



TWELFTH EDITION

# criminology

THEORIES, PATTERNS, AND TYPOLOGIES

LARRY J. SIEGEL



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THEORIES, PATTERNS, AND TYPOLOGIES

**LARRY J. SIEGEL**

University of Massachusetts, Lowell



Australia • Brazil • Mexico • Singapore • United Kingdom • United States

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This book is dedicated to my kids, Eric, Andrew, Julie, and Rachel, and to my grandkids, Jack, Kayla, and Brooke. It is also dedicated to Jason Macy (thanks for marrying Rachel) and Therese J. Libby (thanks for marrying me).



## ABOUT THE AUTHOR

**LARRY J. SIEGEL** was born in the Bronx in 1947. While living on Jerome Avenue and attending City College of New York in the 1960s, he was swept up in the social and political currents of the time. He became intrigued with the influence contemporary culture had on individual behavior: Did people shape society or did society shape people? He applied his interest in social forces and human behavior to the study of crime and justice. After graduating CCNY, he attended the newly opened program in criminal justice at the State University of New York at Albany, earning both his M.A. and Ph.D. degrees there. After completing his graduate work, Dr. Siegel began his teaching career at Northeastern University, where he was a faculty member for nine years. After leaving Northeastern, he held teaching positions at the University of Nebraska—Omaha and Saint Anselm College in New Hampshire. He is currently a professor at the University of Massachusetts, Lowell. Dr. Siegel has written extensively in the area of crime and justice, including books

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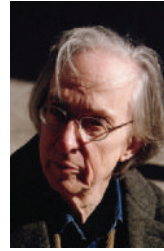
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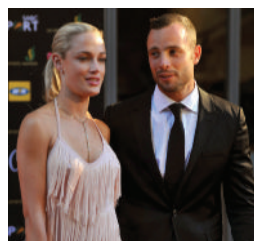
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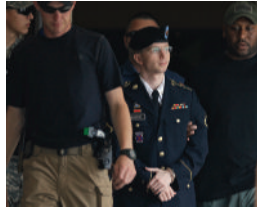
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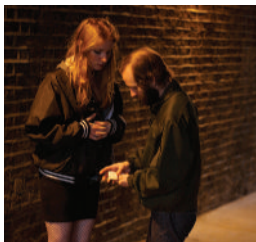
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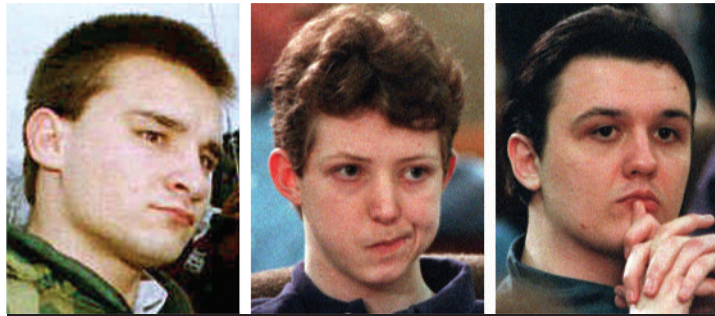
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# PREFACE

About 8 P.M. on May 5, 1993, the West Memphis, Arkansas, police department received a call from John Mark Byers reporting that his 8-year-old son, Christopher Byers, was missing. The police soon received two more calls from worried parents, Dana Moore and Pamela Hobbs, whose

young sons were also missing. An all-out search began for the children, and the next day police found the three boys in a drainage creek; they were naked, hogtied, and sexually mutilated. A local waitress named Vicki Hutcheson brought the police tales of devil worshipping gangs operating in the area. Her son Aaron told police he had seen three local youths, Jessie Misskelley, Damien Echols, and Jason Baldwin participating in satanic rituals. The police already had their eye on Echols, a 17-year-old dropout with a history of psychiatric problems, including major depression; besides he was a “Goth” who described himself as a Wiccan. At one time he had been admitted to a psychiatric ward and placed under suicide watch. The boys were interrogated in exhausting sessions and Misskelley gave a confession which was inconsistent with the known facts of the case. The three were brought to trial and convicted, despite the fact there was no direct evidence linking them to the crimes. Experts gave testimony on satanic rituals which may have helped sway the jury—Echols was sentenced to death, and the other two received life in prison. The three languished in prison for nearly two decades. Then a documentary film about the killings, *West of Memphis*, shown on HBO implied that Terry Hobbs, stepfather of one of the boys, Stevie Branch, was the real killer, that DNA found at the scene matched his DNA, and that a hair found on a tree stump near where the bodies were found matched that of David Jacoby, one of his friends. Other films, including *Paradise Lost: The Child Murders at Robin Hood Hills*, *Paradise Lost 2: Revelations*, and *Paradise Lost 3: Purgatory*, directed by Joe Berlinger and Bruce Sinofsky, and books, including *Blood of Innocents*, by



Jessie Misskelley, Jason Baldwin, and Damien Echols

AP Photo/Commercial Appeal

Guy Reel, and *The Last Pentacle of the Sun: Writings in Support of the West Memphis Three*, edited by Brett Alexander Savory and M. W. Anderson, brought attention to the case. Eventually, the Arkansas Supreme Court reviewed newly produced DNA evidence which eventually resulted in the release of

the West Memphis Three on August 9, 2011. The identity of the real killers has never been determined. A new film on the case, *The Devil's Knot*, starring Colin Firth and Reese Witherspoon, was released in 2014.

The West Memphis Three case with its focus on devil worship, child killing, and rush to judgment, aptly shows the impact that crime has on a community and the nation as a whole. Here the pressure on police to solve a horrendous crime resulted in their putting the blame on three youths who fit the profile of satanic killers despite the fact there was no physical evidence or witnesses to put them at the scene. It also shows that crime and criminality are a social construct: the West Memphis Three were considered killers because people believed them to be and labeled them as such. It demonstrates the power of media to influence both public perception and the operations of the justice system. The three might still be in prison had not Hollywood taken on the case. It also illustrates the dangers of the death penalty: Damien Echols might have been executed for a crime he did not commit.

The general public is greatly concerned by acts such as the West Memphis Three murders. I share their concern. For more than 40 years, I have been able to channel my personal interest into a career as a professor of criminology. My goal in writing this text is to help students generate the same curiosity about issues of crime and justice. What could be more important or fascinating than a field of study that deals with such wide-ranging topics as the effects of violent media on young people, sex trafficking, drug abuse, and transnational organized crime? Criminology is a dynamic field, changing constantly with the release of major research

studies, Supreme Court rulings, and government policy. Its dynamism and diversity make it an important and engrossing area of study.

Because interest in crime and justice is so great and so timely, this text is designed to review these ongoing issues and cover the field of criminology in an organized and comprehensive manner. It is meant as a broad overview of the field, intended to whet the reader's appetite and encourage further and more in-depth exploration. Several major themes recur throughout the book.

- **Competing Viewpoints:** In every chapter, an effort is made to introduce students to the diversity of thought that characterizes this academic discipline. One reason that the study of criminology is so important is that debates continue over the nature and extent of crime and the causes and prevention of criminality. Some experts view criminal offenders as society's victims, unfortunate people who are forced to violate the law because they lack hope for legitimate opportunity; criminals are a "product of their environment." Others view antisocial behavior as a product of mental and physical abnormalities, present at birth or soon after, which are stable over the life course; is it possible that criminals are "born and not made"? Still another view is that crime is a rational choice of greedy, selfish people who can only be deterred through the threat of harsh punishments; therefore, if "you do the crime, you do the time." We will explore these and other views of crime causation. And to help students understand these competing viewpoints, I have designed Concept Summary boxes that synthesize the main points and outlook of each theoretical model, along with its strengths and weaknesses.
- **Critical Thinking:** It is important for students to think critically about law and justice and to develop a critical perspective toward the social institutions and legal institutions entrusted with crime control. Throughout the book, students are asked to critique research highlighted in boxed material and to think outside the box. To aid in this task, a feature called "Thinking Like a Criminologist | An Ethical Dilemma" can be found throughout the text, which presents a scenario that can be analyzed with the help of material found in the chapter.
- **Diversity:** Diversity is a key issue in criminology, and the text attempts to integrate issues of racial, ethnic, gender, and cultural diversity throughout. The book includes material on international issues, such as the use of the death penalty abroad, as well as gender issues such as the rising rate of female criminality. To help with the coverage of diversity issues, Race, Culture, Gender, and Criminology boxes address key issues such as race and income inequality.
- **Currency and Immediacy:** Throughout the book, every attempt is made to use the most current research and to cover the most immediate topics. The idea is to show students the major trends in criminological research

and justice policy. Most people who use the book have told me that this is one of its strongest features. I have attempted to present current research in a balanced fashion, though this sometimes can be frustrating to students. For example, while some experts find that biological traits and conditions promote crime, other criminologists conclude this research is spurious and that biology and crime are unrelated. Which position is correct? While it is comforting to reach a definite conclusion about an important topic, sometimes that is simply not possible. In an effort to be objective and fair, each side of important criminological debates is presented in full. Throughout the text, new to this edition, Criminology in Action boxes review important research in criminology. For example, in Chapter 2, a box called "Factors that Influence Crime Trends" discusses research that helps explain why crime rates rise and fall.

- **Social Policy:** There is a focus on social policy throughout the book so that students can see how criminological theory has been translated into crime prevention programs. Because of this theme, Policy and Practice in Criminology boxes are included throughout the text. These show how criminological ideas and research can be put into action. For example, in Chapter 3, a Policy and Practice in Criminology feature entitled "Toward a Better Way to Interview Child Victims of Sexual Abuse" looks at methods being developed to improve on a child's recollection of a sexual abuse incident so that they can better testify in court.

In sum, the primary goals in writing this text are as follows:

1. To provide students with a thorough knowledge of criminology and show its diversity and intellectual content.
2. To be as thorough and up to date as possible.
3. To be objective and unbiased.
4. To describe current theories, crime types, and methods of social control, and analyze their strengths and weaknesses.
5. To show how criminological thought has influenced social policy.

## TOPIC AREAS

The 12th edition has been thoroughly revised and updated. Chapter 13 has been retitled "Enterprise Crime: White-Collar, Green, and Transnational Organized Crime" and includes extensive coverage of crimes involving criminal enterprise ranging from pump and dump security scams to gangs that operate global sex trafficking schemes. Similarly, Chapter 15, "Crimes of the New Millennium: Cybercrime," covers newly emerging areas of criminality made possible by the Internet and instant communication. Crime is going global and so too is criminology.

The text is divided into three main sections or topic areas.

Part One provides a framework for studying criminology. The first chapter defines the field and discusses its most basic concepts: the definition of crime, the component areas of criminology, the concept of criminal law, and the ethical issues that confront the field. Chapter 2 covers criminological data collection methods and the nature, extent, and patterns of crime. Chapter 3 is devoted to the concept of victimization, including the nature of victims, theories of victimization, and programs designed to help crime victims.

Part Two contains six chapters that cover criminological theory: Why do people behave the way they do? Why do they commit crimes? These views focus on choice (Chapter 4), biological and psychological traits (Chapter 5), social structure and culture (Chapter 6), social process and socialization (Chapter 7), critical criminology and restorative justice (Chapter 8), and human development (Chapter 9).

Part Three is devoted to the major forms of criminal behavior. The chapters in this section cover violent crime (Chapter 10); political crime and terrorism (Chapter 11); common theft offenses (Chapter 12); enterprise crimes, including white-collar, green, and transnational organized crime (Chapter 13); public order crimes, including sex offenses and substance abuse (Chapter 14); and cybercrime, which includes cybertheft, cybervandalism, and cyberwar (Chapter 15).

## GOALS AND OBJECTIVES

The 12th edition has been carefully structured to cover relevant material in a comprehensive, balanced, and objective fashion. Every attempt has been made to make the presentation of material interesting and contemporary. No single political or theoretical position dominates the text; instead, the many diverse views that are contained within criminology and characterize its interdisciplinary nature are presented in an unbiased and even-handed fashion. While the text includes analysis of the most important scholarly works and scientific research reports, it also includes a great deal of topical information on recent cases and events, ranging from cyberscams to the violence of the Zeta gang, the “muscle” formed to protect Mexican drug cartels.

## WHAT IS NEW IN THIS EDITION

- We have added a new feature entitled **Criminology in Action**. These boxed inserts review important issues in criminology and reflect the major subareas of the field, measuring crime, creating theory, crime typologies,

legal theory, and penology. For example, in Chapter 1, a Criminology in Action box on “Measuring the Effect of Deviant Peers” covers research by criminologists Ray Paternoster, Jean Marie McGloin, Holly Nguyen, and Kyle J. Thomas, who conducted an interesting and informative experiment to measure whether peers influence behavior choices.

- **Cybercrime:** We now dedicate an entire chapter to this important topic, expanding coverage of the three major forms of cybercrime: cybertheft, cybervandalism, and cyberwar.
- **Famous Criminologists** are new chapter inserts that spotlight some of the key thinkers and criminological theorists (past and present) in the discipline, showing their individual contributions to the field of criminology.

## Chapter-by-Chapter Changes in the 12th Edition

- **Chapter 1 (Crime and Criminology)** revisits the crimes of Dzhokhar and Tamerlan Tsarnaev, who set off bombs at the finish line of the Boston Marathon, killing three people, and maiming and injuring many more. As mentioned, a new Criminology in Action feature, “Measuring the Effect of Deviant Peers,” covers an experiment to measure whether peers influence behavior choices. There are new and revised sections on the nature of criminal law, including the concept of intent and action in defining the elements of a crime.
- **Chapter 2 (The Nature and Extent of Crime)** begins with a new vignette on Aaron Alexis, who used a shotgun and a Beretta handgun to kill 12 victims and wound 4 others before he was shot and killed by law enforcement officers in the Washington Navy Yard. The newly expanded definition of rape, which was changed in 2012, is set out. And all of the data have been updated to reflect the most recent trends and patterns in crime.
- **Chapter 3 (Victims and Victimization)** begins with analysis of the Steubenville High School rape case, an incident involving the sexual assault of a 16-year-old girl who was “substantially impaired” after a night of partying and drinking. We review the different methods that have been developed to measure and calculate the cost of victimization to American society. New research on the long-term effects of childhood victimization finds that victims are more susceptible to a number of physical and mental health issues in adulthood. There is a new exhibit on state victim compensation programs. As mentioned, there is a new Policy and Practice in Criminology feature entitled “Toward a Better Way to Interview Child Victims of Sexual Abuse,” which covers how abuse prosecutions can rest on a child’s recollection of the alleged incident and discusses how to create mechanisms to elicit accurate information from children.



The data on patterns and trends in victimization have been updated to reflect the most recent findings of the National Criminal Victimization Survey.

- **Chapter 4 (Rational Choice Theory)** begins with the case of James “Doug” Cassity and five of his associates who were sentenced to federal prison for their role in a Ponzi-like prepaid funeral scheme that victimized some 97,000 customers in 16 states and caused more than \$450 million in losses. A new section, “Is Hate Rational?” reviews studies that examine the characteristics of hate crimes and find that they indeed have a rational basis. We look at Ronald Clarke’s CRAVED model of theft, which suggests that the appropriation of property is most likely to occur when six independent conditions are present. We also review how the installation of closed-circuit television (CCTV) surveillance cameras and improved street lighting techniques are currently being used around the world. A new section entitled “Can Police Add to the Certainty of Punishment?” looks at the question of whether adding cops reduces crime. A Policy and Practice in Criminology feature, “Deterring Domestic Violence,” reviews the studies on whether domestic violence can be reduced by changing justice system policies. There is new material on the effect of incarceration, as well as an attempt to explain why the crime rate has dropped while the prison population has boomed.
- **Chapter 5 (Trait Theories)** An opening vignette looks at the life and crime of Adam Lanza, who first shot his mother and then traveled to the Sandy Hook Elementary School, where he shot and killed 20 students between the ages of 5 and 10 and six adult teachers. There is a new section on “Individual Vulnerability vs. Differential Susceptibility,” which looks at how trait theorists today recognize that crime-producing interactions involve both personal traits and environmental factors. There is a new section on three forms of evolutionary theory, which suggests that the competition for scarce resources has influenced and shaped the human species. New research looks at the association between mental disorder and violence and shows that when compared to the mentally sound, people suffering mental illness were significantly more likely to engage in subsequent violent episodes. A Policy and Practice in Criminology feature entitled “Trait Theory and Crime Prevention” reviews treatment programs that consider biological and psychological traits and conditions in their approach.
- **Chapter 6 (Social Structure Theories)** begins with a vignette on MS-13, considered one of the most fearsome gangs in the United States. There are sections on the development of sociological criminology and how it replaced biological positivism as the main focus of criminology. There is an interesting new discussion on how social forces in disadvantaged areas may be so powerful that they overwhelm individual traits. New data on poverty are covered, including the newest trends in child poverty and minority group poverty. A Race, Culture, Gender, and

Criminology feature, “More than Just Race,” reviews the work of William Julius Wilson, one of the nation’s most prominent sociologists, including his most recent book, *More than Just Race: Being Black and Poor in the Inner City*. There is a new section on poverty concentration, a phenomenon that occurs when working- and middle-class families flee inner-city poverty areas, resulting in having the most disadvantaged population become consolidated in the most disorganized urban neighborhoods.

- **Chapter 7 (Social Process Theories: Socialization and Society)** begins with the story of Ethan Couch, a boy who defended himself from charges of vehicular manslaughter by arguing he suffered from “affluenza,” being too rich and spoiled. Research studies now show that the more often a child is physically disciplined and the harsher the discipline, the more likely they will engage in antisocial behaviors. Another new research effort finds that kids who were abused are less likely to graduate from high school, hold a job, and be happily married; they are more likely to have juvenile and adult arrests. Other new research studies focus on high school dropouts, children born into high-risk families, and kids with delinquent peers. There is a new section, “Damaged Identity,” which discusses what happens to people who are assigned deviant labels and become notorious public figures. There are efforts to reduce stigma even if someone has been charged, convicted, and even sent to prison, a topic discussed in a new Policy and Practice in Criminology feature, “Second Chance for Ex-Offenders Act.”
- **Chapter 8 (Critical Criminology and Restorative Justice)** begins with a focus on the unrest in the Ukraine and the Russian seizure of the Crimea. A new section on “Failing Social Institutions” shows how critical thinkers focus on contemporary social institutions to show how they operate as instruments of class and racial oppression. Another new section covers “Illegal Domestic Surveillance” in general and the Edward Snowden case in particular. A section called “State-Organized Crime and War” shows how critical criminologists link state-organized crime to attacks on other nations. A new section on “Race and Justice” shows that racial bias is present in the justice system beginning with police contact, arrest, prosecution, and sentencing. There is a new section on “Left Realism and Incarceration” covering the use of mass incarceration as a crime control device. A new Criminology in Action feature entitled “Left Realism and Terrorism” applies the basic concepts to explain the motivation for terrorist activity. There is a new section on “Queer Criminology,” covering the treatment of lesbian, gay, bisexual, transgender, and queer (LGBTQ) populations by society in general and the justice system in particular.
- **Chapter 9 (Developmental Theories: Life Course, Latent Trait, and Trajectory)** now begins with the story of the murder of Jennifer, Michaela, and Hayley Petit during a home invasion in Cheshire, Connecticut, by two career criminals, Steven Hayes and Joshua

Komisarjevsky, who were sentenced to death for their terrible crime. A new section on “Population Heterogeneity vs. State Dependence” asks the question, “Are people truly different, or are we more or less all the same but shaped by our different experiences?” A new research study shows that youth who join gangs are 30 percent less likely to graduate from high school and 58 percent less likely to earn a four-year degree than youths of similar background who do not become gang members. A new section on “Persistence and Desistance” shows how life course theorists are particularly interested in why one person persists in crime and develops a criminal career while another is able to reduce their criminal involvement and eventually desist. Another new section on “Cumulative Disadvantage” shows how according to age-graded theory some people experience repeated and varied social problems that weigh down their life chances. The material on “The Marriage Factor” has been updated and there is now a new section called “What Happens When It Ends?” that asks the question of what happens when people break up, which happens in an estimated 40 to 50 percent of first marriages, 67 percent of second marriages, and 74 percent of third marriages. And another new section, “What Causes Impulsivity to Develop?” traces the root cause of poor self-control. Recent research by Alex Piquero, Wesley Jennings, and David Farrington looks at the different trajectories of chronic offenders.

- **Chapter 10 (Interpersonal Violence)** begins with a new opening vignette that covers the case of South African athlete Oscar Pistorius, who made headlines around the world after being charged with the murder of his beautiful model girlfriend, Reeva Steenkamp. There is new coverage of the work of Harvard psychologist Steven Pinker, who has conducted pioneering research on the historical basis of violence. There is an expanded section on the cycle of violence, a theory that holds that physical abuse by parents or caregivers is a direct cause of subsequent violent behavior among youth, who grow up to be abusers themselves. A new Criminology in Action boxed feature, “American Homicide,” looks at the work of social historian Randolph Roth, who has followed changes in the homicide rate in the United States from colonial times to the present. A new section discusses “Rape on Campus,” an important topic since between 15 to 30 percent of all college women are victims of rape or attempted rape during their school experience. Another new section, “Rape by Deception,” looks at crimes in which a rapist uses fraud or trickery to convince the victim to engage in sex, or impersonates someone with whom the victim has been intimate. The section on “Degrees of Murder” has been expanded. There is a new section on “Sexually Based Murders.” A new Criminology in Action feature looks at “Myths About Serial Killers.” And another new section investigates “The Calculating Robber.”

- **Chapter 11 (Political Crime and Terrorism)** starts with a vignette on the Edward Snowden case. There is a new Profiles in Crime feature, “Kwame Kilpatrick: Betraying the Public’s Trust,” which tells the tale of the former mayor of Detroit who was sent to prison for political corruption. The sad case of former Congressman Jesse L. Jackson, Jr., sentenced to 30 months in prison for conspiring to defraud his reelection campaign funds, is also covered. There are new sections on the extent of the terrorism threat and the Department of Homeland Security. And a new Criminology in Action feature looks at lone-actor terrorists.
- **Chapter 12 (Property Crime)** now begins with the story of Sameh Khaled Danhach, whose shoplifting ring stole an estimated \$10 million worth of products every year from 2008 to 2012. A new exhibit looks at “Check Fraud Schemes and Techniques.” The chapter covers the five most stolen vehicles in the United States. A new Race, Culture, Gender, and Criminology on sexual burglary looks at how some burglaries have a sexual motivation while others involve sexual attacks, though unplanned, that occur when the burglar finds the residence unexpectedly occupied.
- **Chapter 13 (Enterprise Crime: White-Collar, Green, and Transnational Organized Crime)** has been significantly changed and now contains extensive material on transnational gangs. There is the story of Robert Allen Stanford, a financier who lived like a king on the tropical island of Antigua before being prosecuted and incarcerated for investment fraud. A new Profiles in Crime feature, “Criminal Criminal Defense Attorney,” tells the story of attorney Paul Bergrin, who was convicted on 23 criminal counts and sentenced to life in prison. The section on the “Nature and Extent of White-Collar Crime” has been completely updated. Another new Profiles in Crime feature, “Take No Quarter: The Case of the Parking Meter Thief,” tells of the crimes of James Bagarozzo, of Buffalo, New York, who was convicted of stealing \$210,000 from the city’s parking meters. A new section on the harms perspective shows how green criminologists typically conceptualize crime and deviance. A new Criminology in Action feature entitled “Is Chicken Farming Foul?” discusses legal practices that green criminologists consider illegal because they damage people and hurt animals. And a new section on citizen groups and their efforts to control green crime has been developed for this chapter.
- **Chapter 14 (Public Order Crime: Sex and Substance Abuse)** begins with a new vignette on the Underground Gangster Crips (UGC), whose members pleaded guilty to various federal charges related to a sex trafficking conspiracy. The case of former Congressman Anthony Weiner is covered. You might remember that he was forced to resign from office after compromising photos he “tweeted” to young women were posted on the Internet. A Race, Culture, Gender, and Criminology

feature, “The Sex Trade in Contemporary Society,” reviews a major study by Meredith Dank and her colleagues at the Urban Institute that focused on prostitution in on eight U.S. cities—Atlanta, Dallas, Denver, Kansas City, Miami, Seattle, San Diego, and Washington, D.C. There is a new section on the law and child pornography; kiddie porn is now a separate legal category. The section “How Much Drug Use Is There Today?” is updated with data from the National Survey on Drug Use and Health (NSDUH) and other sources. A Criminology in Action feature entitled “Substance Abuse and Psychosis” finds that people diagnosed with mood or anxiety disorders are about twice as likely as the general population to also suffer from a substance use disorder.

- **Chapter 15 (Crimes of the New Millennium: Cybercrime)** is now solely devoted to all forms of cybercrime: cybertheft, cybervandalism, and cyberwar. It begins with a vignette on WikiLeaks, an international organization that publishes classified and secret documents that are submitted by unnamed and anonymous sources. There is information on cyber attacks on computers, such as the SpyEye program that infected more than 1.4 million computers. There is information on recent trends in computer frauds. About 60 percent of U.S. companies report being hit by computer network attacks each year. The chapter covers the use of the Internet to disseminate pornography, including “typosquatting,” and adds a new section on “Prosecuting Internet Pornography.” A Profiles in Crime feature tells the story of Christopher Gunn, the cyberstalker who carried out an online sextortion scheme that spanned the globe. The chapter also covers international efforts to breach computer systems by terrorists and to conduct espionage.

## FEATURES

This text contains different kinds of pedagogy that help students analyze material in greater depth and also link it to other material in the book:

- **Criminology in Action** (NEW TO THIS EDITION) features are boxed inserts that review important issues in criminology and reflect the major subareas of the field, measuring crime, creating theory, crime typologies, legal theory, and penology. For example, in Chapter 10 the research of social historian Randolph Roth that charts changes in the homicide rate in the United States from colonial times to the present, is reviewed and in Chapter 12, a Criminology in Action covers sexual burglary, crimes that have a sexual motivation or involve an unplanned sexual attacks that occur during the commission of a burglary.
- **Profiles in Crime** boxed features present students with case studies of actual criminals and crimes to help

illustrate the position or views within the chapter. By popular demand, we have expanded the feature for this edition, presenting even more real-life “from the headlines” criminal cases throughout the text. For example, in Chapter 11, the case of former Detroit mayor Kwame Kilpatrick, jailed for political fraud, is set out in some detail.

- **Famous Criminologists** (NEW TO THIS EDITION) inserts in Part II introduce students to some key thinkers and criminological theorists (past and present), showing their individual contributions to the field of criminology.
- **Policy and Practice in Criminology** boxes show how criminological ideas and research can be put into action through policies and practices of the criminal justice system. For example, in Chapter 8, the Policy and Practice feature discusses the Victim Offender Reconciliation Program, designed in response to a summer of violence in the metropolitan Denver area.
- **Race, Culture, Gender, and Criminology** boxes cover issues of racial, sexual, and cultural diversity. In Chapter 2, for example, a feature entitled “On the Run” looks at the life of inner-city kids who spend their time avoiding the police.
- **Connections** are short inserts that help link the material to other areas covered in the book. For example, a Connections box in Chapter 14 links media violence to the material discussed in Chapter 5 on behavioral theory.
- **Thinking Like a Criminologist | An Ethical Dilemma** boxes present challenging questions or issues for which students must use their criminological knowledge to answer or confront ethical dilemmas. Applying the information learned in the text will help students begin to “think like criminologists.”
- **Chapter Outlines** provide a roadmap to coverage and serve as a useful review tool.
- **Learning Objectives** spell out what students should learn in each chapter. And the chapter **Summary** is geared to these objectives.
- Each chapter ends with **Critical Thinking Questions** to help develop students’ critical thinking skills, as well as a list of **Key Terms**.

## ANCILLARY MATERIALS

A number of supplements are provided by Cengage Learning to help instructors use *Criminology: Theories, Patterns, and Typologies* in their courses and to aid students in preparing for exams. Supplements are available to qualified adopters. Please consult your local sales representative for details.

To access additional course materials, please visit [www.cengagebrain.com](http://www.cengagebrain.com). At the CengageBrain.com home page, search for the ISBN of your title (from the back cover of your

book), using the search box at the top of the page. This will take you to the product page where these resources can be found.



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### **MindTap for *Criminology: Theories, Patterns, and Typologies***

**MindTap** from Cengage Learning represents a new approach to a highly personalized, online learning platform. A fully online learning solution, MindTap combines all of a student's learning tools—readings, multimedia, activities, and assessments—into a singular Learning Path that guides the student through the curriculum. Instructors personalize the experience by customizing the presentation of these learning tools for their students, allowing instructors to seamlessly introduce their own content into the Learning Path via “apps” that integrate into the MindTap platform. Additionally, MindTap provides interoperability with major Learning Management Systems (LMS) via support for open industry standards and fosters partnerships with third-party educational application providers to provide a highly collaborative, engaging, and personalized learning experience.

### **Online Instructor's Resource Manual and Lesson Plans for *Criminology: Theories, Patterns, and Typologies***

(Revised for the 12<sup>th</sup> Edition by Tina Freiburger of University of Wisconsin–Milwaukee.) This material includes learning objectives, key terms, a detailed chapter outline, a chapter summary, lesson plans, discussion topics, student activities, “What If” scenarios, media tools, a sample syllabus, and an expanded test bank with 30 percent more questions than the prior edition. The learning objectives are correlated with the discussion topics, student activities, and media tools.

### **Online Test Bank for *Criminology: Theories, Patterns, and Typologies***

(Revised for the 12<sup>th</sup> Edition by Keith Bell of West Liberty University.) Each chapter of the test bank contains questions in multiple-choice, true/false, completion, essay, and new critical thinking formats, with a full answer key. The test bank is coded to the learning objectives that appear in the main text, and includes the section in the main text where the answers can be found. Finally, each question in the test bank has been carefully reviewed by experienced criminal justice instructors for quality, accuracy, and content coverage so instructors can be sure they are working with an assessment and grading resource of the highest caliber.

### **Cengage Learning Testing Powered by Cognero**

This assessment software is a flexible, online system that allows you to import, edit, and manipulate test bank content from the *Criminology: Theories, Patterns, and Typologies* test bank or elsewhere, including your own favorite test questions; create multiple test versions in an instant; and deliver tests from your LMS, your classroom, or wherever you want.

### **PowerPoint Lectures for *Criminology: Theories, Patterns, and Typologies***

Helping you make your lectures more engaging while effectively reaching your visually oriented students, these handy Microsoft PowerPoint® slides, developed by Tina Freiburger of University of Wisconsin–Milwaukee, outline the chapters of the main text in a classroom-ready presentation. The PowerPoint slides are updated to reflect the content and organization of the new edition of the text, are tagged by chapter learning objective, and feature some additional examples and real-world cases for application and discussion.

## **ACKNOWLEDGMENTS**

The preparation of this text would not have been possible without the aid of my colleagues who helped by reviewing the previous editions and giving me important suggestions for improvement. Reviewers for the 12th edition are:

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My colleagues at Cengage did their typically outstanding job of aiding me in the preparation of the text and gave me counseling and support. Carolyn Henderson Meier, editor extraordinaire, is the backbone of the book. The fantastic Shelley Murphy is a terrifically superb content developer who is always there for me; I really could not do another edition without her. Kim Adams Fox, the photo editor, did her thoroughly professional job in photo research. I have worked with Linda Jupiter, the book's production editor, many times and she is always great, terrific, a close friend and confidant. Lunaea Weatherstone is the copy editor supreme and an unofficial coauthor. The fabulous Christy Frame somehow pulls everything together as production manager, and Kara Kindstrom is the marketing manager with heart. All in all, a terrific team!

Larry Siegel





An abstract, high-contrast graphic featuring two large, stylized eyes with thick black outlines and white highlights. The eyes are set against a background of bold, expressive brushstrokes in yellow, black, and red. The text 'PART ONE' is prominently displayed in the lower right quadrant of the graphic, with 'PART' in yellow and 'ONE' in large white letters.

# PART ONE

## CONCEPTS OF CRIME, LAW, AND CRIMINOLOGY

Concern about crime and justice has been an important part of the human condition for more than 5,000 years, since the first criminal codes were set down in the Middle East. Although criminology—the scientific study of crime—is considered a modern science, it has existed for more than 200 years. The first section of the text covers some of the basic questions in criminology: How is crime defined? How much crime is there, and what are the trends and patterns in the crime rate? How many people fall victim to crime, and who is likely to become a crime victim? How did our system of criminal law develop, and what are the basic elements of crimes? What is the science of criminology all about?

These are some of the core issues that will be addressed in the first three chapters of this text. Chapter 1 introduces students to the field of criminology: its nature, area of study, methodologies, and its historical development. Chapter 2 focuses on the acquisition of crime data, crime rate trends, and observable patterns within the crime rate. Chapter 3 is devoted to victims and victimization. Topics include the effects of victimization, the cause of victimization, and efforts to help crime victims.

### CHAPTER 1 CRIME AND CRIMINOLOGY

### CHAPTER 2 THE NATURE AND EXTENT OF CRIME

### CHAPTER 3 VICTIMS AND VICTIMIZATION



## learning objectives

- LO1** Explain what is meant by the term *criminology*
- LO2** Identify the difference between crime and deviance
- LO3** Recognize what is meant by the concept of “criminology in action”
- LO4** Discuss the three most prominent views of the meaning of “crime”
- LO5** Outline the development of criminal law
- LO6** Analyze the different categories of law
- LO7** Articulate the relationship between the criminal law and the U.S. Constitution
- LO8** Synthesize the different purposes of criminal law
- LO9** Compare and contrast the elements of the criminal law
- LO10** Summarize the main ethical issues in criminology



AP Images/Lorell Sun



© FBI/Photo

Tamerlan Tsarnaev (top) and Dzhokhar Tsarnaev



# CRIME AND CRIMINOLOGY

Those of us who live in New England will never forget the terrible events of April 15, 2013, when two men, Dzhokhar and Tamerlan Tsarnaev, set off bombs at the finish line of the Boston Marathon, killing three people, and maiming and injuring many more. The two had conspired for many months to use improvised explosive devices (IEDs) to harm and kill people in the crowds of spectators who were cheering the runners on toward the marathon finish line. The IEDs were constructed from pressure cookers, explosive powder, shrapnel, adhesives, and other items and were designed to shred skin, shatter bone, and cause extreme pain and suffering, as well as death.<sup>1</sup>

After carefully poring over footage from surveillance cameras and other sources, on April 18, 2013, the FBI released photographs to the media of the Tsarnaevs, identifying them as suspects in the marathon bombings. These photographs were widely disseminated on television and elsewhere, and the brothers must have realized their identification and arrest were imminent. Soon after, the Tsarnaevs, armed with five IEDs, a Ruger P95 semi-automatic handgun, ammunition, a machete, and a hunting knife, drove to the MIT campus, where they shot police officer Sean Collier in an attempt to steal his

service weapon. After killing Officer Collier, the brothers carjacked a Mercedes, kidnapped the driver, and forced him to drive to a gas station, robbing him of \$800 along the way. After the driver managed to escape, the brothers drove the vehicle to Watertown, Massachusetts, where city police officers located the pair and a gunfight ensued. Attempting to escape, Dzhokhar Tsarnaev reentered the carjacked vehicle and drove it directly at the officers, running over and killing his brother, who had already been injured in the shootout. Gravely wounded, Tsarnaev hid in a dry-docked boat in a Watertown backyard until he was spotted and taken into custody by police.

Who were these killers? Tamerlan Tsarnaev was born in the Kalmyk Autonomous Soviet Socialist Republic, North Caucasus; Dzhokhar in Kyrgyzstan. Because their father was a Chechen, they identified themselves as being of Chechen descent. Though the family prospered in the United States and Dzhokhar attended a state university, the brothers clung to radical Islamic views and blamed the U.S. government for conducting a war against Islam in Iraq and Afghanistan. The brothers viewed the bombing victims as “collateral damage” in their war against the West. Their actions were disavowed by Islamic, Chechen, and other groups, all of whom quickly distanced themselves from the atrocity.

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**T**he Boston Marathon bombing and other high-profile criminal incidents have spurred interest in **criminology**, an academic discipline that uses the scientific method to study the nature, extent, cause, and control of criminal behavior. The subject matter of criminology ranges from explaining and understanding terrorist activity such as the Boston bombing to preventing white-collar fraud, from drug legalization to cyberbullying. Regardless of which areas of human behavior they study, criminologists, unlike political figures and media commentators—whose opinions about crime may be colored by personal experiences, biases, and election concerns—remain objective, unbiased, and impartial about the behaviors they study, even if it involves horrendous acts such as the marathon bombing.<sup>2</sup>

This text analyzes criminology and its major subareas of inquiry. It focuses on the nature and extent of crime, the causes of crime, and patterns of criminal behavior. This chapter introduces and defines criminology: What are its goals? How do criminologists define crime? How do they conduct research? What ethical issues face those wishing to conduct criminological research?

## WHAT IS CRIMINOLOGY?

### LO1 Explain what is meant by the term *criminology*

Criminology is the scientific approach to studying criminal behavior. In their classic definition, preeminent criminologists Edwin Sutherland and Donald Cressey state:

Criminology is the body of knowledge regarding crime as a social phenomenon. It includes within its scope the processes of making laws, of breaking laws, and of reacting toward the breaking of laws. . . . The objective of criminology is the development of a body of general

**criminology** The scientific study of the nature, extent, cause, and control of criminal behavior.

**scientific method** Using verifiable principles and procedures for the systematic acquisition of knowledge; typically involves formulating a problem, creating a hypothesis, and collecting data through observation and experiment to verify the hypothesis.

**Criminologists** Researchers who use scientific methods to study the nature, extent, cause, and control of criminal behavior.

**criminal justice** The field of study that focuses on law enforcement, the legal system, corrections, and other agencies of justice involved in the apprehension, prosecution, defense, sentencing, incarceration, and supervision of those suspected of or charged with criminal offenses.

and verified principles and of other types of knowledge regarding this process of law, crime, and treatment.<sup>3</sup>

Sutherland and Cressey's definition includes some of the most important areas of interest to criminologists:

- *Crime is a social phenomenon.* Although some criminologists believe that individual traits and characteristics may play some role in the cause of criminals' antisocial behavior, most believe that social factors are at the root cause of crime. Even the most disturbed people are influenced by their environment and their social interactions and personal relationships.
- *The processes of making laws.* Sutherland and Cressey's definition recognizes the association between crime and the criminal law and shows how the law defines crime. How and why laws are created and why some are strengthened and others eliminated is of great interest to criminologists.
- *Breaking laws and reacting toward the breaking of laws.* At its core, the purpose of criminology is to understand both the onset of crime and the most effective methods for its elimination. Why do people commit illegal acts, and what can be done to convince them—and others who are contemplating crime—that it is in their best interests to turn their back on criminality? These concepts are naturally bound together: it is impossible to effectively control crime unless we understand its cause.
- *Development of a body of general and verified principles.* Sutherland and Cressey recognize that criminology is a social science and criminologists must use the **scientific method** when conducting research. Criminologists are required to employ valid and reliable experimental designs and sophisticated data analysis techniques or else lose standing in the academic community.

Sutherland and Cressey's definition reflects the fact that for most of the twentieth century, criminology's primary orientation was sociological and crime was considered a social issue. Today, criminology takes a more integrated approach to the study of criminal behavior; it has become a multidisciplinary science. **Criminologists** hold degrees in a variety of diverse fields, most commonly sociology, but also criminal justice, political science, psychology, public policy, economics, and the natural sciences. It is not uncommon to see criminologists holding a degree in biology or psychology and conducting research on the genetic basis of crime or the relationship between personality and criminal activity.

How this field developed, its major components, and its relationship to crime law and deviance are some of the topics discussed in this chapter.

## Criminology and Criminal Justice

Although the terms criminology and **criminal justice** may seem similar, and people often confuse the two or lump them together, there are major differences between these

fields of study. Criminology explains the etiology (origin), extent, and nature of crime in society, whereas criminal justice refers to the study of the agencies of social control—police, courts, and corrections—that arrest, prosecute, convict, and treat criminal offenders. While criminologists are mainly concerned with identifying the suspected cause of *crime*, criminal justice scholars spend their time identifying effective methods of *crime control*.

Since both fields are crime-related, they do overlap. Some criminologists devote their research to **justice** and social control and their research focuses on how the agencies of justice operate, how they influence crime and criminals, and how justice policies shape crime rates and trends. Conversely, criminal justice experts often want to design effective programs of crime prevention or rehabilitation and to do so must develop an understanding of the nature of crime and its causation. It is common, therefore, for criminal justice programs to feature courses on criminology and for criminology courses to evaluate the agencies of justice.

## Criminology and the Sociology of Deviance

### LO2 Identify the difference between crime and deviance

Criminology is also related to the study of **deviant behaviors**—those actions that depart from social norms, values, and beliefs. Included within the broad spectrum of deviant acts are behaviors ranging from violent crimes to joining a nudist colony. The two fields of study are independent because significant distinctions can be made between crime and deviance. However, they also overlap, because many crimes are not unusual or deviant, and many deviant acts are neither illegal nor criminal.

Take, for instance, substance abuse. Selling and/or possessing recreational drugs, such as marijuana, may be illegal in most states and in the federal criminal code, but can it actually be considered deviant? A significant percentage of the population have used or are using drugs; more than half of all high school students have tried drugs before they graduate, and a number of states have legalized the sale and possession of marijuana.<sup>4</sup> Therefore, it is erroneous to argue that all crimes are deviant behaviors that depart from the norms of society.

Similarly, many deviant acts are not criminal even though they may be both disturbing and shocking to the conscience. Suppose a passerby witnesses someone



The line that separates deviant behavior from the conventional is often quite blurry. Vincent Graham, a center manager, helps Mark Paquette, a patient, at the River Rock Medical Marijuana Center in Denver, Colorado. When Colorado legalized the sale of marijuana, a former deviant behavior that had become criminal was now quite normative. Colorado has experienced a spurt in tax revenue as people are buying weed in droves.

Matthew Staver/New York Times/Redux

floundering in the ocean and makes no rescue attempt. Most people would condemn the onlooker's coldhearted behavior as callous, immoral, and deviant. However, no legal action could be taken since a private citizen is not required by law to risk his or her own life to save another's. There is no legal requirement that a person rush into a burning building, brave a flood, or jump into the ocean to save someone from harm. They may be deviant and not share commonly held values, but according to the law, they are not criminals.

In sum, criminologists are concerned with the concept of deviance and its relationship to criminality, whereas those sociologists who study deviant behaviors often want to understand and/or identify the line that separates criminal from merely unusual behaviors. The shifting definition of deviant behavior is closely associated with our concepts of crime. The relationships among criminology, criminal justice, and the sociology of deviance are illustrated in Concept Summary 1.1.

**justice** The quality of being fair under the law. Justice is defined by the relationship that exists between the individual and the state; justice demands that the state treat every person as equally as possible without regard to their gender, religion, race, or any other personal status.

**deviant behavior** Behavior that departs from the social norm.



The principal purpose of the Office on National Drug Control Policy (ONDCP) is to establish policies, priorities, and objectives for the nation's drug control program, the goals of which are to reduce illicit drug use, manufacturing, and trafficking; reduce drug-related crime and violence; and reduce drug-related health consequences. For more information about the United States' program for controlling drugs, visit the ONDCP website at <http://www.whitehouse.gov/ondcp>.

**A number of states have now legalized marijuana for personal or medical use. Compare the laws of states such as Colorado and California that allow personal use with those such as Kansas and Alabama where it remains illegal to use or possess.**

## CRIMINOLOGY, CRIMINAL JUSTICE, AND THE SOCIOLOGY OF DEVIANCE

1.1

concept summary

### CRIMINOLOGY

Criminology explores the etiology (origin), extent, and nature of crime in society. Criminologists are concerned with identifying the nature, extent, and cause of crime.

### CRIMINAL JUSTICE

Criminal justice refers to the agencies of social control that handle criminal offenders. Criminal justice scholars engage in describing, analyzing, and explaining operations of the agencies of justice, specifically the police departments, courts, and correctional facilities. They seek more effective methods of crime control and offender rehabilitation.

### CRIMINOLOGY AND CRIMINAL JUSTICE: OVERLAPPING AREAS OF CONCERN

Criminal justice experts cannot begin to design effective programs of crime prevention or rehabilitation without understanding the nature and cause of crime. They require accurate criminal statistics and data to test the effectiveness of crime control and prevention programs.

### SOCIOLOGY OF DEVIANCE

The sociology of deviance refers to the study of behavior that departs from social norms. Included within the broad spectrum of deviant acts are behaviors ranging from violent crimes to joining a nudist colony. Not all crimes are deviant or unusual acts, and not all deviant acts are illegal.

### CRIMINOLOGY AND THE SOCIOLOGY OF DEVIANCE: OVERLAPPING AREAS OF CONCERN

Under what circumstances do deviant behaviors become crimes? When does sexually oriented material cross the line from merely suggestive to obscene and therefore illegal? If an illegal act becomes a norm, should society reevaluate its criminal status? There is still debate over the legalization and/or decriminalization of abortion, recreational drug use, possession of handguns, and assisted suicide.

# WHAT CRIMINOLOGISTS DO: CRIMINOLOGY IN ACTION

## LO3 Recognize what is meant by the concept of "criminology in action"

Regardless of their theoretical orientation, criminologists are devoted to the study of crime and criminal behavior. As two noted criminologists, Marvin Wolfgang and Franco Ferracuti, put it: "A criminologist is one whose professional training, occupational role, and pecuniary reward are primarily concentrated on a scientific approach to, and study and analysis of, the phenomenon of crime and criminal behavior."<sup>5</sup>

"Criminology in action" refers to the efforts of criminologists to use their insight, training, and experience to understand human behavior and predict its occurrence. Because criminologists have been trained in diverse fields, several subareas reflecting different orientations and perspectives are now contained within the broader arena of criminology. Criminologists may specialize in a subarea in the same way that psychologists might specialize in a subfield of psychology, such as cognition, development, perception, personality, psychopathology, or sexuality. What are some of the specific goals and areas of study that criminologists focus their attention?

## Criminal Statistics and Crime Measurement

The subarea of criminal statistics and crime measurement involves devising valid and reliable measures designed to calculate the amount and trends of criminal activity: How much crime occurs annually? Who commits it? When and where does it occur? Which crimes are the most serious? Criminologists:

- Formulate techniques for collecting and analyzing institutional (police, court, and correctional agency) records and data.
- Develop survey instruments to measure criminal activity not reported to the police by victims. These instruments can be used to estimate the percentage of people who commit crimes but escape detection by the justice system.
- Identify the victims of crime and create surveys designed to have victims report loss and injury that may not have been reported to the police.
- Develop data that can be used to test crime theory. For example, measuring community-level crime rates can help prove whether ecological factors, such as neighborhood poverty and unemployment rates, are related to crime rates.

Those criminologists who devote themselves to criminal statistics engage in a number of different tasks, including:

- Devising accurate methods of collecting crime data
- Using these tested methods to measure the amount and trends of criminal activity



- Using valid crime data to determine who commits crime and where it occurs
- Measuring the effect of social policy and social trends on crime rate changes
- Using crime data to design crime prevention programs and then measuring their effectiveness

The media love to sensationalize crime and report on lurid cases of murder and rape. The general public is influenced by these stories, becoming fearful and altering their behavior to avoid victimization.<sup>6</sup> These news accounts, proclaiming crime waves, are often driven by the need to sell newspapers or increase TV viewership. There is nothing like an impending crime wave or serial killer on the loose to boost readership or viewership. Media accounts therefore can be biased and inaccurate, and it is up to criminologists to set the record straight. That fact is that fewer than 10 million crimes were reported in 2013, a drop of more than 4 million reported crimes since the 1991 peak, and this despite a boost of about 50 million in the general population. A far cry from what the media would have us believe.

Criminologists try to create valid and reliable measurements of criminal behavior. They create techniques to access the records of police and court agencies and use sophisticated statistical methods to understand underlying patterns and trends. They develop survey instruments and then use them with large samples to determine the actual number of crimes being committed and the number of victims who suffer criminal violations: how many people are victims of crime, and what percentage reports the crime to police.

Criminologists are also interested in helping agents of the criminal justice system develop effective crime control policies that rely on accurate measurement of crime rates. By using advanced statistical techniques to calculate where crime will take place, police departments can allocate patrol officers based on these predictions.<sup>7</sup>

The development of valid methods to measure crime and the accuracy of crime data are crucial aspects of criminology in action. Without valid and reliable crime data sources, efforts to conduct research on crime and create criminological theories would be futile. It is also important to determine why crime rates vary across and within regions in order to gauge the association between social and economic forces and criminal activity.

## Sociology of Law, Law and Society, Socio-Legal Studies

The sociology of law, also referred to as the study of law and society, is a subarea of criminology concerned with the role social forces play in shaping criminal law and, concomitantly, the role of criminal law in shaping society. Criminologists interested in studying the social aspects of law focus on such topics as:

- The history of legal thought
- How social forces shape the definition and content of the law
- The impact of legal change on society
- The relationship between law and social control
- The effect of criminalization/legalization on behaviors

Some criminologists who study law and society consider the role of law in the context of criminological theory. They try to understand how legal decision making influences individuals, groups, and the criminal justice system. Others try to identify alternatives to traditional legal process—for example, by designing nonpunitive methods of dispute resolution. Some seek to describe the legal system and identify and explain patterns of behavior that guide its operation. Others use the operations of law as a perspective for understanding culture and social life.<sup>8</sup>

Because the law is constantly evolving, criminologists are often asked to determine whether legal change is required and what shape it should take. Criminologists may use their research skills to assess the effects of a proposed legal change. Take for instance the crime of obscenity. Typically, there is no uniform standard of what is considered obscene; material that to some people is lewd and offensive may be considered a work of art by others. How far should the law go in curbing “adult films” and literature? Criminologists might conduct research aimed at determining the effect the proposed law will have on curbing access to obscene material such as child pornography. Other relevant research issues might include analysis of the harmful effects of viewing pornography: Are people who view pornography more likely to commit violent crime than non-watchers? And what about the effect of virtual porn? Is viewing computer-generated sexual imagery the same as viewing live actors? The answers may one day shape the direction of legislation controlling sexual content on the Internet.

Computer fraud, file sharing, ATM theft, and cyberstalking did not exist when the nation was founded. Consequently, the law must be revised to reflect cultural, societal, and technological changes. In fact, the Supreme Court has often considered empirical research supplied by criminologists on such topics as racial discrimination in the death penalty before it renders an opinion.<sup>9</sup> The research conducted by criminologists then helps shape the direction of their legal decision making. Might the research discussed in the accompanying Policy and Practice in Criminology box influence the shape of the criminal law and how it is applied?

## Theory Construction and Testing

Social theory can be defined as a systematic set of interrelated statements or principles that explain some aspect of social life. At their core, theories should serve as models or frameworks for understanding human behavior and the forces that shape its content and direction.

Because, ideally, theories are based on verified *social facts*—readily observed phenomena that can be consistently



## ARE SEX OFFENDER REGISTRATION LAWS EFFECTIVE?

Criminologists interested in legal studies also evaluate the impact new laws have on society after they have been in effect for a while. Take for instance the practice of sex offender registration, which requires convicted sex offenders to register with local law enforcement agencies when they move into a community. These are often called Megan's Laws in memory of 7-year-old Megan Kanka, killed in 1994 by sex offender Jesse Timmendequas, who had moved unannounced into her New Jersey neighborhood. Megan's Laws require law enforcement authorities to make information available to the public regarding registered sex offenders, including the offender's name, picture, address, incarceration date, and nature of crime. The information can be published in newspapers or put on a sex offender website.

In *Connecticut Dept. of Public Safety v. Doe* (2003), the U.S. Supreme Court upheld the legality of sex offender registration when it ruled that persons convicted of sexual offenses may be required to register with a state's Department of Public Safety and then be listed on a sex offender registry on the Internet containing registrants' names, addresses, photographs, and descriptions. In a 9–0 opinion upholding the plan, the Court reasoned that, because the law was based on the fact that a defendant had been convicted of a sex offense, disclosing their names on the registry without a hearing did not violate due process.

But while sex offender registration laws may be constitutional and pervasive (they are used in all 50 states), appeal to politicians who may be swayed by media crusades against child molesters (i.e., “To Catch a Predator” on *Dateline NBC*), and appease the public's desire to “do some-

thing” about child predators, do they actually work? Does registration deter future sex offenses and reduce the incidence of predatory acts against children?

To answer this question, criminologists Kristen Zgoba and Karen Bachar conducted an in-depth study of the effectiveness of New Jersey's registration law and found that while expensive to maintain, the system did not produce effective results. On the one hand, sex offense rates in New Jersey were in a steep decline before the system was installed and the rate of decline actually slowed down after 1995 when the law took effect. Zgoba and Bachar's data show that the greatest rate of decline in sex offending occurred prior to the passage and implementation of Megan's Law. On the other hand, passage and implementation of Megan's Law did not reduce the number of rearrests for sex offenses, nor did it have any demonstrable effect on the time between when sex offenders were released from prison and the time they were rearrested for any new offense, such as a drug, theft, or another sex offense.

Sex offender registration also has little effect on the recidivism rates of parolees. Jill Levenson and her associates investigated the relationship between failure to register (FTR) as a sex offender and subsequent recidivism with a sample of 3,000 people convicted of sexually related crimes. Levenson found that there was no significant difference in the proportion of sexual recidivists and non-recidivists with registration violations nor did FTR predict sexual recidivism. And when there was recidivism, there was no significant difference in time to recidivism when comparing those who failed to register (2.9 years) with compliant registrants (2.8 years).

These results challenge the effectiveness of sex offender registration laws. Rather than deter crime, sex offender laws may merely cause sex offenders to be more cautious while giving parents a false sense of security. Offenders may target victims in other states or communities where they are not registered and parents are less cautious. And many of these laws restrict where offenders can live, pushing them into rural areas where social services are meager, thereby disrupting their chances of treatment and rehabilitation.

### Critical Thinking



1. Considering the findings of Zgoba and Bachar, would you advocate abandoning sex offender registration laws because they are ineffective? Or might there be other reasons to keep them active?
2. What other laws do you think should be the topic of careful scientific inquiry to see if they actually work as advertised?

**SOURCES:** Kelly Socia, “The Policy Implications of Residency Restrictions on Sex Offender Housing in Upstate New York,” *Criminology and Public Policy* 10 (2011): 351–389; Wesley Jennings, Kristen Zgoba, and Richard Tewksbury, “Comparative Longitudinal Analysis of Recidivism Trajectories and Collateral Consequences for Sex and Non-Sex Offenders Released Since the Implementation of Sex Offender Registration and Community Notification,” *Journal of Crime and Justice* 35 (2012): 356–364; Jill Levenson, Elizabeth Letourneau, Kevin Armstrong, and Kristen Zgoba, “Failure to Register as a Sex Offender: Is It Associated with Recidivism?” *Justice Quarterly* 27 (2010): 305–331; *Connecticut Dept. of Public Safety v. Doe*, 538 U.S. 1 (2003); Kristen Zgoba and Karen Bachar, “Sex Offender Registration and Notification: Research Finds Limited Effects in New Jersey,” National Institute of Justice, April 2009, <http://www.ncjrs.gov/pdffiles1/nij/225402.pdf> (accessed March 2014).

quantified and measured—criminological theorists use the scientific method to test their theories. They gather data, derive *hypotheses*—testable expectations of behavior that can be derived from the theory—and then test them using

valid empirical research methods. For example, social learning theory (see Chapter 7) states that people learn behavior by observing how other people act. Adolescent behavior is controlled by the influence of parents, peers, and neighbors.

If this statement is accurate, then logically there should be a significant association between peer influence and behavior.

To test this theory, criminologists might conduct an experiment to see if peers who engage in and espouse deviant attitudes actually influence behavior. The Criminology in Action feature describes one such experiment.

## Criminal Behavior Systems and Crime Typologies

Criminologists who study criminal behavior systems and crime typologies focus their research on specific criminal types and patterns: violent crime, theft crime, public order crime, and organized crime. Numerous attempts have been made to describe and understand particular crime types. Marvin Wolfgang's famous 1958 study, *Patterns in Criminal Homicide*—considered a landmark analysis of the nature of homicide and the relationship between victim and offender—found that victims often precipitate the incident that results in their death.<sup>10</sup> Edwin Sutherland's analysis of business-related offenses helped coin a new phrase—white-collar crime—to describe economic crime activities.

Criminologists also conduct research on the links between different types of crime and criminals. This is known as a **crime typology**. Some typologies focus on the criminal, suggesting the existence of offender groups, such as professional criminals, psychotic criminals, amateur criminals, and so on. Others focus on the crimes, clustering them into categories such as property crimes, sex crimes, and so on. While 50 years ago they might have focused their attention on rape, murder, and burglary, they now may be looking at stalking, cybercrime, terrorism, and hate crimes. For example, a number of criminologists are now doing research on terrorism, trying to determine if there is such a thing as a “terrorist personality.” Among the findings:

- Mental illness is not a critical factor in explaining terrorist behavior. Also, most terrorists are not “psychopaths.”
- There is no “terrorist personality,” nor is there any accurate profile—psychologically or otherwise—of the terrorist.
- Histories of childhood abuse and trauma and themes of perceived injustice and humiliation often are prominent in terrorist biographies, but do not really help to explain terrorism.<sup>11</sup>

Research on criminal behavior systems and crime types is important because it enables criminologists to understand why people commit specific sorts of crime, and using this information, gives them the tools to devise crime reduction strategies.

## Punishment, Penology, and Social Control

Criminologists also are involved in creating effective crime policies, developing methods of social control, and the correction and control of known criminal offenders; it is this segment of criminology that overlaps criminal justice.

Criminologists conduct research that is designed to evaluate justice initiatives in order to determine their efficiency, effectiveness, and impact. For example, should capital punishment continue to be employed or is its use simply too risky? To explore this issue, Samuel Gross and his colleagues looked at death row inmates who were later found to be innocent. The sample of 340 death row inmates (327 men and 13 women), exonerated after having served years in prison, indicated that about half (144 people) were cleared by DNA evidence. Collectively, they had spent more than 3,400 years in prison for crimes they did not commit—an average of more than 10 years each. Gross and his colleagues found that exonerations from death row are more than 25 times more frequent than exonerations for other prisoners convicted of murder, and more than 100 times more frequent than for all imprisoned felons.<sup>12</sup> How many wrongful convictions might be uncovered if all criminal convictions were given the same degree of scrutiny as death penalty cases? The Gross research illustrates how important it is to evaluate penal measures in order to determine their effectiveness and reliability.

## Victimology: Victims and Victimization

In two classic criminological studies, one by Hans von Hentig and the other by Stephen Schafer, the critical role of the victim in the criminal process was first identified. These authors were the first to suggest that victim behavior is often a key determinant of crime and that victims' actions may actually precipitate crime. Both men believe that the study of crime is not complete unless the victim's role is considered.<sup>13</sup> For those studying the role of the victim in crime, these areas are of particular interest:

- Using victim surveys to measure the nature and extent of criminal behavior not reported to the police
- Calculating the actual costs of crime to victims
- Measuring the factors that increase the likelihood of becoming a crime victim
- Studying the role of the victim in causing or precipitating crime
- Designing services for the victims of crime, such as counseling and compensation programs

The study of victims and victimization has uncovered some startling results. For one thing, criminals have been found to be at greater risk for victimization than

**crime typology** The study of criminal behavior involving research on the links between different types of crime and criminals. Because people often disagree about types of crimes and criminal motivation, no standard exists within the field. Some typologies focus on the criminal, suggesting the existence of offender groups, such as professional criminals, psychotic criminals, occasional criminals, and so on. Others focus on the crimes, clustering them into categories such as property crimes, sex crimes, and so on.





# MEASURING THE EFFECT OF DEVIANT PEERS

Recently, criminologists Ray Paternoster, Jean Marie McGloin, Holly Nguyen, and Kyle J. Thomas conducted an interesting and informative experiment to measure whether peers influence behavior choices. They set up an experiment at a local university that was allegedly designed to measure short-term memory. The experimenter read a list of 20 words, which the subjects would be asked to recall at the end of the experiment; they were told they would receive \$1 for each word they recalled correctly, for a maximum possible payment of \$20. The participants were also asked to complete a short online survey, about their background (demographic information), self-perceived memory ability, and other factors. Participants were told that they had eight minutes to answer the survey questions on the computer and that if they finished before then, they should simply sit quietly and wait so that every person waited the same amount of time before recalling the words. The experimenter left the room, and when he returned he told the subjects how to enter the words online. The experimenter then appeared to be shocked as he noticed four “junk web links” located at the bottom of the recall page. The experimenter clicked on the links and announced that they opened up lists of the words to be recalled (i.e., each of the four links opened a page of 5 words, giving participants access to all 20 words).

The experimenter said the presence of the links was a software error and the participants should ignore the links when recalling the words. He then told the participants that he was going to leave the room to speak with a technician about removing the links. All subjects were well aware that there was an opportunity to cheat on this task.

Unknown to the participants, a hired actor was also in the room who looked and acted like the other students (he was a student at another university). In some cases, the peer confederate completed

the memory task without cheating and said nothing. In the experimental condition, once the experimenter left the room to talk to the technician, the peer confederate addressed the other subjects in the room using the following script:

That guy was right—you can totally see the words if you click the links. Screw it. I’m using the lists. I thought we were guaranteed the 20 dollars—now we have to remember all the words? That’s ridiculous. I am doing it.

The confederate then openly and clearly cheated on the task by clicking on all four links and using them to fill in the word recall list.

When the experimenter came back, he told the group that because of the need to fix the software glitch, there was no time to count the number of correct words for each subject in order to determine payment, so everyone would receive the \$20 compensation.

Despite the fact the peer deviance was committed by a stranger offering a verbal intention and justification for cheating that lasted less than 15 seconds, his behavior significantly increased the probability of subjects engaging in deviance. While

none of the control subjects cheated, 38 percent of the participants exposed to the cheating peer chose to do so!

This experiment lends significant support to both the influence of peers and the theory of differential association: people exposed to positive attitudes toward deviant behavior are more likely to adapt similar behaviors themselves. And remember, the actor was merely a peer and not a close friend. Had a best friend approved cheating, for a longer duration than 15 seconds, we can only imagine what the outcome would have been.

## Critical Thinking

Would you be influenced by someone loudly proclaiming it is okay to cheat on a test if an instructor left the room? Be honest now, would another student whom you hardly knew influence your behavior? What if everyone around you started to cheat?

**SOURCE:** Ray Paternoster, Jean Marie McGloin, Holly Nguyen, and Kyle J. Thomas, “The Causal Impact of Exposure to Deviant Peers: An Experimental Investigation,” *Journal of Research in Crime and Delinquency* 50 (2013): 476–503.



Research shows that if people see their peers or friends committing crime or engaging in deviance, they are more likely to join in themselves.

Joel Gordon/Peer Pressure

noncriminals.<sup>14</sup> Rather than being the passive receptors of criminal acts who are in the “wrong place at the wrong time,” crime victims may engage in high-risk lifestyles that increase their own chance of victimization and make them highly vulnerable to crime.

The various elements of criminology in action are summarized in Concept Summary 1.2.

## CONNECTIONS

In recent years, criminologists have devoted ever-increasing attention to the victim’s role in the criminal process. It has been suggested that a person’s lifestyle and behavior may actually increase the risk that he or she will become a crime victim. Some have suggested that living in a high-crime neighborhood increases risk; others point at the problems caused by associating with dangerous peers and companions. For a discussion of victimization risk, see Chapter 3.

### Ask Yourself ...

Does living in a college environment increase victimization risk? What can be done to make it safer? Are there places in your hometown that you avoid to reduce the risk of becoming a crime victim? Do you believe that crime victims are people in “the wrong place at the wrong time”?

## CRIMINOLOGY IN ACTION

# 1.2

concept summary

These subareas constitute the discipline of criminology:

### CRIMINAL STATISTICS AND RESEARCH METHODOLOGY

*Gathering valid crime data.* Devising new research methods; measuring crime patterns and trends.

### THE SOCIOLOGY OF LAW/LAW AND SOCIETY

*Determining the origin of law.* Measuring the forces that can change laws and society.

### THEORY CONSTRUCTION AND TESTING

*Predicting individual behavior.* Understanding the cause of crime rates and trends.

### CRIMINAL BEHAVIOR SYSTEMS AND CRIME TYPOLOGIES

*Determining the nature and cause of specific crime patterns.* Studying violence, theft, organized, white-collar, and public order crimes.

### PENOLOGY AND SOCIAL CONTROL

*Studying the correction and control of criminal behavior.* Using scientific methods to assess the effectiveness of crime control and offender treatment programs.

### VICTIMOLOGY/VICTIMS AND VICTIMIZATION

*Studying the nature and cause of victimization.* Aiding crime victims; understanding the nature and extent of victimization; developing theories of victimization risk.

# HOW CRIMINOLOGISTS VIEW CRIME

LO4

Discuss the three most prominent views of the meaning of “crime”

Professional criminologists usually align themselves with one of several schools of thought or perspectives in their field. Each perspective maintains its own view of what constitutes criminal behavior and what causes people to engage in criminality. This diversity of thought is not unique to criminology; biologists, psychologists, sociologists, historians, economists, and natural scientists disagree among themselves about critical issues in their fields. Considering the multidisciplinary nature of the field of criminology, fundamental issues such as the nature and definition of crime itself are cause for disagreement among criminologists.

A criminologist’s choice of orientation or perspective depends, in part, on his or her definition of crime. This section discusses the three most common concepts of crime used by criminologists.

## The Consensus View of Crime

According to the **consensus view**, crimes are behaviors believed to be repugnant to all elements of society. The substantive criminal law, which is the written code that defines crimes and their punishments, reflects the values, beliefs, and opinions of society’s mainstream. The term *consensus* is used because it implies that there is general agreement among a majority of citizens on what behaviors should be outlawed by the criminal law and henceforth viewed as crimes. As the eminent criminologists Edwin Sutherland and Donald Cressey put it:

Criminal behavior is behavior in violation of the criminal law. . . . [I]t is not a crime unless it is prohibited by the criminal law [which] is defined conventionally as a body of specific rules regarding human conduct which have been promulgated by political authority, which apply uniformly to all members of the classes to which the rules refer, and which are enforced by punishment administered by the state.<sup>15</sup>

This approach to crime implies that it is a function of the beliefs, morality, and rules established by the existing legal power structure. According to Sutherland and

**consensus view** The belief that the majority of citizens in a society share common ideals and work toward a common good and that crimes are acts that are outlawed because they conflict with the rules of the majority and are harmful to society.

Cressey's statement, criminal law is applied "uniformly to all members of the classes to which the rules refer." This statement reveals the authors' faith in the concept of an "ideal legal system" that deals adequately with all classes and types of people. Laws prohibiting theft and violence may be directed at the neediest members of society, whereas laws that sanction economic acts such as insider trading, embezzlement, and corporate price-fixing are aimed at controlling the wealthiest. The reach of the criminal law is not restricted to any single element of society.

**Social Harm** The consensus view of crime links illegal behavior to the concept of **social harm**. Though people generally enjoy a great deal of latitude in their behavior, it is agreed that behaviors that are harmful to other people and society in general must be controlled. Social harm is what sets strange, unusual, or deviant behavior—or any other action that departs from social norms—apart from criminal behaviors.<sup>16</sup>

This position is not without controversy. Although it is clear that rape, robbery, and murder are inherently harmful and their control justified, behaviors such as drug use and prostitution are more problematic because the harm they inflict is only on those who are willing participants. According to the consensus view, society is justified in controlling these so-called victimless crimes because public opinion holds that they undermine the social fabric and threaten the general well-being of society. Society has a duty to protect all its members—even those who choose to engage in high-risk behaviors.

## The Conflict View of Crime

The **conflict view** depicts society as a collection of diverse groups—business owners, workers, professionals, students—who are in constant and continuing conflict. Groups able to assert their political power use the law and the criminal justice system to advance their economic and social position. Criminal laws, therefore, are viewed as acts created to protect the haves from the have-nots. Critical criminologists often compare and contrast the harsh penalties exacted on the poor for their "street crimes" (burglary, robbery, and larceny) with the minor penalties the wealthy

**social harm** A view that behaviors harmful to other people and society in general must be controlled. These acts are usually outlawed, but some acts that cause enormous amounts of social harm are perfectly legal, such as the consumption of tobacco and alcohol.

**conflict view** The view that human behavior is shaped by interpersonal conflict and that those who maintain social power will use it to further their own needs.

## CONNECTIONS



The associations among crime, social harm, and morality are best illustrated in efforts to criminalize acts considered dangerous to the public welfare because they involve behaviors that offend existing social values. These so-called public order crimes include pornography, prostitution, and drug use. Though "victims" are often willing participants, some people believe it is society's duty to save them from themselves. To read more about crime, morality, and social harm, see Chapter 14.

### Ask Yourself ...

Should victimless crimes such as drug abuse be decriminalized? Or would that simply lead to more people using drugs on a regular basis like they do with cigarettes and alcohol now?

receive for their white-collar crimes (securities violations and other illegal business practices), though the latter may cause considerably more social harm. While the poor go to prison for minor law violations, the wealthy are given lenient sentences for even the most serious breaches of law. Rather than being class neutral, criminal law reflects and protects established economic, racial, gendered, and political power and privilege.

Crime, according to this definition, is a political concept designed to protect the power and position of the upper classes at the expense of the poor. Even crimes prohibiting violent acts, such as armed robbery, rape, and murder, may have political undertones. Banning violent acts ensures domestic tranquility and guarantees that the anger of the poor and disenfranchised classes will not be directed at their wealthy capitalist exploiters. According to this conflict view of crime, "real" crimes would include the following acts:

- Violations of human rights due to racism, sexism, and imperialism
- Unsafe working conditions
- Inadequate child care
- Inadequate opportunities for employment and education
- Substandard housing and medical care
- Crimes of economic and political domination
- Pollution of the environment
- Price-fixing
- Police brutality
- Assassinations and war-making
- Violations of human dignity
- Denial of physical needs and necessities, and impediments to self-determination
- Deprivation of adequate food
- Blocked opportunities to participate in political decision making



## The Interactionist View of Crime

The **interactionist view** of crime traces its antecedents to the symbolic interaction school of sociology, first popularized by pioneering sociologists George Herbert Mead, Charles Horton Cooley, and W. I. Thomas.<sup>17</sup> This position holds that (a) people act according to their own interpretations of reality, through which they assign meaning to things; (b) they observe the way others react, either positively or negatively; and (c) they reevaluate and interpret their own behavior according to the meaning and symbols they have learned from others.

According to this perspective, there is no objective reality. People, institutions, and events are viewed subjectively and labeled either good or evil according to the interpretation of the evaluator. The hit film *The Wolf of Wall Street* illustrates how the definition of crime is subjective: what some consider clever business practices, others define as fraud. The same interactions help define crime:

- The content of the criminal law and consequently the definition of crime often depend on human interaction and perceptions. Marijuana is now legal in some jurisdictions (Colorado for one) and illegal in others. It could easily be the other way around. Gay marriage is legal in some jurisdictions, illegal in others.
- Deciding whether an individual act is considered a crime is also a function of interaction and labeling. When an argument results in the death of one of the participants, a jury may be asked to decide whether the act was murder, self-defense, or merely an accidental fatality. Each person on the jury may have his or her own interpretation of what took place, and whether the act is labeled a crime, and the actor a criminal, depends on the juror's interpretation of events.

The process in which people are defined or labeled as criminal is also subjective. One person is viewed as an unrepentant hardcore offender and sent to a maximum security prison. Another, who has committed essentially the same crime, is considered remorseful and repentant and given probation in the community. Though their acts are similar, the treatment they receive is quite different. In a classic statement, sociologist Howard Becker argued, "The deviant is one to whom that label has successfully been applied; deviant behavior is behavior people so labeled."<sup>18</sup> According to the interactionist view, the definition of crime reflects the preferences and opinions of people who hold social power in a particular legal jurisdiction. These **moral**



According to the interactionist view of crime, the definition of criminality is created by those holding social and economic power, so-called moral entrepreneurs. Leonardo DiCaprio starred in the 2013 film *The Wolf of Wall Street*, which focused on the greed and illegal behavior of stock market guru Jordan Belfort, who went to prison for his shady deals. His behavior was defined as criminal by those in power; he saw himself as a savvy businessman.

Paramount Pictures/Everett Collection

**entrepreneurs** wage campaigns (*moral crusades*) to control behaviors they view as immoral and wrong (e.g., abortion) or, conversely, to legalize behaviors they consider harmless social eccentricities (e.g., carrying a handgun for self-protection; smoking pot). Because drug use offends their moral sense, it is currently illegal to purchase cocaine and hashish, while liquor and cigarettes are sold openly, even though far more people die of alcoholism and smoking than from drug abuse each year.<sup>19</sup> Even the definition of serious violent offenses, such as rape and murder, depends on the prevailing moral values of those who shape the content of the criminal law. For example, Florida has implemented a "stand your ground law" that legalizes killing in self defense even if the attacker was unarmed; in other states, shooting an unarmed person might be considered murder. Fifty years ago, a man could not be prosecuted for raping his wife; today, every state criminalizes marital rape. In sum, the definition of crime is more reflective of prevailing moral values than of any objective standard of right and wrong.

**interactionist view** The view that one's perception of reality is significantly influenced by one's interpretations of the reactions of others to similar events and stimuli.

**moral entrepreneurs** Interest groups that attempt to control social life and the legal order in such a way as to promote their own personal set of moral values. People who use their influence to shape the legal process in ways they see fit.

The interactionist view of crime is similar to the conflict perspective; both suggest that behavior is outlawed and considered criminal when it offends people who hold social, economic, and political power. However, unlike the conflict view, the interactionist perspective does not attribute capitalist economic and political motives to the process of defining crime. Laws against pornography, prostitution, and drugs are believed to be motivated more by moral crusades than by economic values.

The three main views of crime are summarized in Concept Summary 1.3.

## Defining Crime

It is possible to take elements from each school of thought to formulate an integrated definition of crime, such as this one:

Crime is a violation of societal rules of behavior as interpreted and expressed by a criminal legal code created by people holding social and political power. Individuals who violate these rules are subject to sanctions by state authority, social stigma, and loss of status.

This definition combines the consensus position that the criminal law defines crimes with the conflict perspective's emphasis on political power and control and the interactionist concept of labeling and stigma. Thus crime, as defined here, is a political, social, and economic function of modern life.

### THE DEFINITION OF CRIME

1.3

concept summary

The definition of crime affects how criminologists view the cause and control of illegal behavior and shapes their research orientation.

#### CONFLICT VIEW

- The law is a tool of the ruling class.
- Crime is a politically defined concept.
- "Real crimes" are not outlawed.
- The law is used to control the underclass.

#### CONSENSUS VIEW

- The law defines crime.
- The law reflects public opinion.
- Agreement exists on outlawed behavior.
- Laws apply to all citizens equally.

#### INTERACTIONIST VIEW

- Moral entrepreneurs define crime.
- Crimes are illegal because society defines them that way.
- The definition of crime evolves according to the moral standards of those in power.

# CRIME AND THE LAW

No matter which definition of crime we embrace, criminal behavior is tied to the law. It is therefore important for all criminologists to have some understanding of the development of law, its objectives, its elements, and how it has evolved.

## A Brief History of the Law

### **L05** Outline the development of criminal law

The concept of criminal law has been recognized for more than 3,000 years. Hammurabi (1792–1750 BCE), the sixth king of Babylon, created the most famous set of written laws of the ancient world, known today as the Code of Hammurabi. Preserved on basalt rock columns, the code established a system of crime and punishment based on physical retaliation ("an eye for an eye"). The severity of punishment depended on class standing: if convicted of an unprovoked assault, a slave would be killed, whereas a freeman might lose a limb.

More familiar is the Mosaic Code of the Israelites (1200 BCE). According to tradition, God entered into a covenant or contract with the tribes of Israel in which they agreed to obey his law (the 613 laws of the Old Testament, including the Ten Commandments), as presented to them by Moses, in return for God's special care and protection. The Mosaic Code is not only the foundation of Judeo-Christian moral teachings but also a basis for the U.S. legal system. Prohibitions against murder, theft, and perjury preceded by several thousand years the same laws found in the modern United States.

Though ancient formal legal codes were lost during the Dark Ages, early German and Anglo-Saxon societies developed legal systems featuring monetary compensation for criminal violations. Guilt was determined by two methods. One was *compurgation*, in which the accused person swore an oath of innocence with the backing of 12 to 25 oath helpers, who would attest to his or her character and claims of innocence. The second was trial by ordeal, which was based on the principle that divine forces would not allow an innocent person to be harmed. It involved such measures as having the accused place his or her hand in boiling water or hold a hot iron. If the wound healed, the person was found innocent; if the wound did not heal, the accused was deemed guilty. Another version, trial by combat, allowed the accused to challenge his accuser to a duel, with the outcome determining the legitimacy of the accusation. Punishments included public flogging, branding, beheading, and burning.

## Common Law

After the Norman conquest of England in 1066, royal judges began to travel throughout the land, holding court in each shire several times a year. When court was in session,

the royal administrator, or judge, would summon a number of citizens who would, on their oath, tell of the crimes and serious breaches of the peace that had occurred since the judge's last visit. The royal judge would then decide what to do in each case, using local custom and rules of conduct as his guide. Courts were bound to follow the law established in previous cases unless a higher authority, such as the king or the pope, overruled the law.

The present English system of law came into existence during the reign of Henry II (1154–1189), when royal judges began to publish their decisions in local cases. Judges began to use these written decisions as a basis for their decision making, and eventually a fixed body of legal rules and principles was established. If a new rule was successfully applied in a number of different cases, it would become a precedent. These precedents would then be commonly applied in all similar cases—hence the term **common law**. Crimes such as murder, burglary, arson, and rape are common-law crimes whose elements were initially defined by judges. They are referred to as ***mala in se***, inherently evil and depraved. When the situation required it, the English Parliament enacted legislation to supplement the judge-made common law. These were referred to as statutory or ***mala prohibita*** crimes, which reflected existing social conditions. English common law evolved constantly to fit specific incidents that the judges encountered. For example, in the *Carriers* case (1473), an English court ruled that a merchant who had been hired to transport merchandise was guilty of larceny (theft) if he kept the goods for his own purposes.<sup>20</sup> Before the *Carriers* case, it was not considered a crime under the common law when people kept something that was voluntarily placed in their possession, even if the rightful owner had only given them temporary custody of the merchandise. Breaking with legal tradition, the court acknowledged that the commercial system could not be maintained unless the laws of theft were expanded. The definition of larceny was altered in order to meet the needs of a growing free enterprise economic system. Larceny now included the taking of goods not only by force or stealth but also by embezzlement and fraud.

## The Law in Contemporary Society

### **LO6** Analyze the different categories of law

In contemporary U.S. society, the law governs almost all phases of human enterprise, including commerce, family life, property transfer, and the regulation of interpersonal conflict. It contains elements that control personal relationships between individuals and public relationships between individuals and the government. The former is known as *civil law*, and the latter is called *criminal law*. The law then can generally be divided into four broad categories:

- **Substantive criminal law.** The branch of the law that defines crimes and their punishment is known as

**substantive criminal law**. It involves such issues as the mental and physical elements of crime, crime categories, and criminal defenses.

- **Procedural criminal law.** Those laws that set out the basic rules of practice in the criminal justice system are **procedural criminal laws**. Some elements of the law of criminal procedure are the rules of evidence, the law of arrest, the law of search and seizure, questions of appeal, jury selection, and the right to counsel.
- **Civil law.** The set of rules governing relations between private parties, including both individuals and organizations (such as business enterprises or corporations), is known as **civil law**. The civil law is used to resolve, control, and shape such personal interactions as contracts, wills and trusts, property ownership, and commerce. Contained within the civil law is tort law, discussed in Exhibit 1.1.
- **Public or administrative law.** The branch of law that deals with the government and its relationships with individuals or other governments is known as **public law**. It governs the administration and regulation of city, county, state, and federal government agencies.

**common law** Early English law, developed by judges, that incorporated Anglo-Saxon tribal custom, feudal rules and practices, and the everyday rules of behavior of local villages. Common law became the standardized law of the land in England and eventually formed the basis of the criminal law in the United States.

***mala in se*** Acts that are outlawed because they violate basic moral values, such as rape, murder, assault, and robbery.

***mala prohibita*** Acts that are outlawed because they clash with current norms and public opinion, such as tax, traffic, and drug laws.

**substantive criminal law** The branch of the law that defines crimes and their punishment. It involves such issues as the mental and physical elements of crime, crime categories, and criminal defenses.

**procedural criminal laws** Those laws that set out the basic rules of practice in the criminal justice system. Some elements of the law of criminal procedure are the rules of evidence, the law of arrest, the law of search and seizure, questions of appeal, jury selection, and the right to counsel.

**civil law** The set of rules governing relations between private parties, including both individuals and organizations (such as business enterprises and/or corporations). The civil law is used to resolve, control, and shape such personal interactions as contracts, wills and trusts, property ownership, and commerce.

**public (or administrative) law** The branch of law that deals with the government and its relationships with individuals or other governments. It governs the administration and regulation of city, county, state, and federal government agencies.



## EXHIBIT 1.1

### Types of Torts

- *Intentional torts* are injuries that the person knew or should have known would occur through his or her actions—a person attacks and injures another (assault and battery) after a dispute.
- *Negligent torts* are injuries caused because a person's actions were unreasonably unsafe or careless—a traffic accident is caused by a reckless driver.
- *Strict liability torts* are injuries that occur because a particular action causes damage prohibited by statute—a victim is injured because a manufacturer made a defective product.

**SOURCE:** © Cengage Learning®

The four categories of the law can be interrelated. A crime victim may file a tort action against a criminal defendant and sue for damages in a civil court. Under tort law, a crime victim may sue even if the defendant is found not guilty because the evidentiary standard in a civil action is less than is needed for a criminal conviction (preponderance of the evidence versus beyond a reasonable doubt). In some instances, the government has the option to pursue a legal matter through the criminal process, file a tort action, or bring the matter before an administrative court. White-collar crimes often involve criminal, administrative, and civil penalties.

### Shaping the Criminal Law

Before the American Revolution, the colonies, then under British rule, were subject to the common law. After the colonies won their independence, state legislatures standardized common-law crimes such as murder, burglary, arson, and rape by putting them into statutory form in criminal codes. As in England, whenever common law proved inadequate to deal with changing social and moral issues, the states and Congress supplemented it with legislative statutes. Similarly, statutes prohibiting such offenses as the sale and possession of narcotics or the pirating of DVDs have been passed to control human behavior unknown at the time the common law was formulated. Today, criminal behavior is defined primarily by statute. With few exceptions, crimes are removed, added, or modified by the legislature of a particular jurisdiction.

The content of the law may also be shaped by judicial decision making. A criminal statute may be no longer enforceable when an appellate judge rules that it is vague, deals with an act no longer of interest to the public, or is an unfair exercise of state control over an individual. Conversely, a judicial ruling may expand the scope of an

**felony** A serious offense, such as rape, murder, robbery, or burglary, that is punishable by a prison sentence or, in the case of first-degree murder, by capital punishment.

existing criminal law, thereby allowing control over behaviors that heretofore were beyond its reach. In a famous 1990 case, 2 Live Crew (made up of Luther Campbell, Christopher Wong Won, Mark Ross, and David Hobbs), a prominent rap group, found its sales restricted in Florida as police began arresting children under 18 for purchasing the band's sexually explicit CD *As Nasty as They Want to Be*. The hit single "Me So Horny" was banned from local radio stations. Prosecutors tried but failed to get a conviction after group members were arrested at a concert. If members of the Crew had in fact been found guilty and the conviction had been upheld by the state's highest appellate court, obscenity laws would have been expanded to cover people singing (or rapping) objectionable music lyrics.

#### LO7

**Articulate the relationship between the criminal law and the U.S. Constitution**

**Constitutional Limits** Regardless of its source, all criminal law in the United States must conform to the rules and dictates of the U.S. Constitution.<sup>21</sup> Any criminal law that even appears to conflict with the various provisions and articles of the Constitution must reflect a compelling need to protect public safety or morals.<sup>22</sup>

Criminal laws have been interpreted as violating constitutional principles if they are too vague or too broad to give clear meaning of their intent. A law forbidding adults to engage in "immoral behavior" could not be enforced because it does not use clear and precise language or give adequate notice as to which conduct is forbidden.<sup>23</sup> The Constitution also prohibits laws that make a person's status a crime. Becoming or being a heroin addict is not a crime, although laws can forbid the sale, possession, and manufacture of heroin.

The Constitution limits laws that are overly cruel and/or capricious. Whereas the use of the death penalty may be constitutionally approved, capital punishment would be forbidden if it were used for lesser crimes such as rape or employed in a random, haphazard fashion.<sup>24</sup> Cruel ways of executing criminals that cause excessive pain are likewise forbidden. One method used to avoid "cruelty" is lethal injection. In the 2008 case *Baze and Bowling v. Rees*, the Court upheld the use of lethal injection unless there is a "substantial risk of serious harm" that the drugs will not work effectively.<sup>25</sup>

### The Substantive Criminal Law

#### LO8

**Synthesize the different purposes of criminal law**

The substantive criminal law defines crime and punishment. Each state and the federal government have their own substantive criminal code, developed over many generations and incorporating moral beliefs, social values, and political, economic, and other societal concerns.

Criminal laws are divided into felonies and misdemeanors. The distinction is based on seriousness: a **felony**

is a serious offense; a **misdemeanor** is a minor or petty crime. Crimes such as murder, rape, and burglary are felonies; they are punished with long prison sentences or even death. Crimes such as unarmed assault and battery, petty larceny, and disturbing the peace are misdemeanors; they are punished with a fine or a period of incarceration in a county jail.

Regardless of their classification, acts prohibited by the criminal law constitute behaviors considered unacceptable and impermissible by those in power. People who engage in these acts are eligible for severe sanctions. By outlawing these behaviors, the government expects to achieve a number of social goals:

- **Enforcing social control.** Those who hold political power rely on criminal law to formally prohibit behaviors believed to threaten societal well-being or to challenge their authority. For example, U.S. criminal law incorporates centuries-old prohibitions against the following behaviors harmful to others: taking another person's possessions, physically harming another person, damaging another person's property, and cheating another person out of his or her possessions. Similarly, the law prohibits actions that challenge the legitimacy of the government, such as planning its overthrow, collaborating with its enemies, and so on.
- **Discouraging revenge.** By punishing people who infringe on the rights, property, and freedom of others, the law shifts the burden of revenge from the individual to the state. As famed jurist and Supreme Court Judge Oliver Wendell Holmes stated, this prevents "the greater evil of private retribution."<sup>26</sup> Although state retaliation may offend the sensibilities of many citizens, it is greatly preferable to a system in which people would have to seek justice for themselves.
- **Expressing public opinion and morality.** Criminal law reflects constantly changing public opinions and moral values. *Mala in se* crimes, such as murder and forcible rape, are almost universally prohibited; however, the prohibition of legislatively created *mala prohibita* crimes, such as traffic offenses and gambling violations, changes according to social conditions and attitudes. Criminal law is used to codify these changes.
- **Deterring criminal behavior.** Criminal law has a social control function. It can control, restrain, and direct human behavior through its sanctioning power. The threat of punishment associated with violating the law is designed to prevent crimes before they occur. During the Middle Ages, public executions drove this point



**The substantive criminal law defines crimes and sets out their punishment. Aaron Schaffhausen, who killed his three daughters in an act of revenge against his ex-wife, is led from a St. Croix County Courtroom after being sentenced to three consecutive life terms in prison on July 15, 2013, in Hudson, Wisconsin.**

AP Images/Star Tribune/Elizabeth Flores

home. Today criminal law's impact is felt through news accounts of long prison sentences and an occasional execution.

- **Punishing wrongdoing.** The deterrent power of criminal law is tied to the authority it gives the state to sanction or punish offenders. Those who violate criminal law are subject to physical coercion and punishment.
- **Maintaining social order.** All legal systems are designed to support and maintain the boundaries of the social system they serve. In medieval England, the law protected the feudal system by defining an orderly system of property transfer and ownership. Laws in some socialist nations protect the primacy of the state by strictly curtailing profiteering and individual enterprise. Our own capitalist system is also supported and sustained by criminal law. In a sense, the content of criminal law is more a reflection of the needs of those who control the existing economic and political system than a representation of some idealized moral code.
- **Providing restoration.** Victims deserve restitution or compensation for their pain and loss. The criminal law can be used to restore to victims what they have lost. Because we believe in equity and justice, it is only fair that the guilty help repair the harm they have caused others by their crimes. Punishments such as fines, forfeiture, and restitution are connected to this legal goal.

**misdemeanor** A minor or petty crime, typically punished by a fine, community sentence, or a jail term.

## The Elements of Criminal Law

### LO9 Compare and contrast the elements of the criminal law

Although each state and the federal government have unique methods of defining crime, there are significant uniformities and similarities that shape the essence of almost all criminal law codes. Although the laws of California, Texas, and Maine may all be somewhat different, the underlying concepts that guide and shape their legal systems are universal. The question remains: regardless of jurisdictional boundaries, what is the legal definition of a crime and how does the criminal law deal with it?

**Legal Definition of a Crime** Today, in all jurisdictions, the legal definition of a crime involves the elements of the criminal acts that must be proven in a court of law if the defendant is to be found guilty.<sup>27</sup> For the most part, common criminal acts have both mental and physical elements, both of which must be present if the act is to be considered a legal crime. In order for a crime to occur, the state must show that the accused committed the guilty act, or *actus reus*, and had the *mens rea*, or criminal intent, to commit the act. The *actus reus* may be an aggressive act, such as taking someone's money, burning a building, or shooting someone; or it may be a failure to act when there is a legal duty to do so, such as a parent neglecting to seek medical attention for a sick child. The *mens rea* (guilty mind) refers to an individual's state of mind at the time of the act or, more specifically, the person's intent to commit the crime.

**Actus Reus** To satisfy the requirements of *actus reus*, guilty actions must be voluntary. Even though an act may cause harm or damage, it is not considered a crime if it was done by accident or was an involuntary act. It would not be a crime if a motorist obeying all the traffic laws hit a child who ran into the street. If the same motorist were drinking or speeding, then his action would be considered a vehicular crime because it was a product of negligence. Similarly, it would not be considered a crime if a babysitter accidentally dropped a child and the child died. However, it would be considered manslaughter if the sitter threw the child down in anger or frustration and the blow caused the child's death. In some circumstances of *actus reus*, the use of words is considered criminal. In the crime of sedition, the words of disloyalty constitute the *actus reus*. If a person falsely yells "fire" in a crowded theater and people are injured in the rush to exit, that person is held responsible for the injuries, because the use of the word in that situation constitutes an illegal act.

Typically, the law does not require people to aid others in distress, such as entering a burning building to rescue people trapped by a fire. However, failure to act is considered a crime in certain instances:

- *Relationship of the parties based on status.* Some people are bound by relationship to give aid. These relationships

include parent/child and husband/wife. If a husband finds his wife unconscious because she took an overdose of sleeping pills, he is obligated to save her life by seeking medical aid. If he fails to do so and she dies, he can be held responsible for her death.

- *Imposition by statute.* Some states have passed laws requiring people to give aid. For example, a person who observes a broken-down automobile in the desert but fails to stop and help the other parties involved may be committing a crime.
- *Contractual relationships.* These relationships include lifeguard and swimmer, doctor and patient, and babysitter or au pair and child. Because lifeguards have been hired to ensure the safety of swimmers, they have a legal duty to come to the aid of drowning persons. If a lifeguard knows a swimmer is in danger and does nothing about it and the swimmer drowns, the lifeguard is legally responsible for the swimmer's death.

**Mens Rea** In most situations, for an act to constitute a crime, it must be done with criminal intent, or *mens rea* (guilty mind). Intent, in the legal sense, can mean carrying out an act intentionally, knowingly, and willingly. However, the definition also encompasses situations in which recklessness or negligence establishes the required criminal intent. For example, criminal intent exists if the results of an action, although originally unintended, are certain to occur. When Timothy McVeigh planted a bomb in front of the Murrah Federal Building in Oklahoma City, he did not intend to kill any particular person in the building. Yet the law would hold that McVeigh or any other person would be substantially certain that people in the building would be killed in the blast, and McVeigh therefore had the criminal intent to commit murder.

**Strict Liability** Though common-law crimes require that both the *actus reus* and the *mens rea* must be present before a person can be convicted of a crime, several crimes defined by statute do not require *mens rea*. In these cases, the person accused is guilty simply by doing what the statute prohibits; intent does not enter the picture. These strict liability crimes, or public welfare offenses, include violations of health and safety regulations, traffic laws, and narcotic control laws. For example, a person stopped for speeding is guilty of breaking the traffic laws regardless of whether he or she intended to go over the speed limit or did it by accident. The underlying purpose of these laws is to protect the public; therefore, intent is not required.

## Criminal Defenses

When people defend themselves against criminal charges, they must refute one or more of the elements of the crime of which they have been accused. A number of different approaches can be taken to create this defense.

First, defendants may deny the *actus reus* by arguing that they were falsely accused and that the real culprit has yet to



be identified. Second, defendants may claim that although they engaged in the criminal act of which they are accused, they lacked the *mens rea* (intent) needed to be found guilty of the crime.

If a person whose mental state is impaired commits a criminal act, it is possible for the person to excuse his or her criminal actions by claiming that he or she lacked the capacity to form sufficient intent to be held criminally responsible. Insanity, intoxication, and ignorance are types of excuse defenses. A defendant might argue that because he suffered from a mental impairment that prevented him from understanding the harmfulness of his acts, he lacked sufficient *mens rea* to be found guilty as charged.

Another type of defense is justification. Here the individual usually admits committing the criminal act but maintains that he or she should not be held criminally liable because the act was justified. Among the justification defenses are necessity, duress, self-defense, and entrapment. A battered wife who kills her mate might argue that she acted out of duress; her crime was committed to save her own life.

Persons standing trial for criminal offenses may thus defend themselves by claiming that they did not commit the act in question, that their actions were justified under the circumstances, or that their behavior can be excused by their lack of *mens rea*. If either the physical or mental elements of a crime cannot be proven, then the defendant cannot be convicted.

## The Evolution of Criminal Law

The criminal law is constantly evolving in an effort to reflect social and economic conditions. Sometimes legal changes are prompted by highly publicized cases that generate fear and concern. A number of highly publicized cases of celebrity stalking, including Robert John Bardo's fatal shooting of actress Rebecca Schaeffer on July 18, 1989, prompted more than 25 states to enact **stalking statutes** that prohibit "the willful, malicious, and repeated following and harassing of another person."<sup>28</sup> California's sexual predator law, which took effect on January 1, 1996, allows people convicted of sexually violent crimes against two or more victims to be committed to a mental institution after their prison terms have been served.<sup>29</sup>

The criminal law may also change because of shifts in culture and social conventions, reflecting a newfound tolerance of behavior condemned only a few years before. In an important 2003 case, *Lawrence v. Texas*, the Supreme Court declared that laws banning sodomy were unconstitutional because they violated the due process rights of citizens because of their sexual orientation. In its decision, the Court said:

Although the laws involved ... here ... do not more than prohibit a particular sexual act, their penalties and purposes have more far-reaching consequences, touching

upon the most private human conduct, sexual behavior, and in the most private of places, the home. They seek to control a personal relationship that, whether or not entitled to formal recognition in the law, is within the liberty of persons to choose without being punished as criminals. The liberty protected by the Constitution allows homosexual persons the right to choose to enter upon relationships in the confines of their homes and their own private lives and still retain their dignity as free persons.

As a result of the decision, sodomy laws in the United States are now unconstitutional and therefore unenforceable.<sup>30</sup>

What are some of the new laws that are being created and old ones that have been eliminated?

**Stalking Laws** More than 25 states have enacted stalking statutes, which prohibit and punish acts described typically as "the willful, malicious, and repeated following and harassing of another person."<sup>31</sup> Stalking laws were originally formulated to protect women terrorized by former husbands and boyfriends, although celebrities are often plagued by stalkers as well. In celebrity cases, these laws often apply to stalkers who are strangers or casual acquaintances of their victims.

**Prohibiting Assisted Suicide** Some laws are created when public opinion turns against a previously legal practice. Physician-assisted suicide became the subject of a national debate when Dr. Jack Kevorkian began practicing what he called *obituary*, helping people take their own lives.<sup>32</sup> In an attempt to stop Kevorkian, Michigan passed a statutory ban on assisted suicide, reflecting what lawmakers believed to be prevailing public opinion.<sup>33</sup> Kevorkian was paroled on June 1, 2007, and died in 2011. Forty-four states now disallow assisted suicide either by statute or common law, including Michigan.<sup>34</sup>

**Registering Sex Offenders** Some legal changes have been prompted by public outrage over a particularly heinous crime, such as the murder of Megan Kanka (Megan's Law):

- **Sex offender registration.** A revision of the 1994 Jacob Wetterling Act, which had required the states to register individuals convicted of sex crimes against children, also established a community notification system.
- **Community notification.** States were compelled to make private and personal information on registered sex offenders available to the public.

**stalking statutes** Laws that prohibit "the willful, malicious, and repeated following and harassing of another person."

Variations of Megan's Law have been adopted by all 50 states. Although civil libertarians have expressed concern that notification laws may interfere with an offender's postrelease privacy rights, recent research indicates that registered offenders find value in Megan's Law because it helps deter future abuse. When DNA collection is included in the law, it helps reduce false accusations and convictions.<sup>35</sup>

**Clarifying Rape** Sometimes laws are changed to clarify the definition of crime and to quell public debate over the boundaries of the law. When does bad behavior cross the line into criminality, and when does it remain merely bad behavior? An example of the former can be found in changes to the law of rape. In a number of states, including California, it is now considered rape if the victim consents to sex, the sex act begins, the victim changes his/her mind during the act and tells his/her partner to stop, and the partner refuses and continues. The fact that the victim initially consented to and participated in a sexual act does not bar him/her from withdrawing that consent. However,

the victim must communicate the withdrawal of consent in such a manner that the accused knew or reasonably should have known that the consent was withdrawn. Before the legal change, such a circumstance was not considered rape but merely aggressive sex.<sup>36</sup>

**Controlling Technology** Changing technology and the ever-increasing role of technology in people's daily lives will require modifications of the criminal law. Such technologies as automatic teller machines and cellular phones have already spawned a new generation of criminal acts involving theft of access numbers and software piracy. For example, a modification to Virginia's Computer Crimes Act that took effect in 2005 makes *phishing*—sending out bulk email messages designed to trick consumers into revealing bank account passwords, Social Security numbers, and other personal information—a felony. Those convicted of selling the data or using the data to commit another crime, such as identity theft, now face twice the prison time.

### Protecting the Environment

In response to the concerns of environmentalists, the federal government has passed numerous acts designed to protect the nation's well-being. The Environmental Protection Agency has successfully prosecuted significant violations of these and other new laws, including data fraud cases (e.g., private laboratories submitting false environmental data to state and federal environmental agencies); indiscriminate hazardous waste dumping that resulted in serious injuries and death; industrywide ocean dumping by cruise ships; oil spills that caused significant damage to waterways, wetlands, and beaches; and illegal handling of hazardous substances such as pesticides and asbestos that exposed children, the poor, and other especially vulnerable groups to potentially serious illness.<sup>37</sup>

**Legalizing Marijuana** A number of states are now exploring the legalization of marijuana for medical purposes. New Jersey Senate Bill 119, signed into law on January 18, 2010, is typical of changes



Rape is a common-law crime whose elements were initially defined by judges but are now part of the statutory law. They are referred to as *mala in se*, inherently evil and depraved. Self-proclaimed pimp and accused killer Ammar Harris listens while prosecutor Lisa Luzaich (right) speaks during sentencing in Clark County District Court on February 26, 2014. District Judge Kathleen Delaney sentenced Harris to 16 years to life in Nevada state prison in a rape and robbery case.

AP Images/Las Vegas Review-Journal/Jeff Scheid

## CONNECTIONS

Cyber law and cybercrime will be covered in greater detail in Chapter 15. This is an emerging area of criminology presenting new challenges in both defining what is a crime and how cyber laws can be enforced.

in the law. The bill protects “patients who use marijuana to alleviate suffering from debilitating medical conditions, as well as their physicians, primary caregivers, and those who are authorized to produce marijuana for medical purposes” from “arrest, prosecution, property forfeiture, and criminal and other penalties.” It also provides for the creation of alternative treatment centers, “at least two each in the northern, central, and southern regions of the state. The first two centers issued a permit in each region shall be nonprofit entities, and centers subsequently issued permits may be nonprofit or for-profit entities.” The bill allows marijuana to be prescribed for a variety of illnesses ranging from severe chronic pain, nausea, and vomiting to terminal illnesses such as cancer. Physicians determine how much marijuana a patient needs and give written instructions to be presented to an alternative treatment center. The maximum amount for a 30-day period is two ounces.<sup>38</sup> According to the Drug Policy Alliance, Alaska, California, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, Oregon, Rhode Island, Vermont, and Washington have created laws that effectively remove state-level criminal penalties for growing and/or possessing medical marijuana. Another ten states, plus the District of Columbia, have symbolic medical marijuana laws (laws that support medical marijuana but do not provide patients with legal protection under state law).<sup>39</sup> Some states such as Colorado have legalized marijuana for personal use.

While providing medical marijuana has strong public support, the federal government still criminalizes any use of marijuana, and federal agents can arrest users even if they have prescriptions from doctors in states where medical marijuana is legal. The Supreme Court ruled in 2005 in *Gonzales v. Raich* that the federal government can prosecute medical marijuana patients, even in states with compassionate use laws.<sup>40</sup> The Court ruled that under the Commerce Clause of the United States Constitution, which allows the United States Congress “To regulate Commerce ... among the several States,” Congress may ban the use of cannabis even where states approve its use for medicinal purposes. The reasoning: because of high demand, marijuana grown for medical reasons would find its way into the hands of ordinary drug users. So while the law may change on a local or state level, federal rules take precedent.

**Responding to Terrorism** The criminal law has also undergone extensive change in both substance and procedure in the aftermath of the September 11, 2001, terrorist attacks.

The future direction of U.S. criminal law remains unclear. Certain actions, such as crimes by corporations and political corruption, will be labeled as criminal and given more attention. Other offenses, such as recreational drug use, may be reduced in importance or removed entirely from the criminal law system.

## ETHICAL ISSUES IN CRIMINOLOGY

**LO10** Summarize the main ethical issues in criminology

A critical issue facing students of criminology involves recognizing the field’s political and social consequences. All too often, criminologists forget the social responsibility they bear as experts in the area of crime and justice. When government agencies request their views of issues, their pronouncements and opinions become the basis for sweeping social policy. The lives of millions of people can be influenced by criminological research data.

Debates over gun control, capital punishment, and mandatory sentences are ongoing and contentious. Some criminologists have successfully argued for social service, treatment, and rehabilitation programs to reduce the crime rate, but others consider them a waste of time, suggesting instead that a massive prison construction program coupled with tough criminal sentences can bring the crime rate down. By accepting their roles as experts on law-violating behavior, criminologists place themselves in a position of power; the potential consequences of their actions are enormous. Therefore, they must be aware of the ethics of their profession and be prepared to defend their work in the light of public scrutiny. Major ethical issues include these:

- What to study?
- Whom to study?
- How to study?

### What to Study?

Under ideal circumstances, when criminologists choose a subject for study, they are guided by their own scholarly interests, pressing social needs, the availability of accurate data, and other similar concerns. Nonetheless, in recent years, a great influx of government and institutional funding has influenced the direction of criminological inquiry. Major sources of monetary support include the Justice Department’s National Institute of Justice, the National Science Foundation, and the National Institute of Mental Health. Private foundations, such as the Edna McConnell Clark Foundation, have also played an important role in supporting criminological research.

Though the availability of research money has spurred criminological inquiry, it has also influenced the direction



research has taken. State and federal governments provide a significant percentage of available research funds, and they may also dictate the areas that can be studied. In recent years, for example, the federal government has spent millions of dollars funding long-term cohort studies of criminal careers. Consequently, academic research has recently focused on criminal careers. Other areas of inquiry may be ignored because there is simply not enough funding to pay for or sponsor the research.

A potential conflict of interest may arise when the institution funding research is itself one of the principal subjects of the research project. Governments may be reluctant to fund research on fraud and abuse of power by government officials. They may also exert a not-so-subtle influence on the criminologists seeking research funding: if criminologists are too critical of the government's efforts to reduce or counteract crime, perhaps they will be barred from receiving further financial help. This situation is even more acute when we consider that criminologists typically work for universities or public agencies and are under pressure to bring in a steady flow of research funds or to maintain the continued viability of their agency. Even when criminologists maintain discretion of choice, the direction of their efforts may not be truly objective. The objectivity of research may be questioned if studies are funded by organizations that have a vested interest in the outcome of the research. For example, a study on the effectiveness of the defensive use of handguns to stop crime may be tainted if the funding for the project comes from a gun manufacturer whose sales may be affected by the research findings. Efforts to show that private prisons are more effective than state correctional facilities might be tainted if the researchers received a research grant from a corporation that maintains private prisons.

## Whom to Study?

A second major ethical issue in criminology concerns who will be the subject of inquiries and study. Too often, criminologists focus their attention on the poor and minorities while ignoring the middle-class criminal who may be committing white-collar crime, organized crime, or government crime. Critics have charged that by "unmasking" the poor and desperate, criminologists have justified any harsh measures taken against them. For example, a few social scientists

have suggested that criminals have lower intelligence quotients than the average citizen, and that because minority group members have lower than average IQ scores, their crime rates are high.<sup>41</sup> This was the conclusion reached in *The Bell Curve*, a popular though highly controversial book written by Richard Herrnstein and Charles Murray.<sup>42</sup> Although such research is often methodologically unsound, it brings to light the tendency of criminologists to focus on one element of the community while ignoring others. The question that remains is whether it is ethical for criminologists to publish biased or subjective research findings, paving the way for injustice.

## How to Study?

Ethics are once again questioned in cases where subjects are misled about the purpose of the research. When white and African American individuals are asked to participate in a survey of their behavior or an IQ test, they are rarely told in advance that the data they provide may later be used to prove the existence of significant racial differences in their self-reported crime rates. Should subjects be told about the true purpose of a survey? Would such disclosures make meaningful research impossible? How far should criminologists go when collecting data? Is it ever permissible to deceive subjects to collect data? Criminologists must take extreme care when they select subjects for their research studies to ensure that they are selected in an unbiased and random manner.<sup>43</sup>

When criminological research efforts involve experimentation and treatment, care must be taken to protect those subjects who have been chosen for experimental and control groups. For example, it may be unethical to provide a special treatment program for one group while depriving others of the same opportunity. Conversely, criminologists must be careful to protect subjects from experiments that may actually cause them harm. An examination of the highly publicized Scared Straight program, which brought youngsters into contact with hardcore prison inmates who gave them graphic insights into prison life (to scare them out of a life of crime), discovered that the young subjects may have been harmed by their experience. Rather than being frightened into conformity, subjects actually increased their criminal behavior.<sup>44</sup>

# SUMMARY

## LO1 Explain what is meant by the term *criminology*

Criminology is the scientific approach to the study of criminal behavior and society's reaction to law violations and violators. It is an academic discipline that uses the scientific method to study the nature, extent, cause, and control of criminal behavior. Criminology is an interdisciplinary

science. Criminologists hold degrees in a variety of fields, most commonly sociology, but also criminal justice, political science, psychology, economics, engineering, and the natural sciences. Criminology is a fascinating field, encompassing a wide variety of topics that have both practical application and theoretical importance.

## **LO2 Identify the difference between crime and deviance**

Criminologists devote themselves to measuring, understanding, and controlling crime and deviance. Deviance includes a broad spectrum of behaviors that differ from the norm, ranging from the most socially harmful to the relatively inoffensive. Criminologists are often concerned with the concept of deviance and its relationship to criminality.

## **LO3 Recognize what is meant by the concept of “criminology in action”**

The various subareas included within the scholarly discipline of criminology, taken as a whole, define the field of study. The subarea of criminal statistics/crime measurement involves calculating the amount of, and trends in, criminal activity. Sociology of law/law and society/socio-legal studies is a subarea of criminology concerned with the role that social forces play in shaping criminal law and the role of criminal law in shaping society. Criminologists also explore the causes of crime. Another subarea of criminology involves research on specific criminal types and patterns: violent crime, theft crime, public order crime, organized crime, and so on. The study of penology, correction, and sentencing involves the treatment of known criminal offenders. Criminologists recognize that the victim plays a critical role in the criminal process and that the victim's behavior is often a key determinant of crime.

## **LO4 Discuss the three most prominent views of the meaning of “crime”**

According to the consensus view, crimes are behaviors that all elements of society consider repugnant. This view holds that the majority of citizens in a society share common values and agree on what behaviors should be defined as criminal. The conflict view depicts criminal behavior as being defined by those in power to protect and advance their own self-interest. According to the interactionist view, those with social power are able to impose their values on society as a whole, and these values then define criminal behavior.

## **LO5 Outline the development of criminal law**

The criminal law used in U.S. jurisdictions traces its origin to the English system. At first the law of precedent was used to decide conflicts on a case-by-case basis during the middle ages. Judges began to use these written decisions as a basis for their decision making, and eventually a fixed body of legal rules and principles was established. If a new rule was successfully applied in a number of different cases, it would become a precedent. These precedents would then be commonly applied in all similar cases—hence the term *common law*. In the U.S. legal system, lawmakers have codified common-law crimes into state and federal penal codes.

## **LO6 Analyze the different categories of law**

Substantive criminal law involves such issues as the mental and physical elements of crime, crime categories, and criminal

defenses. Procedural criminal law sets out the basic rules of practice in the criminal justice system. It includes the rules of evidence, the law of arrest, the law of search and seizure, questions of appeal, jury selection, and the right to counsel. The civil law governs relations between private parties, including both individuals and organizations (such as business enterprises and/or corporations), and is used to resolve, control, and shape such personal interactions as contracts, wills and trusts, property ownership, personal disputes (torts), and commerce. Administrative laws are enforced by governmental agencies such as the IRS or EPA.

## **LO7 Articulate the relationship between the criminal law and the U.S. Constitution**

All criminal law in the United States must conform to the rules and dictates of the U.S. Constitution. Criminal laws have been interpreted as violating constitutional principles if they are too vague or too broad to give clear meaning of their intent. The Constitution also prohibits laws that make a person's status a crime. The Constitution limits laws that are overly cruel or capricious.

## **LO8 Synthesize the different purposes of criminal law**

The criminal law serves several important purposes. It represents public opinion and moral values. It enforces social controls. It deters criminal behavior and wrongdoing. It punishes transgressors. It creates equity and abrogates the need for private retribution.

## **LO9 Compare and contrast the elements of the criminal law**

The criminal law contains two main elements: the criminal act (*actus reus*) and the mental intent to commit that act (*mens rea*). In most instances, both must be present before an act can be considered a crime. A criminal defense can be either (a) to deny the act took place or to claim that the accused did not commit the act, or (b) to deny intent, claiming the act was justified because, for example, it was committed in self-defense or should be excused because it was a product of mental illness or intoxication. Some crimes are strict liability—they do not require intent; the mere act is sufficient to be considered criminal.

## **LO10 Summarize the main ethical issues in criminology**

Ethical issues arise when information-gathering methods appear biased or exclusionary. These issues may cause serious consequences because research findings can significantly affect individuals and groups. Criminologists must be concerned about the topics they study. Another ethical issue in criminology revolves around the selection of research subjects. A third area of concern involves the methods used in conducting research.

# CRITICAL THINKING QUESTIONS

1. Some criminologists believe that the threat of punishment is sufficient to control crime. Are there other forms of social control? Aside from the threat of legal punishments, what else controls your own behavior?
2. Would it be ethical for a criminologist to observe a teenage gang by “hanging” with them, drinking, and watching as they steal cars? Should he or she report that behavior to the police?
3. Can you identify behaviors that are deviant but not criminal? What about crimes that are illegal but not deviant?
4. Do you agree that some of the most damaging acts in society are not punished as crimes? If so, what are they?
5. Should the concept of *mens rea* or the “guilty mind” be eliminated from the criminal law and replaced with a strict liability standard? (If you do the crime, you do the time, regardless of what you were thinking at the time.)
6. If you could change the criminal law, what behaviors would you legalize? What would you criminalize? For example, would you want to legalize drug use? What might be the consequences of your actions? In other words, are there any hidden drawbacks or benefits?

# KEY TERMS

criminology (4)	crime typology (9)	common law (15)	public law (15)
scientific method (4)	consensus view (11)	<i>mala in se</i> (15)	felony (16)
criminologists (4)	social harm (12)	<i>mala prohibitum</i> (15)	misdemeanor (17)
criminal justice (4)	conflict view (12)	substantive criminal law (15)	stalking statutes (19)
justice (5)	interactionist view (13)	procedural criminal laws (15)	
deviant behavior (5)	moral entrepreneurs (13)	civil law (15)	

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## learning objectives

- LO1** Compare and contrast the most widely used forms of crime data collection
- LO2** Articulate the problems associated with collecting the official crime data
- LO3** Identify recent trends in the crime rate
- LO4** Discuss the factors that influence crime rate trends
- LO5** Assess how crime rates reflect different ecological conditions
- LO6** Debate the association between social class and crime
- LO7** Clarify what is meant by the term *aging-out process*
- LO8** Describe the gender and racial patterns in crime
- LO9** Describe the pioneering research on chronic offending by Wolfgang, Figlio, and Sellin
- LO10** Evaluate the suspected causes of chronicity



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# 2

## THE NATURE AND EXTENT OF CRIME

**a**ron Alexis, 34, was employed as a contractor for a private information technology firm. Alexis was assigned to a project at the Washington Navy Yard and arrived in the Washington, D.C., area on August 25, 2013. On September 14, Alexis purchased a Remington 870 shotgun and ammunition at a gun shop in northern Virginia. Two days later at the Washington Navy Yard, he used the shotgun and a Beretta handgun to kill 12 victims and wound 4 others before he was shot and killed by law enforcement officers. The shotgun had been altered with a sawed-off barrel and stock. Etched into the barrel were the

words “End to the torment!” “Not what yall say!” “Better off this way!” and “My ELF weapon!” ELF referred to his delusional belief that he was being controlled or influenced by extremely low frequency electromagnetic waves. On his computer, law enforcement agents found the statement that “Ultra low frequency attack is what I’ve been subject to for the last 3 months, and to be perfectly honest that is what has driven me to this.”<sup>1</sup> The company that employed Alexis had withdrawn his access to classified material for two days earlier that month when mental health problems became evident, but restored it quickly and never told the Navy about the incident.

### outline

- Primary Sources of Crime Data
- Secondary Sources of Crime Data
- Crime Trends
- Crime Patterns

### features

- Policy and Practice in Criminology: The CATCH Program
- Criminology in Action: Factors that Influence Crime Trends
- Race, Culture, Gender, and Criminology: On the Run
- Thinking Like a Criminologist: An Ethical Dilemma: Does Tough Love Work?