse
- hormone
- labeling theory
- learning theory
- life course criminology
- personality disorder
- psychology
- social conflict theories
- social disorganization theory
- social process theories
- testosterone
- theory
- victimology

Self Check Answer Key

Page 39
1. theories; ii. Choice; iii. Biological; iv. psychological; v. sociological; vi. social process
2. African Americans; iii. more; iii. alcohol; iv. victims’ rights

Page 44
1. chronic; ii. small; iii. large; iv. repeat or habitual
Questions for Critical Analysis

1. If you believe that fear of punishment can have a deterrent effect on criminal activity, to what view of human behavior are you subscribing?
2. What is one possible reason for higher crime rates in low-income communities?
3. If you believe that criminals learn how to be criminals, to what theory are you subscribing?
4. In what ways do social conflict theories critique our capitalist economic system?
5. Why is it important for criminologists to study the behavior of preadolescents?
6. Why do some criminologists believe the connection between alcohol and victimization is causal?
7. According to researchers Janet L. Lauritsen and Robin J. Schaum, why are single mothers who live in communities with higher concentrations of single-mother households at risk?
8. What factors contributed to the political success of the victims’ rights movement?

Maximize Your Best Possible Outcome for Chapter 2

1. Maximize Your Best Chance for Getting a Good Grade on the Exam. CengageNOW Personalized Study Plan is a diagnostic study tool containing valuable text-specific resources—and because you focus on just what you don’t know, you learn more in less time to get a better grade. How do you get CengageNOW? If your textbook came with an access code card, follow the directions on the card to access CengageNow via academic.cengage.com/login. If your textbook did not come with an access code card, go to www.ichapters.com to purchase access to CengageNOW before your next exam!
2. Get the Most Out of Your Textbook by going to the book companion Web site at www.cjinaction.com to access a tutorial quiz, use the flash cards to master key terms, and check out the many other study aids you’ll find there. Under chapter resources you will also be able to access the Stories from the Street feature and the Web links mentioned in the textbook.
3. Learn about Potential Criminal Justice Careers discussed in this chapter by exploring careers online at www.cjinaction.com. You will find career descriptions and information about job requirements, training, salary and benefits, and the application process. You can also watch video profiles featuring criminal justice professionals.

Notes

3. Quoted in Anne Fisher, “How to Prevent Violence at Work,” USA Today (July 15, 2004), 2A.
4. Thomas Capozzoli and Steve McVey, Managing Violence in the Workplace (Delray Beach, FL: St. Lucie Press, 1996), 23–24, 26–27.
23. Ibid., 443.
25. Ibid., 90.
26. Ibid.
29. Fattah, 22.
35. Kevin Johnson, "Criminals Target Each Other; Trend Shows," *USA Today* (August 31, 2007), 1A.
38. Fattah, 25.
44. Ibid.
Defining and Measuring Crime

Chapter outline

• Classification of Crimes
• The Uniform Crime Report
• Alternative Measuring Methods
• Crime Trends Today
• Criminal Justice in Action—Legalizing Drugs

Learning objectives

After reading this chapter, you should be able to:

LO1 Discuss the primary goals of civil law and criminal law and explain how these goals are realized.

LO2 Explain the differences between crimes mala in se and mala prohibita.

LO3 Identify the publication in which the FBI reports crime data and list the three ways in which the data are reported.

LO4 Distinguish between Part I and Part II offenses as defined in the Uniform Crime Report (UCR).

LO5 Distinguish between the National Crime Victimization Survey (NCVS) and self-reported surveys.

LO6 Identify some of the reasons given to explain the high rate of delinquent and criminal behavior by adolescents and young adults.

LO7 Explain some of the links between income level and crime.
Criminal Justice in Action: THE CORE

Every year the Federal Bureau of Investigation (FBI) gathers data on crimes ranging from murder and sexual assault to curfew violations and drunkenness. In contrast, over the past two decades the federal government has released only one report on kidnappings, a 2002 study that put the annual number of stereotypical kidnappings, or lengthy abductions by a complete stranger, at 115.1 During the media storm following Shawn Hornbeck’s liberation, many observers expressed dismay at this situation. “You only have to think about a comparable situation in public health,” said University of New Hampshire sociologist David Finkelhor, who worked on the 2002 study. “If there were some disease killing even a few hundred kids a year, and parents were anxious, you know the Centers for Disease Control would have good statistics.”2

Lost in the commotion was one significant detail: child abductions such as Shawn Hornbeck experienced are exceedingly rare. Just how rare, however, is a bit of a mystery. Even though such cases dominate the headlines whenever they occur, the federal government does not classify child abduction or kidnapping as a major criminal offense. Consequently, no authoritative national statistics on these crimes exist.

The Missouri Miracle

“How often did you think about your family?” Oprah Winfrey asked fifteen-year-old Shawn Hornbeck. “Every day,” replied the boy. In the autumn of 2002, Hornbeck, then eleven years old, had disappeared while riding his bicycle in Richwoods, Missouri. On January 12, 2007, while searching for another missing child, police stumbled on Hornbeck in an apartment complex in Kirkwood, Missouri, a suburb of St. Louis. Hornbeck had been kidnapped and held captive by a man named Michael Devlin, and his rescue set off a firestorm of media attention, including the appearance on The Oprah Winfrey Show.

“Did you ever write or try to call them?” Winfrey inquired, gently. “No,” said Hornbeck. This four-year silence was one aspect of the case that fascinated the public. Another was how Hornbeck and Devlin’s Kirkwood neighbors could have failed to notice something suspicious about the pair’s strange relationship. Speculation on these matters clogged the nation’s airwaves and newspapers. Newscasters and columnists offered helpful hints on “how to keep this from happening to your child,” and, for the most part, succeeded in scaring America’s parents out of their wits.

Lost in the commotion was one significant detail: child abductions such as Shawn Hornbeck experienced are exceedingly rare. Just how rare, however, is a bit of a mystery. Even though such cases dominate the headlines whenever they occur, the federal government does not classify child abduction or kidnapping as a major criminal offense. Consequently, no authoritative national statistics on these crimes exist.
overview of how crimes are classified, move on to the various methods of measuring crime, and end with a discussion of some statistical trends that give us a good idea of the “state of crime” in the United States today.

## Classification of Crimes

The huge body of the law can be broken down according to various classifications. Three of the most important distinctions are those between (1) civil law and criminal law, (2) felonies and misdemeanors, and (3) crimes mala in se and mala prohibita.

### CIVIL LAW AND CRIMINAL LAW

All law can be divided into two categories: civil law and criminal law. (See Mastering Concepts on the following page for a comparison of civil and criminal law.) As U.S. criminal law has evolved, it has diverged from U.S. civil law. The two categories of law are distinguished by their primary goals. The criminal justice system is concerned with protecting society from harm by preventing and prosecuting crimes. A crime is an act so reprehensible that it is considered a wrong against society as a whole, as well as against the individual victim. Therefore, the state prosecutes a person who commits a criminal act. If the state is able to prove that a person is guilty of a crime, the government will punish her or him with imprisonment or fines, or both.

Civil law, which includes all types of law other than criminal law, is concerned with disputes between private individuals, as well as other entities. Proceedings in civil lawsuits are normally initiated by an individual or a corporation (in contrast to criminal proceedings, which are initiated by public prosecutors). Such disputes may involve, for example, the terms of a contract, the ownership of property, or an automobile accident. Under civil law, the government provides a forum for the resolution of torts—or private wrongs—in which the injured party, called the plaintiff, tries to prove that a wrong has been committed by the accused party, or the defendant. (Note that the accused party in both criminal and civil cases is known as the defendant.)

#### Guilt and Responsibility

A criminal court is convened to determine whether the defendant is guilty—that is, whether the defendant has, in fact, committed the offense charged. In contrast, civil law is concerned with responsibility, a much more flexible concept. For example, after seventeen-year-old Benjamin White stabbed thirteen-year-old Casey Hilmer several years ago, a Cincinnati civil jury partially blamed White’s parents. Lance and Diane White, the jury ruled, were liable, or legally responsible, for their son’s actions because they failed to properly supervise or control him.

Most civil cases involve a request for monetary damages to compensate for the wrong that has been committed. Thus, the Cincinnati jurors ordered the Whites to pay Hilmer and her family $6.5 million for medical bills and the “pain and suffering” caused by her injuries.

#### The Burden of Proof

Although criminal law proceedings are completely separate from civil law proceedings in the modern legal system, the two systems do...
have some similarities. Both attempt to control behavior by imposing sanctions on those who violate the law. Furthermore, criminal and civil law often supplement each other. In certain instances, a victim may file a civil suit against an individual who is also the target of a criminal prosecution by the government.

Because the burden of proof is much greater in criminal trials than civil ones, it is usually easier to win monetary damages than a criminal conviction. In 1998, for example, a nineteen-year-old Ohio woman named Kimberly Riley vanished, leaving behind only a drop of blood in the trunk of her car. Police suspected Riley's boyfriend, Omar Seymore, of foul play, but never charged him with any crime. In 2007, however, a Lorain County, Ohio, judge decided in a civil trial that Seymore was responsible for Riley's death and ordered him to pay Riley's mother $4.5 million in damages. In this case, law enforcement agents did not believe they had enough evidence to prove beyond a reasonable doubt (the burden of proof in criminal cases) that Seymore killed Riley. Nevertheless, the civil trial established by a preponderance of the evidence (the burden of proof in civil cases) that Seymore was behind Riley's disappearance and murder.

**FELONIES AND MISDEMEANORS**

Depending on their degree of seriousness, crimes are classified as *felonies* or *misdemeanors*. *Felonies* are serious crimes punishable by death or by imprisonment in a federal or state penitentiary for one year or longer (some states, such as North Carolina, consider felonies to be punishable by at least two years' incarceration). The Model Penal Code, a general guide for criminal law that you will learn more about in the next chapter, provides for four degrees of felony:

1. Capital offenses, for which the maximum penalty is death.
2. First degree felonies, punishable by a maximum penalty of life imprisonment.
3. Second degree felonies, punishable by a maximum of ten years' imprisonment.
4. Third degree felonies, punishable by a maximum of five years' imprisonment.

Though specifics vary from state to state, some general rules apply to the grading of crimes. For example, most jurisdictions punish a burglary that involves a nighttime forced entry into a home more seriously than one that takes place during the day and involves a nonresidential building or structure.

**Murder and Manslaughter Classifications**  Murder in the first degree occurs under two circumstances:

1. When the crime is *premeditated*, or considered beforehand by the offender, instead of being a spontaneous act of violence.
2. When the crime is *deliberate*, meaning that it resulted from a decision-making process. Deliberation does not require lengthy planning; a person can be found guilty of first degree murder even if she or he made the decision to murder only seconds before committing the crime.

Second degree murder occurs when no premeditation or deliberation was present, but the offender did have *malice aforethought* toward the victim. In other words, the offender acted with wanton disregard for the consequences of his or her actions.

The difference between first and second degree murder is clearly illustrated in a case involving a California man who beat a neighbor to death with a partially full brandy bottle. The crime took place after Ricky McDonald, the victim, complained to Kazi Cooksey, the offender, about the noise coming from a late-night barbecue. Cooksey and his friends were holding. The jury could not find sufficient evidence that Cooksey's actions were premeditated, but he certainly acted with wanton disregard for his victim's safety. Therefore, the jury convicted Cooksey of second degree murder rather than first degree murder.

A homicide committed without malice toward the victim is known as *manslaughter* and is usually punishable by up to fifteen years in prison. *Voluntary manslaughter* occurs when the intent to kill was present, but malice was lacking. Voluntary manslaughter covers crimes of passion in which the emotion of an argument between two friends leads to a homicide. Voluntary manslaughter can also occur when the victim provoked the offender to act violently. *Involuntary manslaughter* covers incidents in which the offender's acts may have been careless, but she or he had no intent to kill. In 2007, for example, Kevin Eckenrode of Philadelphia was convicted of involuntary manslaughter for his role in his girlfriend's fatal fall from a twenty-third-story apartment window. Even though there was no evidence that Eckenrode intended for his girlfriend to slip from his grasp while he was playfully dangling her out the window, a jury found that he was responsible for her death nonetheless.

**Degrees of Misdemeanor**

Under federal law and in most states, any crime that is not a felony is considered a *misdemeanor*. Misdemeanors are crimes punishable by a fine or by confinement for up to a year. If imprisoned, the guilty party goes to a local jail instead of a penitentiary. Disorderly conduct and trespassing are common misdemeanors. Like felonies, misdemeanors are graded by level of seriousness. In Illinois, for example, misdemeanors are either Class A (confine-ment for up to a year), Class B (not more than six months), or Class C (not more than thirty days).

Most states similarly distinguish between *gross misdemeanors*, which are offenses punishable by thirty days to a year in jail, and *petty misdemeanors*, or offenses punishable by fewer than thirty days in jail. The least serious form of crime is a violation (such as a traffic offense), which is punishable only by a small fine and does not appear on the wrongdoer's criminal record. Whether a crime is a felony or a misdemeanor can also determine whether the case is tried in a magistrate's court (for example, by a justice of the peace) or in a general trial court (for example, a superior court).
Probation and community service are often imposed on those who commit misdemeanors, especially juveniles. Also, most states have decriminalized all but the most serious traffic offenses. These infractions are treated as civil proceedings, and civil fines are imposed. In many states, the violator has “points” assessed against her or his driving record.

**MALA IN SE AND MALA PROHIBITA**

The distinction between *mala in se* and *mala prohibita* crimes relates to the social function of criminal law. A criminal act is referred to as *mala in se* if it would be considered wrong even if there were no law prohibiting it. *Mala in se* crimes are said to go against “natural laws”—that is, against the “natural, moral, and public” principles of a society. Murder, rape, and theft are examples of *mala in se* crimes. These crimes are generally the same from country to country and culture to culture. In contrast, the term *mala prohibita* refers to acts that are crimes because they have been declared such by statute—“human-made” laws. A *mala prohibita* crime is considered wrong only because it has been prohibited; it is not inherently a wrong, though it may reflect the moral standards of a society at a given time. Thus, the definition of a *mala prohibita* crime can vary from country to country and even from state to state. Bigamy could be considered a *mala prohibita* crime (as it is legal in some countries).

**A Difficult Distinction** Some observers question the distinction between *mala in se* and *mala prohibita*. In many instances, it is difficult to define a “pure” *mala in se* crime; that is, it is difficult to separate a crime from the culture that has deemed it a crime. Even murder, in certain cultural circumstances, is not considered a criminal act. In a number of traditional areas of the Middle East and Asia, for example, the law excuses “honor killings” in which men kill female family members suspected of sexual indiscretion. Our own legal system excuses homicide in extreme situations, such as self-defense or when a law enforcement agent kills in the course of upholding the law. Therefore, “natural” laws can be seen as culturally specific. Similar difficulties occur in trying to define a “pure” *mala prohibita* crime. (For an example of how different cultures have different views on such crime, see the feature International CJ—The World’s Oldest Profession.)

**The Drug Dilemma** In spite of these difficulties, however, the *mala in se/mala prohibita* split can sometimes be useful in explaining seeming contradictions in criminal law. Take the law’s treatment of *stimulants*, which are drugs that act on the nervous system to produce feelings of well-being and euphoria. *Nicotine*, a naturally occurring substance in the tobacco plant, and *caffeine*, found in coffee, tea, and soft drinks, are both stimulants. So are *cocaine*, an active ingredient in the South American coca plant, and *amphetamine*, developed in the 1920s to treat asthma. Nicotine and caffeine are considered *licit drugs*, or legal substances, such as alcohol, caffeine, and nicotine. *Illicit Drugs* Drugs whose use or sale has been declared illegal.

*Why has society prohibited the use of certain drugs while allowing the use of others? The answer cannot be found in the risk of harm caused by the substances. Both licit and illicit drugs, if abused, can have serious consequences for the health of the user. Nor is illegality linked to the addictive quality of the drug. According
to the American Medical Association, nicotine is the most addictive substance, with over two-thirds of people who smoke cigarettes becoming addicted. Rather, the answer lies in the concept of *mala prohibita*: certain drugs are characterized as illicit while others are not because of prevailing social norms and values. Alcohol and tobacco are legal not because their pharmacological effects are considerably different from those of illicit drugs, but rather because the law, as supported by society, says so.

### Self Check Fill in the Blanks

___ law is concerned with disputes between private individuals and other entities, whereas criminal law involves the ___’s duty to protect society by preventing and prosecuting crimes. A ___ is a serious crime punishable by more than a year in prison or the death penalty, while a person found guilty of a ___ will usually spend less than a year in jail or pay a fine. ___ occurs when a homicide is premeditated and deliberate. If there is no preméditation or malice on the part of the offender toward the victim, the homicide is classified as ____. Check your answers on page 70.
The Uniform Crime Report

Suppose that a firefighter dies while fighting a fire at an office building. Later, police discover that the building manager intentionally set the fire. All of the elements of the crime of arson have certainly been met, but can the manager be charged with murder? In some jurisdictions, the act might be considered a form of manslaughter, but according to the U.S. Department of Justice, arson-related deaths and injuries of police officers and firefighters due to the “hazardous natures of their professions” are not murders.11

The distinction is important because the Department of Justice provides the most far-reaching and oft-cited set of national crime statistics. Each year, the department releases the Uniform Crime Report (UCR). Since its inception in 1930, the UCR has attempted to measure the overall rate of crime in the United States by organizing offenses known to the police.12 To produce the UCR, the FBI relies on the voluntary participation of local law enforcement agencies. These agencies—approximately 17,500 in total, covering 95 percent of the population—base their information on three measurements:

1. The number of persons arrested.
2. The number of crimes reported by victims, witnesses, and the police themselves.
3. The number of officers and law enforcement support specialists.13

Once this information has been sent to the FBI, the agency presents the crime data in three ways:

1. As a rate per 100,000 people. In 2007, for example, the violent crime rate was 466.9, and the property crime rate was 3,263.5. In other words, for every 100,000 inhabitants of the United States, nearly 467 violent crimes and about 3,263 property crimes were reported to the FBI. These statistics are known as crime rates and are often cited by media sources when discussing the level of crime in the United States.
2. As a percentage change from the previous year or other time periods. From 2006 to 2007, there was a 0.7 percent drop in the violent crime rate and a 1.4 percent decrease in the property crime rate.
3. As an aggregate, or total, number of crimes. In 2007, the FBI recorded 1,408,337 violent crimes and 9,843,481 property crimes.14

The Department of Justice publishes these data annually in Crime in the United States. Along with the basic statistics, this publication offers an exhaustive array of crime information, including breakdowns of crimes by city, county, and other geographic designations and by the demographics (gender, race, age) of the individuals arrested for crimes.

PART I OFFENSES

The UCR divides the criminal offenses it measures into two major categories: Part I and Part II offenses. Part I offenses are crimes that, due to their seriousness and frequency, are recorded annually by the FBI to give a general idea of the “crime picture” in the United States in any given year. For a description of the Part I offenses, see Figure 3.1.

Part I offenses are those most likely to be covered by the media. Consequently, they inspire the most fear of crime in the population. These crimes have come to dominate crime coverage to such an extent that, for most Americans, the first image that comes to mind at the mention of “crime” is one person physically attacking another person or a robbery taking place with the use or threat of force.15 Furthermore, in the stereotypical crime, the offender and the victim do not know each other.

Given the trauma of violent crimes, this perception is understandable. It is not, however, accurate. According to UCR statistics, relatives or other acquaintances of
Every month, local law enforcement agencies voluntarily provide information on serious offenses in their jurisdictions to the FBI. These serious offenses, known as Part I offenses, are defined here. The FBI collects data on Part I offenses in order to present an accurate picture of criminal activity in the United States. Arson is not included in national crime rate figures, but it is sometimes considered a Part I offense nonetheless, so it is included here.

**Criminal Homicide.**
- a. Murder and nonnegligent manslaughter. The willful (nonnegligent) killing of one human being by another. Deaths caused by negligence, attempts to kill, assaults to kill, suicides, accidental deaths, and justifiable homicides are excluded. Justifiable homicides are limited to (1) the killing of a felon by a law enforcement officer in the line of duty; and (2) the killing of a felon, during the commission of a felony, by a private citizen.
- b. Manslaughter by negligence. The killing of another person through gross negligence. Traffic fatalities are excluded. Although manslaughter by negligence is a Part I offense, it is not included in the national crime rate figures.
- Forcible rape. The carnal knowledge of a female forcibly and against her will. Included are rapes by force and attempts or assaults to rape. Statutory offenses (no force used—victim under age of consent) are excluded.
- Robbery. The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- Aggravated assault. An unlawful attack by one person on another for the purpose of inflicting severe or aggravated bodily injury. This type of assault is usually accompanied by the use of a weapon or by means likely to produce death or great bodily harm. Simple assaults are excluded.
- Burglary—breaking or entering. The unlawful entry of a structure to commit a felony or a theft. Attempted forcible entry is included.
- Larceny/theft (except motor vehicle theft). The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Examples are thefts of bicycles or automobile accessories, shoplifting, pocket picking, or the stealing of any property or article that is not taken by force and violence or by fraud. Attempted larcenies are included. Embezzlement, "con" games, forgery, worthless checks, and the like are excluded.
- Motor vehicle theft. The theft or attempted theft of a motor vehicle. A motor vehicle is self-propelled and runs on the surface and not on rails. Specifically excluded from this category are motorboats, construction equipment, airplanes, and farming equipment.
- Arson. Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, and the like.

**PART II OFFENSES**

Not only do violent crimes represent the minority of Part I offenses, but Part I offenses are far outweighed by Part II offenses, which include all crimes recorded by the FBI that do not fall into the category of Part I offenses. While information gathered on Part I offenses reflects those offenses “known,” or reported to the FBI by local agencies, Part II offenses are measured only by arrest data. In 2007, the FBI recorded more than 2.2 million arrests for Part I offenses in the United States. That same year, more than 12 million arrests for Part II offenses took place. In other words, Part II offenses were about 5.5 times more common than Part I offenses (for a description of Part II offenses and their rates, see Figure 3.3 on the next page). Such statistics have prompted Marcus Felson, a professor at Rutgers University School of Criminal Justice, to comment that “most crime is very ordinary.”

**THE NATIONAL INCIDENT-BASED REPORTING SYSTEM**

In the 1980s, the Department of Justice began seeking ways to revise its data-collecting system. The result was the National Incident-Based Reporting System (NIBRS). In the NIBRS, local agencies collect data on each single crime occurrence within twenty-two offense categories made up of forty-six specific crimes called Group A offenses. These categories

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**Figure 3.2 Composition of Part I Offenses**

<table>
<thead>
<tr>
<th>Crime Type</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murder</td>
<td>0.1%</td>
</tr>
<tr>
<td>Rape</td>
<td>0.8%</td>
</tr>
<tr>
<td>Larceny/Theft</td>
<td>9.7%</td>
</tr>
<tr>
<td>Robbery</td>
<td>4%</td>
</tr>
<tr>
<td>Aggravated Assault</td>
<td>7.6%</td>
</tr>
<tr>
<td>Motor Vehicle Theft</td>
<td>19.4%</td>
</tr>
<tr>
<td>Burglary</td>
<td>19.4%</td>
</tr>
</tbody>
</table>

### Part II Offenses

<table>
<thead>
<tr>
<th>Offense</th>
<th>Estimated Annual Arrests</th>
<th>Offense</th>
<th>Estimated Annual Arrests</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drug abuse violations</td>
<td>1,841,182</td>
<td>Offenses against family and children</td>
<td>122,812</td>
</tr>
<tr>
<td>Driving under the influence</td>
<td>1,427,494</td>
<td>Stolen property</td>
<td>122,061</td>
</tr>
<tr>
<td>Other assaults</td>
<td>1,305,693</td>
<td>Runaways</td>
<td>108,879</td>
</tr>
<tr>
<td>Disorderly conduct</td>
<td>709,106</td>
<td>Forgery and counterfeiting</td>
<td>103,448</td>
</tr>
<tr>
<td>Liquor laws</td>
<td>633,654</td>
<td>Sex offenses (except forcible rape and prostitution)</td>
<td>83,979</td>
</tr>
<tr>
<td>Drunkenness</td>
<td>589,402</td>
<td>Prostitution and commercialized vice</td>
<td>77,607</td>
</tr>
<tr>
<td>Fraud</td>
<td>252,873</td>
<td>Vagrancy</td>
<td>33,866</td>
</tr>
<tr>
<td>Vandalism</td>
<td>291,575</td>
<td>Embezzlement</td>
<td>22,381</td>
</tr>
<tr>
<td>Weapons</td>
<td>188,891</td>
<td>Gambling</td>
<td>12,161</td>
</tr>
<tr>
<td>Curfew and loitering laws (persons under age eighteen)</td>
<td>143,002</td>
<td>Suspicion</td>
<td>2,176</td>
</tr>
<tr>
<td>Disorderly conduct</td>
<td></td>
<td></td>
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<tr>
<td>Driving under the influence</td>
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<td>Drug abuse violations</td>
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<td>Other assaults</td>
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<td>Disorderly conduct</td>
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<td>Drug abuse violations</td>
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<td>Driving under the influence</td>
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<tr>
<td>Other assaults</td>
<td></td>
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</tr>
</tbody>
</table>

**Curfew and loitering laws (persons under age eighteen).** Offenses relating to violations of local curfew or loitering ordinances where such laws exist.

**Disorderly conduct.** Breach of the peace.

**Driving under the influence.** Driving or operating any vehicle or common carrier while drunk or under the influence of liquor or narcotics.

**Drug abuse violations.** State and/or local offenses relating to the unlawful possession, sale, use, growing, and manufacturing of narcotic drugs. The following drug categories are specified: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics—manufactured narcotics that can cause true addiction (Demerol, methadone); and dangerous nonnarcotic drugs (barbiturates, Benzedrine).

**Drunkenness.** Offenses relating to drunkenness or intoxication. Excluded is “driving under the influence.”

**Embezzlement.** Misappropriation or misapplication of money or property entrusted to one’s care, custody, or control.

**Forgery and counterfeiting.** Making, altering, uttering, or possessing, with intent to defraud, anything false in the semblance of that which is true. Attempts are included.

**Fraud.** Fraudulent conversion and obtaining money or property by false pretenses. Included are confidence games and bad checks, except forgeries and counterfeiting.

**Gambling.** Promoting, permitting, or engaging in illegal gambling.

**Liquor laws.** State and/or local liquor law violations, except “drunkenness” and “driving under the influence.” Federal violations are excluded.

**Offenses against the family and children.** Non-support, neglect, desertion, or abuse of family and children.

**Other assaults (simple).** Assaults and attempted assaults where no weapon is used and that do not result in serious or aggravated injury to the victim.

**Prostitution and commercialized vice.** Sex offenses of a commercialized nature, such as prostitution, keeping a bawdy house, procuring, or transporting women for immoral purposes. Attempts are included.

**Runaways (persons under age eighteen).** Limited to juveniles taken into protective custody under provisions of local statutes.

**Sex offenses (except forcible rape, prostitution, and commercialized vice).** Statutory rape and offenses against chastity, common decency, morals, and the like. Attempts are included.

**Stolen property: buying, receiving, possessing.** Buying, receiving, and possessing stolen property, including attempts.

**Suspicion.** No specific offense; suspect released without formal charges being placed.

**Vagrancy.** Vagabondage, begging, loitering, and the like.

**Vandalism.** Willful or malicious destruction, injury, or defacement of any public or private property, real or personal, without consent of the owner or persons having custody or control.

**Weapons: carrying, possessing, and the like.** All violations of regulations or statutes controlling the carrying, using, possessing, furnishing, and manufacturing of deadly weapons or silencers. Included are attempts.

Chapter 3  Defining and Measuring Crime

Alternative Measuring Methods

The UCR is generally considered the “official” record of crime in the United States, but it is only one of many sources of crime data in this country. Law enforcement professionals and academics also rely on victim surveys and self-reported surveys to collect such data, and we discuss these two popular crime measurement methods in this section.

VICTIM SURVEYS

In victim surveys, criminologists or other researchers ask the victims of crime directly about their experiences, using techniques such as interviews or electronic mail and phone surveys. The first large-scale victim survey took place in 1966, when members of 10,000 households answered questionnaires as part of the President’s Commission on Law Enforcement and the Administration of Justice. The results indicated a much higher victimization rate than had been previously expected, and researchers felt the process gave them a better understanding of the dark figure of crime, or the actual amount of crime that occurs in the country.

The National Crime Victimization Survey—Criminologists were so encouraged by the results of the 1966 experiment that the federal government decided to institute an ongoing victim survey. The result was the National Crime Victimization Survey (NCVS), which started in 1972. Conducted by the U.S. Bureau of the Census in cooperation with the Bureau of Justice Statistics of the Justice Department, the NCVS is an annual survey of more than 75,000 households with nearly 135,000 occupants over twelve years of age. Participants are interviewed twice a year concerning their experiences with crimes in the prior six months. As you can see in Figure 3.4 on the next page, the questions cover a wide array of possible types of victimization.

Supporters of the NCVS highlight a number of aspects in which the victim survey is superior to the UCR. For example, it measures both reported and unreported crime and does not rely on the accuracy of “intermediaries”—the local police agencies that report crime to the FBI. Most important, some supporters say, is that the NCVS gives victims a voice in the criminal justice process.

SELF-REPORTED SURVEYS

Based on many of the same principles as victim surveys, but focusing instead on offenders, self-reported surveys are a third source of data for criminologists. In this form of data collection, persons are asked directly—through personal interviews or questionnaires—about specific criminal activity to which they may have been a party. Self-reported surveys are most useful in situations in which the group to be studied is already gathered in an institutional setting, such as a juvenile facility or a prison. One of the most widespread self-reported surveys in the United States, the Drug Use Forecasting Program, collects information on narcotics use from arrestees who have been brought into booking facilities. These kinds of surveys can often get forthright information from students, as can be seen in Figure 3.5 on the next page.

Self Check Fill in the Blanks

To produce its annual _____________, the FBI relies on the cooperation of law enforcement agencies across the nation. The FBI often presents its findings to the public in terms of a crime _____, or the frequency with which offenses occur for every 100,000 inhabitants of the United States. Although ______ offenses are more likely to be covered by the media, ______ offenses are much more commonplace in the American crime landscape. Check your answers on page 70.
Self-reported studies can also be particularly helpful in finding specific information about groups of subjects. When professors Peter B. Wood, Walter R. Grove, James A. Wilson, and John K. Cochran wanted to learn how criminals “felt” when committing crimes, for example, they used self-reported surveys. By comparing these results with those gathered from a group of male students at a state university, the researchers were able to draw conclusions on the “high” a criminal experiences during a crime.\(^\text{23}\) Another advantage is that self-reported surveys allow researchers to control aspects of the data collection themselves, thereby assuring that race, class, and gender will not bias the results.

### Figure 3.4 Sample Questions from the NCVS (National Crime Victimization Survey)

36a. Was something belonging to YOU stolen, such as:
   a. Things that you carry, like luggage, a wallet, purse, briefcase, book—
   b. Clothing, jewelry, or cell phone—
   c. Bicycle or sports equipment—
   d. Things in your home—like a TV, stereo, or tools—
   e. Things from outside your home, such as a garden hose or lawn furniture—
   f. Things belonging to children in the household—
   g. Things from a vehicle, such as a package, groceries, camera, or CDs—
   h. Did anyone ATTEMPT to steal anything belonging to you?

41a. Has anyone attacked or threatened you in any of these ways:
   a. With any weapon, for instance, a gun or knife—
   b. With anything like a baseball bat, frying pan, scissors, or stick—
   c. By something thrown, such as a rock or bottle—
   d. Include any grabbing, punching, or choking—
   e. Any rape, attempted rape, or other type of sexual attack—
   f. Any face-to-face threats—OR
   g. Any attack or threat or use of force by anyone at all?
   Please mention it even if you are not certain it was a crime.

42a. People often don’t think of incidents committed by someone they know. Other than the incidents already mentioned, did you have something stolen from you OR were you attacked or threatened by:
   a. Someone at work or school—
   b. A neighbor or friend—
   c. A relative or family member—
   d. Any other person you’ve met or known?

43a. Incidents involving forced or unwanted sexual acts are often difficult to talk about. Have you been forced or coerced to engage in unwanted sexual activity by—
   a. someone you didn’t know before—
   b. a casual acquaintance—OR
   c. someone you know well?

44a. During the last 6 months (other than any incidents already mentioned), did you call the police to report something that happened to YOU which you thought was a crime?

45a. During the last 6 months (other than any incidents already mentioned), did anything which you thought was a crime happen to YOU, but you did NOT report to the police?


### Figure 3.5 Excerpts from the Wisconsin Youth Risk Behavior Survey

As part of a national effort to monitor health-risk behaviors of high school students, the Wisconsin Department of Public Instruction administers a self-reported survey each year. Some of the questions (without the corresponding multiple-choice answers) from that survey are reprinted here.

- During the past 30 days, on how many days did you carry a weapon such as a gun, knife, or club on school property?
- During the past 12 months, how many times were you in a physical fight on school property?
- How much do you approve or disapprove of people using violence against another person?
- During the past 12 months, did you ever seriously consider attempting suicide?
- During the past 30 days, how did you usually get your own cigarettes?
- During the past 30 days, on how many days did you have at least one drink of alcohol?
- How old were you when you tried marijuana for the first time?
- During your life, how many times have you used any form of cocaine, including powder, crack, or freebase?

Because there is no penalty for admitting to criminal activity in a self-reported survey, subjects tend to be relatively forthcoming in discussing their behavior. The researchers mentioned above found that a significant number of the students interviewed admitted to committing minor crimes for which they had never been arrested. This fact points to the most striking finding of self-reported surveys: the dark figure of crime, referred to earlier in the chapter as the actual amount of crime that takes place, appears to be much larger than the UCR or NCVS would suggest.

Self Check Fill in the Blanks

______ surveys rely on those who have been subjected to criminal activity to discuss the incidents with researchers. ________ surveys ask participants to detail their own criminal behavior. Both methods show that the ________ of crime, or the actual amount of crime that takes place in this country, is much ________ than official crime data would suggest. Check your answers on page 70.

Crime Trends Today

The UCR, NCVS, and other measures we have discussed so far in this chapter, though important, represent only the tip of the iceberg of crime data. Thanks to the efforts of government law enforcement agencies, educational institutions, and private individuals, more information on crime is available today than at any time in the nation’s history. These figures provide a crucial litmus test for the criminological theories discussed in the previous chapter and help us establish a detailed picture of crime trends in the United States.

DROPPING CRIME RATES

The late 1990s and 2000s have been something of a golden era for anticrime efforts in the United States. With only a few exceptions, both the UCR and the NCVS have shown consistently dropping crime rates, and, at least statistically, most Americans are as safe as they have been in decades. According to the NCVS, in 2006 property crime rates were at their lowest levels in more than thirty years.24 As you can see in Figure 3.6, even when the UCR recorded increases in the nation’s violent crime rates in 2005 and 2006, the rates were still relatively low compared with rates in the early 1990s.

It is often helpful to keep two factors in mind when reviewing crime statistics. First, nationwide statistics often obscure geographical differences. In the first half of 2007, for example, the murder rates in America’s largest cities fell 6.5 percent.

Figure 3.6 Violent Crime Rates, 1990–2007

The Uniform Crime Report’s violent crime statistics cover murders, forcible rapes, robberies, and aggravated assaults. As you can see, these rates are considerably lower today than they were in the early 1990s.

while, over the same period, smaller cities saw a 3.2 percent increase in killings. Second, despite an abundance of theories, nobody knows for sure why crime rates increase or decrease. Generally, when the rates are on the decline, experts point to factors such as a strong economy (which leads to high employment) and innovative law enforcement strategies, many of which we explore in Chapter 6. When crime rates creep upward, the three primary culprits are guns, gangs, and illegal drugs.

**Guns and Crime**  Sixty-eight percent of all homicides in the United States during 2007 were committed with firearms. In addition, guns were used in 42.8 percent of all robberies and 21.4 percent of all aggravated assaults recorded in that year. A report released by the Police Executive Research Forum (PERF) suggests that the slight increase in violent crime from 2004 to 2006 was, to a certain extent, fueled by illegal firearms. Specifically, PERF researchers found that aggravated assaults with a firearm increased 10 percent between 2004 and 2006.

As we saw in Chapter 1, many law enforcement officials argue that there is a connection between violent crime in the United States and the ease with which firearms are available to its citizens. Boston authorities believe that a recent upswing in violence in that city is at least partly attributable to an influx of firearms from Maine, New Hampshire, and Vermont—neighboring states where the gun laws are less strict than in Massachusetts. Philadelphia police commissioner Sylvester Johnson says that his city’s murder problem is, in essence, a gun problem, also caused by lax regulations. In general, law enforcement officials believe that fewer and fewer murders are premeditated. Rather, these crimes are the result of quick anger and frustration that turn deadly only because a weapon is involved. “We seem to be dealing with an awful lot of people who have zero-conflict resolution skills,” says Chris Magnus, police chief of Richmond, California, a city that recorded a 20 percent rise in homicides and a 65 percent surge in aggravated assaults with a firearm in the PERF report.
Gangs and Crime  Gangs, in particular, are known for settling disputes with bullets. Although national statistics on gang violence remain elusive, local statistics highlight the problem. In Houston, for example, officials attribute a 15 percent rise in homicides in 2006 to gang members who moved to the city after evacuating New Orleans after Hurricane Katrina. In Los Angeles, nearly half of all homicides are gang related, as are 84 percent of homicides with victims age thirty-five or younger. The trend extends to smaller cities as well. In Palm Beach County, Florida, 55 to 75 percent of all violent crimes result from gang activity.

Like other upsurges in gang violence over the past several decades, particularly in the late 1980s, the latest activity is closely related to the illegal drug trade and the use of firearms to protect that trade. Today, one of every three gangs runs drug-dealing operations, and according to a spokesperson for the Chicago Police Department, the modern street gang is “much more violent than the Mafia ever was.” The difference, say some experts, is that more people are becoming involved in gangs for purely economic reasons, rather than for the cultural or territorial motives that have historically driven gang membership. (We look at why young people join gangs as part of the larger discussion of juvenile crime in Chapter 14.) In addition, the major gangs appear to have “weapons superiority” over most police forces, making it very difficult for law enforcement to control their illegal operations.

Illegal Drugs and Crime  Many observers blamed the explosion in violent crime that shook this country in the late 1980s and early 1990s on the widespread use and sale of crack cocaine. Today, murder rates are still seen as a reflection of illegal drug activity. Indeed, Baltimore crime statistics show that about 90 percent of the city’s homicide victims have criminal records, typically for drug-related convictions. In other words, as one official commented, “Baltimore is actually a very safe city if you are not involved in the drug trade.” Nationally, about 4 percent of all homicides are drug related.

In 2007, police made nearly 1.8 million arrests for drug violations in the United States, up from about 581,000 in 1980. The impact of illegal drug use is much greater than even these statistics would indicate. Drug use appears to be an intricate part of criminal culture. About one-third of all state prisoners and a quarter of federal prisoners were under the influence of illegal drugs at the time they committed the offenses that landed them behind bars. Furthermore, 53 percent of state inmates and 45 percent of federal prisoners are addicted to, or physically dependent on, illegal drugs. The controversial issue of how the criminal justice system should respond to illegal drug use and abuse is the subject of the Criminal Justice in Action feature at the end of this chapter.

AGE AND CRIME: THE PEAK YEARS

We mentioned earlier that Boston experienced an upswing in violence in recent years. Part of that upswing was a rise in murders—a 23 percent increase from 2005 to 2007. Officials in Boston partly attribute the increase to the growing number of young people involved in drug-related gang activity. In fact, the strongest statistical determinant of criminal behavior appears to be age. Criminal behavior peaks during the teenage years. For most offenses, rates are at their highest between the ages of eighteen and twenty-four. As Figure 3.7 on the following page shows, criminal activity declines with age. According to research conducted by Avshalom Caspi of the University of Wisconsin–Madison and Terrie Moffitt of Duke University, 85 percent of former delinquents are no longer involved in wrongdoing by the time they reach age twenty-eight.

Why is the crime rate dramatically higher for young people? There is no single, simple answer. As already noted, biological theories of crime point to high testosterone levels in young males, which increase levels of aggression and violence (see page 33). Adolescents are also more susceptible to peer pressure, and sociological
and social process theories of crime in this area are backed by studies showing that juvenile delinquents tend to socialize with other juvenile delinquents.\(^{40}\)

**CRIME, RACE, AND POVERTY**

Homicide data also reveal a disturbing relationship between murder and race. According to government statistics, African Americans are about six times more likely to be murder victims than Caucasians, and blacks are about seven times more likely to commit murder than whites.\(^{41}\) In general, poor people and members of minority groups commit more crimes—and are more often the victims of crimes—than wealthier people and whites. But the relationship among race, income level, and crime is more complicated than any generalization. Studies have shown that, even in low-income neighborhoods, the rate of violent crime is associated much more strongly with family disorganization (lack of a father in the household, family members committing crimes) than with race.\(^{42}\)

**Class and Crime** The highest crime rates in the United States are consistently recorded in the low-income, urban neighborhoods with the highest unemployment rates. Lack of education, another handicap most often faced by low-income citizens, also seems to correlate with criminal activity. Forty-one percent of all inmates in state and federal prisons failed to obtain a high school diploma, compared with 18 percent in the population at large.\(^{43}\)

It might seem logical that those who believe they lack a legal means to gain the consumer goods and services that dominate American culture would turn to illegal methods to do so. But, logic aside, many criminologists are skeptical of such an obvious class-crime relationship. After all, poverty does not cause crime; the majority of residents in low-income neighborhoods are law abiding. Furthermore, higher-income citizens are also involved in all sorts of criminal activities and are more likely to commit white-collar crimes, which are not included in statistics on violent crime.

In addition, self-less serious crimes reported surveys have shown that as far as are concerned, the behavior of lower-, middle-, and upper-class criminals differs very little.\(^{44}\) These findings tend to support the theory that high crime rates in low-income communities are at least partly the result of a greater willingness of police to arrest poor citizens, and of the court system to convict them.

**Race and Crime** The class-crime relationship and the class-race relationship are invariably linked. Official crime data seem to indicate a strong correlation between minority status and crime: African Americans—who make up 13 percent of the population—constitute 39 percent of those arrested for violent crimes and 30 percent of those...
arrested for property crimes. Furthermore, although less than half of those arrested for violent crimes are African American, blacks account for more than half of all convictions and approximately 60 percent of prison admissions.

The racial aspect of the crime rate is one of the most controversial areas of the criminal justice system (see the feature Myth versus Reality—Race Stereotyping and Crime).
At first glance, crime statistics seem to support the idea that the subculture of African Americans in the United States is disposed toward criminal behavior. Not all of the data, however, support that assertion. Among inmates in state and federal prisons, for example, whites were at least twenty times more likely than African Americans to report recent methamphetamine use.\textsuperscript{47} A number of other crime-measuring surveys show consistent levels of crime and drug abuse across racial lines.\textsuperscript{48} In addition, a 2002 study of nearly 900 African American children (400 boys and 467 girls) from neighborhoods with varying income levels showed that, regardless of the different factors often cited by criminologists, family income level had the only significant correlation with violent behavior. The authors of the study were so impressed by the results that they called on their colleagues to make greater efforts to include African American families living outside urban neighborhoods in future research in order to give a more complete—and perhaps less stereotypical—picture of race and crime in this country.\textsuperscript{49}

**WOMEN AND CRIME**

To put it bluntly, crime is an overwhelmingly male activity. More than 65 percent of all murders involve a male victim and a male perpetrator; in only 2.4 percent of homicides are both the offender and the victim female.\textsuperscript{50} Only 12.9 percent of the national jail population and 7.2 percent of the national prison population are female, and in 2007 only about 25 percent of all arrests involved women.\textsuperscript{51} These statistics, however, fail to convey the startling rate at which the female presence in the criminal justice system has been increasing. In 1970, there were about 6,000 women in federal and state prisons; today, there are more than 112,000.\textsuperscript{52}

Given that the basic nature of American women is unlikely to have changed over the past thirty years, criminologists have looked for other explanations of these statistics. Freda Adler, a professor of criminal justice at Rutgers University, uses the “liberation hypothesis” to partially explain the increase in female arrestees and inmates.\textsuperscript{53} This theory holds that as women become more and more equal in society as a whole, their opportunities to commit crimes will increase as well. “You can’t embezzle if you’re not near funds,” Professor Adler notes. “You can’t get involved in a fight at the bar if you’re not allowed in the bar.”\textsuperscript{54} Criminologist Meda Chesney-Lind believes that the “get tough” attitude among politicians and law enforcement agencies has been the main contributor to increased rates of female criminality. “Simply put,” she says, “it appears that the criminal justice system is now more willing to incarcerate women.”\textsuperscript{55}

**Self Check Fill in the Blanks**

According to many crime experts, the upsurge in gang violence over the past few years is closely related to the gangs’ need to protect their ______ trade with _______. In fact, the pattern may have more to do with demographics, as _____ is the strongest statistical determinant of criminal behavior. Despite perceptions, self-reported surveys show that criminal behavior is _________ among people of different income levels and racial backgrounds. It is clear, however, that women commit many _______ total crimes than do men. Check your answers on page 70.
LEGALIZING DRUGS

“It helps you stop thinking,” says the thirty-seven-year-old mother of two of her twice-a-week marijuana habit. “I either can’t sleep at night because I’m restless, or I can’t get in the mood with my husband because my mind is spinning.” The Denver resident was one of nearly sixty thousand voters who supported their city’s successful push to legalize the possession of small amounts of marijuana. The vote was mostly symbolic—Denver police can still arrest offenders under Colorado or federal antidrug laws—but when it comes to the legalization of drugs, the subject of this chapter’s Criminal Justice in Action feature, even symbolic measures are bound to stir up controversy.

The Case for Legalization

• The “peace dividend” would be substantial. On the one hand, law enforcement agencies could eliminate costly drug-control programs, which cost U.S. taxpayers more than $40 billion annually. On the other hand, the country would reap a windfall in taxes on the controlled sale of previously illegal drugs. One Harvard University economist has estimated that the net economic gain to the United States for legalizing marijuana alone would be between $10.1 billion and $13.9 billion a year.

• The end of the “war on drugs” would mark the end of violent crime associated with drug dealing, as black market organizations would be put out of business or forced to rely on less profitable criminal activities.

• Legalization would result in a more efficient criminal justice system, as scarce law enforcement resources would be diverted away from drug offenses and the pressure on both overloaded courts and overcrowded prisons would be alleviated.

The Case against Legalization

• If drugs such as marijuana, cocaine, and heroin were legalized, more people would use and abuse them, with serious health consequences for the nation.

• Minors can often easily obtain legal but controlled drug products such as cigarettes and alcohol. If other drugs were legalized, we can expect that minors would have greater access to them as well.

• The United States already has a problem with alcohol-related violence. Although some illegal drugs, notably marijuana, do not provoke aggressive behavior, others, such as cocaine and certain hallucinogens, do.

Your Opinion—Writing Assignment

One commentator has compared the debate over what to do about illegal drugs to the problem that Goldilocks faced on entering the house of the Three Bears. The first bed that Goldilocks tried, Mama Bear’s bed, was too soft. The second, Papa Bear’s bed, was too hard. Only the third, Baby Bear’s bed, was just right. Surely, some suggest, there is a “Baby Bear’s bed” way for America to regulate drugs—something between the “too soft” option of legalization and the “too hard” system under which we now function.

What would be your “Baby Bear” solution to the issue of drug legalization? Or do you think that our current strict antidrug laws are adequate and might even benefit from being strengthened? Or, conversely, do you think that legalization would be the proper policy to follow? Before responding, you can review our discussions in this chapter concerning

• Mala in se and mala prohibita crimes on pages 56–57.

• Self-reported surveys and the dark figure of crime on pages 61–63.

• Illegal drugs and crime on page 65.

Your answer should include at least three full paragraphs.
Discuss the primary goals of civil law and criminal law and explain how these goals are realized. Civil law is designed to resolve disputes between private individuals, as well as other entities, such as corporations. In these disputes, one party, called the plaintiff, tries to win monetary damages by proving that the accused party, or defendant, is to blame for a tort, or wrongful act. In contrast, criminal law exists to protect society from criminal behavior. To that end, the government prosecutes defendants, or persons who have been charged with committing a crime.

Explain the differences between crimes mala in se and mala prohibita. A criminal act is mala in se if it is inherently wrong, while a criminal act mala prohibita is illegal only because it is prohibited by the laws of a particular society. It is sometimes difficult to distinguish between these two sorts of crimes because it is difficult to define a "pure" mala in se crime; that is, it is difficult to separate a crime from the culture that has deemed it a crime.

Identify the publication in which the FBI reports crime data and list the three ways in which the data are reported. Every year the FBI releases the Uniform Crime Report (UCR), in which it presents different crimes as (a) a rate per 100,000 people; (b) a percentage change from the previous year; and (c) an absolute, or aggregate, number.

Distinguish between Part I and Part II offenses as defined in the Uniform Crime Report (UCR). Part I offenses are felonies and include the most violent crimes. Part II offenses include all other crimes recorded in the UCR. They can be either misdemeanors or felonies and constitute the majority of crimes committed.

Distinguish between the National Crime Victimization Survey (NCVS) and self-reported surveys. The NCVS is an annual survey of more than 75,000 households conducted by the Bureau of the Census along with the Bureau of Justice Statistics. The survey, which queries citizens on crimes that have been committed against them, includes crimes not necessarily reported to police. Self-reported surveys, in contrast, involve asking individuals about criminal activity to which they may have been a party.

Identify some of the reasons given to explain the high rate of delinquent and criminal behavior by adolescents and young adults. (a) In some parts of the country, large numbers of young people are involved in drug-related gang activity; (b) young males have high levels of testosterone, which increases aggression; and (c) adolescents are more susceptible to peer pressure and, therefore, can be convinced to misbehave by friends and peers.

Explain some of the links between income level and crime. Statistically, poor people commit more crimes, and are victims of more crimes, than those in the middle- and upper-income levels. Evidence shows, however, that income is not as important as other factors, such as family disorganization, lack of education, and lack of employment. Indeed, the vast majority of all residents in low-income neighborhoods are law abiding.
1. Give an example of how one person could be involved in a civil lawsuit and a criminal lawsuit for the same action.

2. What is the difference between a felony and a misdemeanor?

3. Two fathers, John and Phil, get in a heated argument following a dispute between their sons in a Little League baseball game. They come to blows, and John strikes Phil in the temple, killing him. Will John be charged with voluntary manslaughter or involuntary manslaughter? What other details might you need to be sure of your answer?

4. Why is murder considered a mala in se crime? What argument can be made that murder is not a mala in se crime?

5. What is the distinction between the crime rate and crime in America?

6. Although Part II offenses constitute the bulk of crimes, Part I offenses get the most publicity. Is this necessarily irrational? Why or why not?

7. Why might self-reported surveys be the best method of learning the dark figure of crime?

8. How do self-reported surveys give lie to the stereotype that someone from a low-income neighborhood is more likely to engage in criminal activity than someone from a high-income neighborhood?

9. Why do some experts feel that female crime rates increase as women become more nearly equal to men in our society?

Maximize Your Best Possible Outcome for Chapter 3

1. Maximize Your Best Chance for Getting a Good Grade on the Exam. CengageNOW Personalized Study Plan is a diagnostic study tool containing valuable text-specific resources—and because you focus on just what you don't know, you learn more in less time to get a better grade. How do you get CengageNOW? If your textbook came with an access code card, follow the directions on the card to access CengageNOW via academic.cengage.com/login. If your textbook did not come with an access code card, go to www.ichapters.com to purchase access to CengageNOW before your next exam!

2. Get the Most Out of Your Textbook by going to the book companion Web site at www.cjinaction.com to access a tutorial quiz, use the flash cards to master key terms, and check out the many other study aids you’ll find there. Under chapter resources you will also be able to access the Stories from the Street feature and the Web links mentioned in the textbook.

3. Learn about Potential Criminal Justice Careers discussed in this chapter by exploring careers online at www.cjinaction.com. You will find career descriptions and information about job requirements, training, salary and benefits, and the application process. You can also watch video profiles featuring criminal justice professionals.

Questions for Critical Analysis

16. What is mala in se? Why is murder considered a mala in se crime?

17. Give an example of how one person could be involved in a civil lawsuit and a criminal lawsuit for the same action.

18. What is the difference between a felony and a misdemeanor?

19. Why is murder considered a mala in se crime? What argument can be made that murder is not a mala in se crime?

20. What is the distinction between the crime rate and crime in America?


37. Ibid.


60. Ibid., 289–294.
