

Criminology A:

CHAPTER 1

TEXT "Criminology the Core" by Larry J. Siegel

Course of Study Designed and Constructed by Dr. M. Scott

SECTION 1: Pages 3 – 9 (4 Pages of Hand Written Notes)

"Chapter Outline" to "A Brief History"

SECTION 2: Pages 9 – 18 (4 Pages of Hand Written Notes)


"A Brief History" to "Criminology and the Criminal Law"

SECTION 3: Pages 18 – 24 (4 Pages of Hand Written Notes)

"Criminology and the Criminal Law" to "Testing Violent Brains"

***HEADINGS for ALL written work should follow the example below:**

Criminology A (Course Title)	Student Name: _____ (First & Last)
Chapter / Section	Class Period: _____

TAKING NOTES: Approaches & Strategies: Teach Yourself How to Learn!		
The Classic Approach	Gather the Important Data <i>Target Reading!</i> 	WHO: Name the Players WHERE: Geography WHAT: Vocabulary HOW: Actions & Process WHEN: Dates in Order WHY: Reasons
<i>"In Your Own Words!!!"</i>		
The Personalized Approach "Summarize"	TRANSLATE "Text Book" English to YOUR English	<i>Copying "Word For Word" does NOT insure Understanding</i> TRANSLATION and SUMMARISING INSURES UNDERSTANDING

"Knowing ≠ Understanding just as Understanding ≠ Knowing" - Doc

Q & A: WRITTEN SUBMISSIONS

CREATE FIVE (5) Questions and Correct Answers for EACH SECTION

Questions should be related to the material being studied.

The questions should be written as if YOU were explaining the material to another person and wanted to see if they understood the Content of the Course.

Questions 1 – 3 should be “BASIC and FACTUAL”

(Vocabulary and/or Basic Information – “*Who, What, When & Where*”)

Questions 4 & 5 should require demonstration of “DEEPER UNDERSTANDING”

(Explain, Compare & Contrast – “*Why & How*”)

The Questions YOU CREATE should be labeled and numbered clearly.

ANSWERS to each question should be written on a new line – just below the question.

For Example: If the topic we were talking about was “*Chickens*” (it won’t be – but I don’t want to give away answers from a topic we WILL be discussing),

GOOD “Q & A” Assignments would look like this:

Criminology A

Chapter 1: Section C

Dr. Scott

Period 9

Q1. “**What is a chicken?**” (Basic Vocabulary – *What?*)

A1. A bird of the clucking variety that many people find delicious.

Q2. “**Who usually raises chickens?**” (Basic Fact – *Who?*)

A2. Usually farmers but sometimes people who like to keep them as pets.

Q3. “**Where are chickens usually raised?**” (Geography - *Location*)

A3. In coops found on farms that often times have business relationships with fast food chains and grocery stores.

Q4. “**Why did the chicken cross the road?**” (Deeper Understanding – *Why?*)

A4. To get to the other side, away from many people who might be hungry.

Q5. “**Explain how a chicken can escape:**” (Deeper Understanding – *How?*)

A5. Using power tools, quick thinking and inspiring an uprising against the oppression of the farmers.

Chapter Outline

Criminology in Action

Criminal Statistics/Crime Measurement
Sociology of Law/Law and Society/Sociological Studies
Developing Theories of Crime Causation

Policies and Issues in Criminology

SHOULD SEX OFFENDERS BE REGISTERED?

Understanding and Describing Criminal Behavior
Penology: Punishment, Sanctions, and Corrections
Victimology

A Brief History of Criminology

Classical Criminology
Positivist Criminology
Sociological Criminology
Conflict Criminology
Developmental Criminology
Contemporary Criminology

Deviant or Criminal?

How Criminologists Define Crime

Becoming Deviant
The Concept of Crime

Profiles in Crime

TRAYVON MARTIN AND GEORGE ZIMMERMAN

A Definition of Crime

Criminology and the Criminal Law

Common Law
Contemporary Criminal Law
The Evolution of Criminal Law

Criminology and Criminal Justice

The Criminal Justice System
The Process of Justice

Ethical Issues in Criminology

FACT OR FICTION?

- ▶ Sex offender registration lists help deter potential offenders and reduce the incidence of child molestation.
- ▶ Criminals and victims are two totally different types of people.

On August 9, 2014, in Ferguson, Missouri, a suburb of St. Louis, Michael Brown, an 18-year-old unarmed African American youth, was fatally shot by Darren Wilson, a white police officer. According to most accounts, shortly before the shooting Brown and a friend, Dorian Johnson, had stolen some cigars from a local convenience store. Officer Wilson, who at the time was not aware of the theft, encountered the two young men as they were walking down the middle of the street. From his police car, Wilson ordered them to move to the sidewalk. According to Wilson, the two refused to obey the order, a scuffle broke out during which Michael Brown punched Wilson through the window of the police car. The fight went on until Wilson's gun was fired, and Brown and Johnson fled down the street. Wilson pursued Brown, eventually firing a total of twelve rounds at him from a distance ranging from 30 to under 10 feet. In all Michael Brown was hit eight times, the last shot causing his death.

A grand jury called to review the evidence in the case failed to find sufficient cause to indict Darren Wilson for the death of Michael Brown, prompting nationwide protests condemning racial bias in the justice system. The incident reminded people of the central role crime, law, and justice play in their daily lives and how a random encounter can escalate into the death of a young man.

Many questioned the grand jury's refusal to indict Officer Wilson, not being able to understand how the shooting of an unarmed suspect was not a crime. Legally, the grand jury's decision rested on what happened during the pursuit of Michael Brown: did he, as some witnesses asserted, have ▶

his hands raised in surrender as he moved towards Officer Wilson or was Michael Brown madly charging at the officer in an attempt to attack him further as Wilson claimed? If the latter, then the officer's behavior might be excused since he acted in self-defense if he actually felt threatened; if the former, Wilson's actions amounted to felony murder. Members of the jury obviously believed Wilson's story when they failed to indict.

The case also shows that crime is socially constructed: Wilson could have been indicted, tried, and convicted for his act and be considered a callous, violent criminal. Instead, the jury decided not to indict, meaning that Wilson is not a criminal in the eyes of the law. The fact that a jury of his peers failed to indict Wilson reinforces the fact that what is a crime and who is considered a criminal are not objective facts but open to interpretation.

The death of Michael Brown certainly raised issues about the role race plays in the construction and creation of crime and criminality. Would Michael Brown have been stopped by a police officer if he was a Caucasian college student? The law should and must be color and gender blind. Did this incident occur because of racial profiling? Many people believed that the incident showed that racism still exists in the justice system. □

1

criminology

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

The Ferguson shooting and similar incidents have captured headlines around the globe, raised fascinating questions about crime and its control, and spurred interest in **criminology**, an academic discipline that uses the scientific method to study the nature, extent, cause, and control of criminal behavior. Unlike political figures and media commentators, whose opinions about crime may be colored by personal experiences, biases, and election concerns, criminologists remain objective as they study crime and its consequences.¹ The field itself is far reaching, and subject matter ranges from street level drug dealing to international organized crime, from lone wolf terrorism to control of kiddie porn. It is an interdisciplinary field: while many have attended academic programs that award degrees in criminology or criminal justice, many criminologists have a background in other academic disciplines, including sociology, psychology, and legal studies.

In this chapter, we review the components of this diverse field of study, how this field developed, and how criminologists view crime and justice.

L01 Explain the various elements of criminology.

Criminology in Action

Several subareas exist within the broader arena of criminology. Some criminologists specialize in one area while ignoring others, and some are generalists whose research interests are wide ranging. What then are the most important subareas in the field?

Criminal Statistics/Crime Measurement

The subarea of criminal statistics/crime measurement involves creating methodologies that are able to accurately measure activities, trends, and patterns in crime and then using these tools to calculate amounts and developments in criminal activity: How much crime occurs annually? Who commits it? When and where does it occur? Which crimes are the most serious?

Criminologists interested in computing criminal statistics focus on creating **valid** and **reliable measures** of criminal behavior:

- Criminologists help formulate techniques for collecting and analyzing official measures of criminal activities, such as crimes reported to the police.
- To measure unreported criminal activity criminologists develop survey instruments designed to have victims report loss and injury that may not have been reported to the police.
- Criminologists design methods that make it possible to investigate the cause of crime. They may create a self-administered survey instrument that contains questions measuring an adolescent's delinquent behaviors as well as social characteristics, education and occupation of parents, friendship patterns, and school activities in order to determine the association between a wide variety of social factors and criminal activities, such as whether school failure is related to drug abuse.

valid measure

A measure that actually measures what it purports to measure; a measure that is factual.

reliable measure

A measure that produces consistent results from one measurement to another.

Sociology of Law/Law and Society/Sociolegal Studies

Sociology of law/law and society/sociolegal 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 interested in sociolegal studies might investigate the history of legal thought in an effort to understand how criminal acts (such as theft, rape, and murder) evolved into their present form. They may also play an active role in suggesting legal changes that benefit society.

Criminological research is also used extensively by the Supreme Court in shaping their decision making and creating legal precedence.² In the case of *Miller v. Alabama*, the Supreme Court relied on social research that had found juveniles not fully capable of anticipating the consequences of their actions. This finding led the justices to conclude that it would be inappropriate and unconstitutional for juveniles to receive mandatory life sentences without the possibility of parole. Since this research found that juveniles had a different mental capacity than adults, it seemed illogical that they should receive the same punishment; this would amount to cruel and unusual punishment.³

In the accompanying Policies and Issues in Criminology feature, criminological research on another policy issue—sex offender registration—is discussed in some detail.

Developing Theories of Crime Causation

Criminologists also explore the causes of crime. How do the mechanisms of past experience influence an individual's propensity to offend? Is past behavior the best predictor of future behavior? Are the seeds of a criminal career planted early in life or do life events upend a person's normal life course?

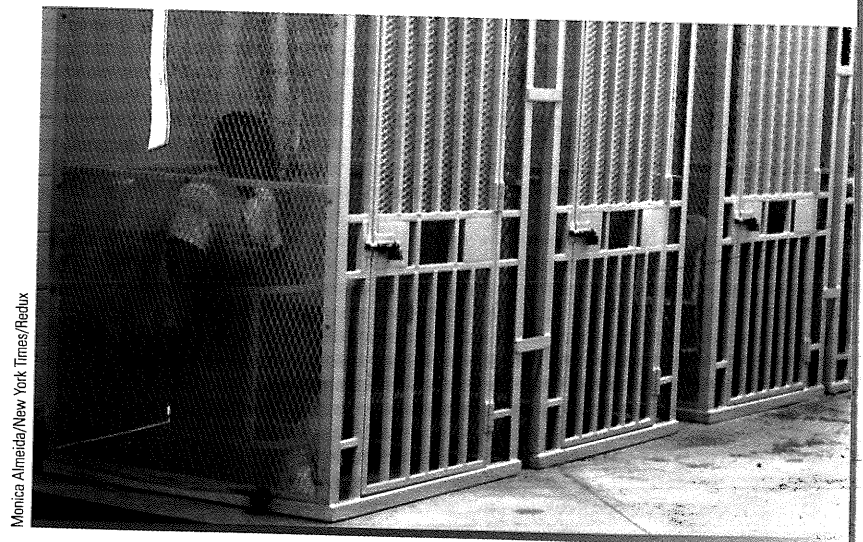
Some criminologists focus on the individual and look for an association between decision making, psychological and biological traits, and anti-social behaviors. Those who have a psychological orientation view crime as a function of personality, development, social learning, or cognition. Others investigate the biological correlates of antisocial behavior and study the biochemical, genetic, and neurological linkages to crime.

Those with a sociological orientation look at the social forces producing criminal behavior, including

FACT OR FICTION?

Sex offender registration lists help deter potential offenders and reduce the incidence of child molestation.

FICTION Research indicates that registration has little effect on either offenders or rates of child molesting.



Criminologists interested in the sociology of law conduct research on the effects of legal change on society. Take for example the Supreme Court's ruling in *Miller v. Alabama*, barring mandatory life sentences for juveniles convicted of murder. Criminologists may be called upon to test public opinion on whether violent young felons have the potential for rehabilitation. They may also try to measure the factors that may have influenced judicial decision making. In this case, they may try to determine whether scientific research on adolescent brain development influenced the ruling.

Policies and Issues in Criminology

SHOULD SEX OFFENDERS BE REGISTERED?

Criminologists evaluate the impact that new laws have had on society after they have been in effect for a while. Take the practice of sex offender registration, which requires convicted sex offenders to register with local law enforcement agencies whenever they move into a community. These provisions are often called Megan's Laws, in memory of 7-year-old Megan Kanka. Megan was 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 about 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 may then be listed on a sex offender registry that contains registrants' names, addresses, photographs, and descriptions and can be accessed on the Internet. In a 9–0 opinion upholding the plan, the Court reasoned that, because these defendants had been convicted of a sex offense, disclosing their names on the registry without a hearing did not violate their right to due process.

Thus sex offender registration laws have been ruled constitutional, are pervasive (they are used in all 50 states), and appeal to politicians who may be swayed by media crusades against child molesters (such as "To Catch a Predator" on *Dateline NBC*), and appease the public's desire to "do something" about child predators. But do they actually work? Does registration deter offenders from committing further 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 the New Jersey registration law and found that, although it was maintained at great cost to the state, the system did not produce effective results. Sex offense rates in New Jersey were in steep decline before the system was installed, and the rate of decline actually slowed down after 1995 when the law took effect. The study showed that the greatest rate of decline in sex offending occurred prior to the passage and implementation of Megan's Law. Zgoba and Bachar also found that the 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 offense, theft, or another sex offense.

Zgoba and Bachar's results can be used to rethink legal changes such as sex offender registration. Rather than deterring crime, such laws may merely cause sex offenders to be more cautious, while giving parents a false sense of security. Sex offenders may target victims in other states or in communities where they do not live and parents are less cautious.

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 whether they actually work as advertised?

Sources: *Connecticut Dept. of Public Safety v. Doe*, 538 U.S. 1 (2003); Kristen Zgoba and Karen Bachar, "Sex Offender Registration and Notification: Limited Effects in New Jersey," National Institute of Justice, April 2009, www.ncjrs.gov/pdffiles1/nij/225402.pdf (accessed June 2015).

neighborhood conditions, poverty, socialization, and group interaction. Their belief is that people are a "product of their environment" and anyone living in substandard conditions could be at risk to crime. Kids are deeply affected by what goes on in their family, school, and neighborhood, and these are the keys to understanding the development of antisocial behavior.

Pinning down "one true cause" of crime remains a difficult problem because most people, even those living in the poorest disorganized neighborhood, or who suffered

abuse and neglect as children, do not become criminals. If they did, there would be a lot more crimes committed each year than now occur. Since most of us are law abiding, despite enduring many social and psychological problems, it's tough to pinpoint the conditions that inevitably lead to a criminal way of life. Criminologists are still unsure why, given similar conditions, some people choose criminal solutions to their problems, whereas others conform to accepted social rules of behavior.

Understanding and Describing Criminal Behavior

Another subarea of criminology involves research on specific criminal types and patterns: violent crime, theft crime, public order crime, organized crime, and so on. Numerous attempts have been made to describe and understand particular crime types. Marvin Wolfgang's 1958 study *Patterns in Criminal Homicide* is a landmark analysis of the nature of homicide and the relationship between victim and offender. Wolfgang discovered that in many instances victims caused or precipitated the violent confrontation that led to their death, spawning the term **victim precipitated homicide**.⁴ Edwin Sutherland's pioneering analysis of business-related offenses also helped coin a new phrase, **white-collar crime**, to describe economic crime activities of the affluent.⁵

Criminologists are constantly broadening the scope of their inquiry because new crimes and crime patterns are constantly emerging. Whereas 50 years ago they might have focused their attention on rape, murder, and burglary, they now may be looking at stalking, environmental crimes, cybercrime, terrorism, and hate crimes. A number of criminologists are now doing research on terrorism and the terrorist personality in order to discover why some young people are motivated to join terror groups. 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—psychological or otherwise—of the terrorist.
- Rather than mental illness, perceived injustice, need for identity, and need for belonging are common among potential terrorists.⁶

Penology: Punishment, Sanctions, and Corrections

The study of **penology** involves efforts to control crime through the correction of criminal offenders. Some criminologists advocate a therapeutic approach to crime prevention that relies on the application of **rehabilitation** services; they direct their efforts at identifying effective treatment strategies for individuals convicted of law violations, such as relying on community sentencing rather than prison. Others argue that crime can be prevented only through the application of formal social control, through such measures as **mandatory sentences** for serious crimes and even the use of **capital punishment** as a deterrent to murder.

Criminologists interested in penology direct their research efforts at evaluating the effectiveness of crime control programs and searching for effective treatments that



AP Photo/Christophe Ena

The study of terrorism and political crime has become a major focus of criminology. On November 13, 2015, 130 people were killed and another 350 injured in a series of terror attacks across Paris, including at the Stade de France (the French national stadium), at cafés and restaurants, and at the Bataclan Theater, where a concert was taking place. The attacks began when bombs were set off outside the Stade de France during a soccer match between France and Germany. Hundreds of people ran from the stadium in panic. The Islamic State of Iraq and the Levant (ISIL) claimed responsibility for the attacks that involved groups of jihadists who simultaneously attacked numerous sites in the city. Soon after, French President François Hollande closed the nation's borders and declared a state of emergency. The Paris attacks prompted massive retaliation on ISIL installations by France, the United States, and Russia. Criminologists conduct research on discovering what prompts people to join terror groups and what can be done to dissuade them from joining.

victim precipitated homicide

Refers to those killings in which the victim is a direct, positive precipitator of the incident.

white-collar crime

Illegal acts that capitalize on a person's status in the marketplace. White-collar crimes may include theft, embezzlement, fraud, market manipulation, restraint of trade, and false advertising.

penology

Subarea of criminology that focuses on the correction and control of criminal offenders.

rehabilitation

Treatment of criminal offenders that is aimed at preventing future criminal behavior.

mandatory sentences

A statutory requirement that a certain penalty shall be carried out in all cases of conviction for a specified offense or series of offenses.

capital punishment

The execution of criminal offenders; the death penalty.



AP Images

The motivation for crime is often baffling. The body of Danvers High School teacher Colleen Ritzer was found behind the school on October 22, 2013, in Danvers, Massachusetts. Philip Chism, 14, was charged with sexually assaulting and killing Ritzer.

can significantly lower **recidivism** rates. An evaluation of the Risk-Need-Responsivity (RNR) program, which classifies people on probation and orders the placement of some in anger management and cognitive behavioral therapy programs, has been found to cut the recidivism of high-risk offenders by as much as 20 percent.⁷

Not all penological measures work as expected. One might assume that inmates placed in the most punitive high-security prisons will “learn their lesson” and not dare to repeat their criminal offense. However, research shows that being sent to a high-security prison exposes inmates to the most violent peers who have a higher propensity to crime, and this exposure may actually increase criminal behavior, reinforce anti-social attitudes, and ultimately increase recidivism, a finding that supports the need for careful penological research.⁸

Victimology

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.⁹ **Victimology** includes the following areas of interest:

- Using victim surveys to measure the nature and extent of criminal behavior and to calculate the actual costs of crime to victims
- Calculating probabilities of victimization risk
- Studying victim culpability in the precipitation of crime
- Designing services for crime victims, such as counseling and compensation programs

Criminologists who study victimization have uncovered some startling results. For one thing, criminals have been found to be at greater risk of victimization than noncriminals.¹⁰ This finding indicates that rather than being passive targets who are “in the wrong place at the

recidivism

Relapse into criminal behavior after apprehension, conviction, and correction for a previous crime.

victimology

The study of the victim’s role in criminal events.

Concept Summary 1.1 Criminology in Action

The following subareas constitute the discipline of criminology.

Criminal statistics

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

Sociology of law/law and society/sociolegal studies

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

Theory construction

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

Criminal behavior systems

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

Penology: punishment, sanctions, and corrections

Studying the correction and control of criminal behavior. Using the scientific method to assess the effectiveness of criminal sanctions designed to control crime through the application of criminal punishments.

Victimology

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

wrong time," victims may themselves be engaging in a high-risk behavior, such as crime, that increases their victimization risk and renders them vulnerable to crime.

The various elements of criminology in action are summarized in Concept Summary 1.1.

A Brief History of Criminology

How did this field of study develop? What are the origins of criminology? The scientific study of crime and criminality is a relatively recent development. During the Middle Ages (1200–1600), people who violated social norms or religious practices were believed to be witches or possessed by demons.¹¹ The use of cruel torture to extract confessions was common. Those convicted of violent or theft crimes suffered extremely harsh penalties, including whipping, branding, maiming, and execution.

Classical Criminology

By the mid-eighteenth century, social philosophers began to argue for a more rational approach to punishment. Reformers stressed that the relationship between crime and punishment should be balanced and fair. This more moderate view of criminal sanctions can be traced to the writings of an Italian scholar, Cesare Beccaria (1738–1794), who was one of the first scholars to develop a systematic understanding of why people commit crime.

Beccaria believed that in choosing their behavior people act in their own self-interest: they want to achieve pleasure and avoid pain. People will commit crime when the potential pleasure and reward they believe they can achieve from illegal acts outweigh the threat of future punishment. To deter crime, punishment must be sufficient—no more, no less—to counterbalance the lure of criminal gain. If it were too lenient, people would risk committing crimes; too severe a punishment would be unfair and encourage crimes. If rape were punished by death, rapists might be encouraged to kill their victims to prevent identification; after all, they would have nothing to lose if both rape and murder were punished equally. Beccaria's famous theorem was that in order for punishment to be effective it must be public, prompt, necessary, the least possible in the given circumstances, proportionate, and dictated by law.¹²

The writings of Beccaria and his followers form the core of what today is referred to as **classical criminology**. As originally conceived in the eighteenth century, classical criminology theory had several basic elements:

- People have free will to choose criminal or lawful solutions to meet their needs or settle their problems.
- Crime is attractive when it promises great benefits with little effort.
- Crime may be controlled by the fear of punishment.
- Punishment that is (or is perceived to be) severe, certain, and swift will deter criminal behavior.

This classical perspective influenced judicial philosophy, and sentences were geared to be proportionate to the seriousness of the crime. Executions were still widely used but gradually came to be employed for only the most serious crimes. The catchphrase was "Let the punishment fit the crime."

Positivist Criminology

During the nineteenth century, a new vision of the world challenged the validity of classical theory and presented an innovative way of looking at the causes of crime. The scientific method was beginning to take hold in Europe and North America.

Auguste Comte (1798–1857), considered the founder of sociology, argued that societies pass through stages that can be grouped on the basis of how people try to understand the world in which they live. People in primitive societies believe that inanimate objects have life (for example, the sun is a god); in later social stages, people

CHECKPOINTS

▶ Criminologists engage in a variety of professional tasks.

▶ Those who work in criminal statistics create accurate measures of crime trends and patterns.

▶ Some criminologists study the origins and sociology of law.

▶ Theorists interested in criminal development seek insight into the causes of crime.

▶ Some criminologists try to understand and describe patterns and trends in particular criminal behaviors, such as serial murder or rape.

▶ Penologists evaluate the criminal justice system.

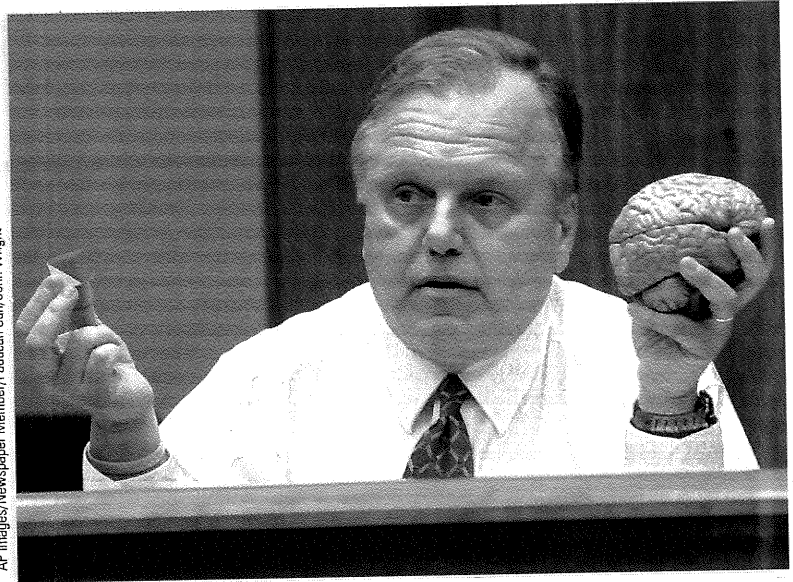
▶ Victimologists try to understand why some people become crime victims.

classical criminology

Theoretical perspective suggesting that people choose to commit crime and that crime can be controlled if potential criminals fear punishment.

Positivists use the scientific method to explain criminal behavior. Some look at social factors while others focus on physical and biological traits. Here, Dr. Michael Nicholas, a clinical psychologist from Paducah, Kentucky, displays a small red and white cube and a model of a human brain as he testifies in the Kevin Wayne Dunlap murder trial. Nicholas was using the props to show the approximate size of an abnormality detected in Dunlap's brain on MRI and PET scans. Nicholas was a defense witness testifying as to how the abnormality may have affected Dunlap, who confessed to the killing of three children and the assault of their mother in October 2008. Dunlap stabbed and killed a 5-year-old boy and his 14- and 17-year-old sisters in their home. He then raped and attempted to murder their mother by stabbing her with a knife. When he thought that the mother was dead, he set fire to the home and left. Despite evidence that Dunlap's abnormal brain structure may have controlled his behavior, he was convicted of murder and sentenced to death.

AP Images/Newsphoto Member/Paducah Sun/John Wright



positivism

The branch of social science that uses the scientific method of the natural sciences and suggests that human behavior is a product of social, biological, psychological, or economic forces that can be empirically measured.

scientific method

The use of verifiable principles and procedures for the systematic acquisition of knowledge. Typically involves formulating a problem, creating hypotheses, and collecting data, through observation and experiment, to verify the hypotheses.

FACT OR FICTION?

Criminals and victims are two totally different types of people.

FICTION Criminals themselves actually have a very high rate of victimization.

embrace a rational, scientific view of the world. Comte called this the positive stage, and those who followed his writings became known as positivists.

Positivism has a number of elements:

- Use of the **scientific method** to conduct research. The scientific method is objective, universal, and culture-free.
- Predicting and explaining social phenomena in a logical manner. This means identifying necessary and sufficient conditions under which a phenomenon may or may not occur. Both human behavior and natural phenomenon operate according to laws that can be measured and observed.
- Empirical verification. All beliefs or statements must be proved through empirical investigation guided by the scientific method. Such concepts as "God" and "the soul" cannot be measured empirically and therefore are not the subject of scientific inquiry; they remain a matter of faith.
- Science must be value-free and should not be influenced by the observer/scientist's biases or political point of view.

EARLY CRIMINOLOGICAL POSITIVISM The earliest "scientific" studies examining human behavior now seem quaint and primitive. Physiognomists, such as J. K. Lavater (1741–1801), studied the facial features of criminals and found that the shape of the ears, nose, and eyes and the distances between them were associated with anti-social behavior. Phrenologists, such as Franz Joseph Gall (1758–1828) and Johann K. Spurzheim (1776–1832), studied the shape of the skull and bumps on the head and concluded that these physical attributes were linked to criminal behavior.¹³

By the early nineteenth century, abnormality in the human mind was being linked to criminal behavior patterns. Philippe Pinel, one of the founders of French psychiatry, coined the phrase *manie sans delire* to denote what eventually was referred to as a psychopathic personality.

In Italy, Cesare Lombroso (1835–1909), known as the "father of criminology," began to study the cadavers of executed criminals in an effort to determine scientifically how criminals differed from noncriminals. Lombroso was soon convinced that serious and violent offenders had inherited criminal traits. These "born criminals" suffered from "atavistic anomalies"; physically, they were throwbacks to more primitive times when people were savages and were believed to have the enormous jaws and strong canine teeth common to carnivores that devour raw flesh. Lombroso's version of criminal anthropology was brought to the United States via articles and textbooks that adopted his ideas.¹⁴ By the beginning of the twentieth century, American authors were discussing "the science of penology" and "the science of criminology."¹⁵

Sociological Criminology

At the same time that biological views were dominating criminology, another group of positivists were developing the field of sociology to study scientifically the major social changes taking place in nineteenth-century society. The foundations of **sociological criminology** can be traced to the work of Émile Durkheim (1858–1917).¹⁶

According to Durkheim's vision of social positivism, crime is normal because it is virtually impossible to imagine a society in which criminal behavior is totally absent.¹⁷ Durkheim believed that crime is inevitable because people are so different from one another and use such a wide variety of methods and types of behavior to meet their needs. Even if "real" crimes were eliminated, human weaknesses and petty vices would be elevated to the status of crimes. Durkheim suggested that crime can be useful—and occasionally even healthful—for society in that it paves the way for social change. To illustrate this concept, Durkheim offered the example of the Greek philosopher Socrates, who was considered a criminal and was put to death for corrupting the morals of youth simply because he expressed ideas that were different from what people believed at that time.

In *The Division of Labor in Society*, Durkheim wrote about the consequences of the shift from a small, rural society, which he labeled "mechanical," to the more modern "organic" society with a large urban population, division of labor, and personal isolation.¹⁸ From the resulting structural changes flowed **anomie**, or norm and role confusion. An anomic society is in chaos, experiencing moral uncertainty and an accompanying loss of traditional values. People who suffer anomie may become confused and rebellious. Is it possible that the loss of privacy created by widespread social media, a technology that can cause a private moment to go "viral," has helped create a sense of anomie in our own culture?

THE CHICAGO SCHOOL The primacy of sociological positivism was secured by research begun in the early twentieth century by Robert Ezra Park (1864–1944), Ernest W. Burgess (1886–1966), Louis Wirth (1897–1952), and their colleagues in the Sociology Department at the University of Chicago. The scholars who taught at this program created what is still referred to as the **Chicago School** in honor of their unique style of doing research.

These urban sociologists examined how neighborhood conditions, such as poverty levels, influenced crime rates. They found that social forces operating in urban areas created a crime-promoting environment; some neighborhoods were "natural areas" for crime.¹⁹ In urban neighborhoods with high levels of poverty, the fabric of critical social institutions, such as the school and the family, came undone. Their traditional ability to control behavior was undermined, and the outcome was a high crime rate.

SOCIALIZATION VIEWS During the 1930s and 1940s, another group of sociologists began conducting research that linked criminal behavior to the quality of an individual's **socialization**—the relationship they have to important social processes, such as education, family life, and peer relations. They found that children who grew up in homes wracked by conflict, attended inadequate schools, or associated with deviant peers became exposed to forces that engendered crime. One position, championed by the preeminent American criminologist Edwin Sutherland, was that people learn criminal attitudes from older, more experienced law violators.

Conflict Criminology

In his *Communist Manifesto* and other writings, Karl Marx (1818–1883) described the oppressive labor conditions prevalent during the rise of industrial capitalism. Marx was convinced that the character of every civilization is determined by its mode of production—the way its people develop and produce material goods. The most important relationship in industrial culture is between the owners of the means of production (the capitalist bourgeoisie) and the people who perform the labor (the

CONNECTIONS

Many of us have grown up with movies showing criminals as "homicidal maniacs." Some may laugh, but *Freddy vs. Jason*, *The Last House on the Left*, *American Psycho*, *Hannibal*, and similar films are usually box office hits. See Chapter 5 for more on psychosis as a cause of crime.

sociological criminology

Approach to criminology, based on the work of Émile Durkheim, that focuses on the relationship between social factors and crime.

anomie

A lack of norms or clear social standards. Because of rapidly shifting moral values, the individual has few guides to what is socially acceptable.

Chicago School

Group of urban sociologists who studied the relationship between environmental conditions and crime.

socialization

Process of human development and enculturation. Socialization is influenced by key social processes and institutions.

CONNECTIONS

Did your mother ever warn you about staying away from "bad neighborhoods" in the city? If she did, how valid were her concerns? To find out, go to Chapter 6 for a discussion of the structural conditions that cause crime.

conflict theory

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

critical criminology

The view that crime is a product of the capitalist system.

rational choice theory

The view that crime is a function of a decision-making process in which the would-be offender weighs the potential costs and benefits of an illegal act.

trait theory

The view that criminality is a product of abnormal biological or psychological traits.

proletariat). The economic system controls all facets of human life; consequently, people's lives revolve around the means of production. The exploitation of the working class, Marx believed, would eventually lead to class conflict and the end of the capitalist system.²⁰

These writings laid the foundation for **conflict theory**, the view that human behavior is shaped by interpersonal conflict and that crime is a product of human conflict. However, it was not until the social and political upheaval of the 1960s—fueled by the Vietnam War, the development of an antiestablishment counterculture movement, the civil rights movement, and the women's movement—that criminologists began to analyze the social conditions in the United States that promoted class conflict and crime. What emerged from this intellectual ferment was a **critical criminology** that indicted the economic system as producing the conditions that support a high crime rate. Critical criminologists have played a significant role in the field ever since.

Developmental Criminology

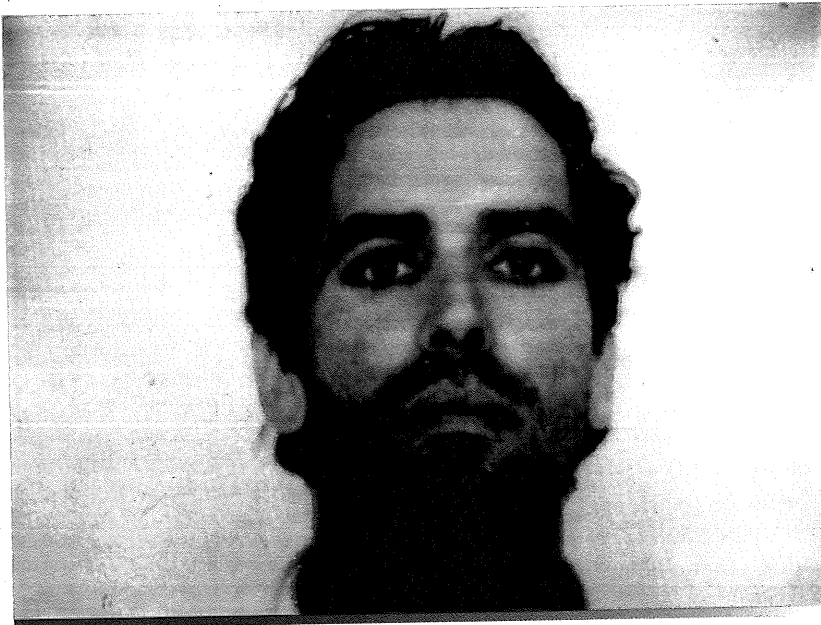
In the 1940s and 1950s, Sheldon and Eleanor Glueck, a husband-and-wife team of criminologists and researchers at Harvard Law School, conducted numerous studies of delinquent and criminal behavior that profoundly influenced criminological theory. Their work integrated sociological, psychological, and economic elements into a complex developmental view of crime causation. Their most important research efforts followed the careers of known delinquents to determine what factors predicted persistent offending; they also made extensive use of interviews and records in their elaborate comparisons of delinquents and nondelinquents.²¹

The Gluecks' vision integrated biological, social, and psychological elements. It suggested that the initiation and continuity of a criminal career was a developmental process influenced by both internal and external situations, conditions, and circumstances.

Contemporary Criminology

These various schools of criminology, developed over 200 years, have been constantly evolving.

- Classical theory has evolved into modern **rational choice theory**, which argues that criminals are rational decision makers: before choosing to commit crime, criminals evaluate the benefits and costs of the contemplated criminal act; their choice is structured by the fear of punishment.
- Lombrosian biological positivism has evolved into contemporary biosocial and psychological **trait theory** views. Criminologists who consider themselves trait theorists no longer believe that a single trait or inherited characteristic can explain crime, but that biological and psychological traits interact with environmental factors to influence



Time Life Pictures/FBI/The LIFE Picture Collection/Getty Images

In 1980, Glen Stewart Godwin, along with his partner, Frank Soto, robbed a drug dealer and stabbed him 26 times with a butcher knife, then blew up the body to hide the evidence. Godwin was sentenced to 26 years to life in prison, but in 1987, he made a daring escape by digging a tunnel. Godwin fled to Mexico, where he got involved in the drug trade. Sent to a Mexican prison, he killed a member of a drug cartel and escaped once again. He is currently on the loose somewhere in Latin America, assumed to be dealing drugs, and on the FBI's 10 most wanted list. Developmental criminologists would view Godwin's criminal career as a product of sociological, psychological, and economic factors. His initiation into a criminal career is a developmental process, influenced by both internal and external situations, conditions, and circumstances.

criminality. Contemporary trait theories suggest that there is a causal link between criminal behavior and such individual level factors as diet, hormonal makeup, personality, and intelligence.

- The original Chicago School sociological vision has transformed into a **social structure theory**, which maintains that a person's place in the social structure controls their behavior; people are a product of their environment. Those at the bottom of the social hierarchy, who find it impossible to achieve monetary and social success through conventional means, experience anomie, strain, failure, and frustration. Social pressures, and the personal turmoil they produce, lead people down a path to crime.
- **Social process theorists** focus their attention on socialization. They believe that children learn to commit crime by interacting with, and modeling their behavior after, others whom they admire. Some criminal offenders are people whose life experiences have shattered their social bonds to society.
- Many criminologists still view social and political conflict as the root cause of crime. These **critical criminologists** believe that crime is related to the inherently unfair economic structure of the United States and other advanced capitalist countries.
- The Gluecks' pioneering research has influenced a new generation of developmental theorists. Their focus today is identifying the personal traits and social conditions that lead to the creation and maintenance of criminal careers over the life course.

Each of the major perspectives is summarized in Concept Summary 1.2.

Concept Summary 1.2 Criminological Perspectives

The major perspectives of criminology focus on individual factors (biological, psychological, and choice theories), social factors (structural and process theories), political and economic factors (conflict theory), and multiple factors (developmental theory).

Classical/choice perspective

Situational forces. Crime is a function of free will and personal choice. Punishment is a deterrent to crime.

Biological/psychological perspective

Internal forces. Crime is a function of chemical, neurological, genetic, personality, intelligence, or mental traits.

Structural perspective

Ecological forces. Crime rates are a function of neighborhood conditions, cultural forces, and norm conflict.

Process perspective

Socialization forces. Crime is a function of upbringing, learning, and control. Peers, parents, and teachers influence behavior.

Conflict perspective

Economic and political forces. Crime is a function of competition for limited resources and power. Class conflict produces crime.

Developmental perspective

Multiple forces. Biological, social-psychological, economic, and political forces may combine to produce crime.

social structure theory

The view that disadvantaged economic class position is a primary cause of crime.

social process theory

The view that criminality is a function of people's interactions with various organizations, institutions, and processes in society.

critical criminologists

Critical criminologists examine how those who hold political and economic power shape the law to uphold their self-interests.

CHECKPOINTS

- ▶ Criminology has a long and rich history.
- ▶ The first criminologists believed that crime was a matter of free will. This outlook is referred to as classical criminology.
- ▶ In the nineteenth century, positivist criminologists began to use the scientific method to study crime. They were convinced that the cause of crime could be found in the individual offender.
- ▶ During the early twentieth century, sociological criminology was developed to explain the effect of the social environment on individual behavior.
- ▶ Critical criminologists attempted to explain how economic forces create crime.
- ▶ Developmental criminologists trace criminal careers over the life course.
- ▶ Contemporary criminology carries on and refines these traditions.

L02 Differentiate between crime and deviance.

deviant behavior

Actions that depart from the social norm. Some are considered criminal, others merely harmless aberrations.

crime

An act, deemed socially harmful or dangerous, that is specifically defined, prohibited, and punished under the criminal law.

decriminalized

Having criminal penalties reduced rather than eliminated.

Deviant or Criminal? How Criminologists Define Crime

Criminologists devote themselves to measuring, understanding, and controlling crime and deviance. How are these behaviors defined, and how do we distinguish between them?

Criminologists view **deviant behavior** as any action that departs from the social norms of society.²² Deviance thus includes a broad spectrum of behaviors, ranging from the most socially harmful, such as rape and murder, to the relatively inoffensive, such as joining a religious cult or cross-dressing. A deviant act becomes a **crime** when it is deemed socially harmful or dangerous; it then will be specifically defined, prohibited, and punished under the criminal law.

Crime and deviance are often confused because not all crimes are deviant and not all deviant acts are illegal or criminal. For example, recreational drug use such as smoking marijuana may be a crime, but is it deviant? A significant percentage of the population has used recreational drugs (including some well-known politicians—even presidents!). If an illegal act, such as viewing Internet pornography, becomes a norm, should society reevaluate its criminal status and let it become merely an unusual or deviant act?

To argue that all crimes are behaviors that depart from the norms of society is probably erroneous. The shifting definition of deviant behavior is closely associated with our concepts of crime. Where should society draw the line between behavior that is considered merely deviant and unusual and behavior that is considered dangerous and criminal? Many deviant acts are not criminal, even though they may be shocking or depraved. A passerby who observes a person drowning is not legally required to jump in and render aid. Although the general public would probably condemn the person's behavior as callous, immoral, and deviant, no legal action could be taken because citizens are not required by law to effect rescues. In sum, many criminal acts, but not all, fall within the concept of deviance. Similarly, some deviant acts, but not all, are considered crimes.

Becoming Deviant

To understand the nature and purpose of criminal law, criminologists study both the process by which deviant acts are criminalized (become crimes) and, conversely, how criminal acts are **decriminalized** (that is, the penalties attached to them are reduced) and/or legalized.

In some instances, individuals, institutions, or government agencies mount a campaign aimed at convincing both the public and lawmakers that what was considered merely deviant behavior is actually dangerous and must be outlawed. During the 1930s, Harry Anslinger, then head of the Federal Bureau of Narcotics, used magazine articles, public appearances, and public testimony to sway public opinion about the dangers of marijuana, which up until that time had been legal to use and possess.²³ In testimony before the House Ways and Means Committee considering passage of the Marijuana Tax Act of 1938, Anslinger stated,



What is considered deviant behavior today can be socially acceptable tomorrow. This poster is for the 1936 film *Reefer Madness*, a movie depicting the dangers of smoking marijuana. Eighty years later, pot smoking is routine behavior and legal in several states.

In Florida a 21-year-old boy under the influence of this drug killed his parents and his brothers and sisters. The evidence showed that he had smoked marihuana. In Chicago recently two boys murdered a policeman while under the influence of marihuana. Not long ago we found a 15-year-old boy going insane because, the doctor told the enforcement officers, he thought the boy was smoking marihuana cigarettes. They traced the sale to some man who had been growing marihuana and selling it to these boys all under 15 years of age, on a playground there.²⁴

As a result of Anslinger's efforts, a deviant behavior, marijuana use, became a criminal behavior, and previously law-abiding citizens were defined as criminal offenders. Today some national organizations, such as the Drug Policy Alliance, are committed to repealing draconian drug laws and undoing Anslinger's "moral crusade." They call for an end to the "war against drugs," which they believe has become overzealous in its effort to punish drug traffickers. In fact, they maintain, many of the problems the drug war purports to resolve are actually caused by the drug war itself. So-called "drug-related" crime is a direct result of drug prohibition's distortion of immutable laws of supply and demand. Public health problems such as HIV and hepatitis C are all exacerbated by zero-tolerance laws that restrict access to clean needles. The drug war is not the promoter of family values that some would have us believe. Children of inmates are at risk of educational failure, joblessness, addiction, and delinquency. Drug abuse is bad, but the drug war is worse.²⁵ Their efforts have borne some fruit: a number of states, including Colorado and Washington, have decriminalized the possession and sale of marijuana.

In sum, criminologists are concerned with the concept of deviance and its relationship to criminality. The shifting definition of deviant behavior is closely associated with our concept of crime.

The Concept of Crime

Professional criminologists usually align themselves with one of several schools of thought, or perspectives. Each of these perspectives maintains its own view of what constitutes criminal behavior and what causes people to engage in criminality. A criminologist's choice of orientation or perspective depends, in part, on his or her definition of crime. The three most common concepts of crime used by criminologists are the consensus view, the conflict view, and the interactionist view.

CONSENSUS VIEW OF CRIME According to the **consensus view**, crimes are behaviors that all elements of society consider repugnant. The rich and powerful as well as the poor and indigent are believed to agree on which behaviors are so repugnant that they should be outlawed and criminalized. Therefore, the **criminal law**—the written code that defines crimes and their punishments—reflects the values, beliefs, and opinions of society's mainstream. The term *consensus* implies general agreement among a majority of citizens on what behaviors should be prohibited by criminal law and hence be viewed as crimes.²⁶

This approach to crime implies that it is a function of the beliefs, morality, and rules inherent in Western civilization. Ideally, the laws apply equally to all members of society, and their effects are not restricted to any single element of society.

CONFLICT VIEW OF CRIME Although most practicing criminologists accept the consensus model of crime, others take a more political orientation toward its content. The **conflict view** depicts society as a collection of diverse groups—such as owners, workers, professionals, and 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 created to protect the haves from the have-nots. Conflict criminologists often contrast the harsh penalties inflicted on the poor for their "street crimes" (burglary, robbery, and larceny) with the minor penalties the wealthy receive for their white-collar crimes (securities violations and other illegal business practices). Whereas the poor go

L03 Discuss the three different views of the definition of crime.

consensus view

The belief that the majority of citizens in a society share common values and agree on what behaviors should be defined as criminal.

criminal law

The written code that defines crimes and their punishments.

conflict view

The belief that criminal behavior is defined by those in power in such a way as to protect and advance their own self-interest.

PROFILES IN CRIME

TRAYVON MARTIN AND GEORGE ZIMMERMAN

In 2012, the shooting of Trayvon Martin, an African American youth, by George Zimmerman, an armed neighborhood watch member, rocked the nation. It all began on the night of February 26, when Zimmerman, 28, was driving his SUV through his Sanford, Florida, neighborhood when he called 911 to report “a real suspicious guy,” a “black male” walking around. That was Trayvon Martin, a teen who was heading back to the house where he was staying after a 7-Eleven run. Martin was wearing a hooded sweatshirt and carrying a can of iced tea, a bag of Skittles, and his cell phone. Zimmerman followed Martin, and the two eventually got involved in an argument. Things escalated into a fight and the altercation culminated in Zimmerman firing a fatal shot into Martin’s chest. Zimmerman was brought to the police station, claimed he acted in self-defense after being attacked by Martin, and was released without charges being filed. In the aftermath of the incident, Trayvon Martin’s parents, Tracy Martin and Sybrina Fulton, went public, calling for Zimmerman to be prosecuted. Under public pressure, police in Sanford eventually released the 911 calls made by Zimmerman in which a police operator can be heard telling him not to chase after Martin. On April 12, 2012, after a great deal of media attention and public debate, including a famous statement by President Barack Obama saying that if he had a son he “would look like Trayvon Martin,” George Zimmerman was charged with second-degree murder.

A key element of the case was Florida’s “stand your ground” law, which allows the use of deadly force when a person reasonably believes it necessary to

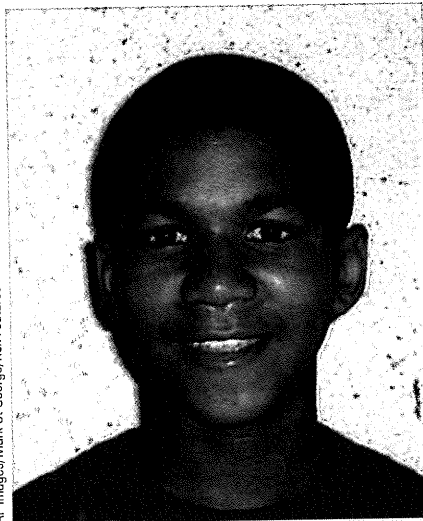
prevent the commission of a “forcible felony,” including carjacking, robbery, and assault. Traditional self-defense laws allow people to use deadly force only when they reasonably believe their lives are in danger. The Florida law allows average citizens to use deadly force when they reasonably believe that their homes or vehicles have been illegally invaded. The Florida law authorizes the use of defensive force by anyone “who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be.” Furthermore, under the law, such a person has no duty to retreat and can stand his or her ground and meet force with force. The statute also grants civil and criminal immunity to anyone found to have had such a reasonable belief. Was Zimmerman justified in using deadly force against an unarmed teen? If so, the death of Martin could not be considered murder. If, on the other hand, his actions were excessive under the circumstances and a reasonable person should not believe that his life was in danger from an unarmed youth, then Zimmerman’s reaction would not fall under the “stand your ground” statute.

In the end, the jury believed Zimmerman and found him not guilty as charged. While many considered his acts murderous, the jury disagreed. Here we can see how the definition of crime and the labeling of a criminal is a highly subjective process; crime is a socially constructed event.

Sources: CNN Library, “Trayvon Martin Shooting Fast Facts,” February 22, 2014, www.cnn.com/2013/06/05/us/trayvon-martin-shooting-fast-facts/; ABCNews, “Trayvon Martin News,” abcnews.go.com/topics/news/trayvon-martin.htm (accessed June 2015).

(left) Trayvon Martin

(right) George Zimmerman is seen with a bloody, swollen nose in this February 26, 2012, police photo taken on the night he shot and killed unarmed black teenager Trayvon Martin. Zimmerman’s injuries helped convince a jury that he was not guilty of murder and acted in self-defense.



to prison for minor law violations, the wealthy are given lenient sentences for even serious breaches of law.

INTERACTIONIST VIEW OF CRIME According to the **interactionist view**, 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 content of the criminal law and consequently the definition of crime is subjective and can change at any moment. Marijuana is now legal in some jurisdictions (Colorado for one) and illegal in others. It could easily be the other way around, depending on the voting public's views, perceptions, and beliefs.

Whether a particular act fits the definition of a crime is also a function of interaction and perception: If a death occurs in the wake of an argument, 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. Whether the act is labeled a crime and the actor a criminal depends on the juror's interpretation of events. The accompanying Profiles in Crime feature examines one of the most infamous cases in which the nation was split on whether an act was truly a crime.

Interactionists see criminal law as conforming to the beliefs of "moral crusaders," or moral entrepreneurs, who use their influence to shape the legal process as they see fit.²⁷ Laws against pornography, prostitution, and drugs are believed to be motivated more by moral crusades than by capitalist sensibilities. Consequently, interactionists are concerned with shifting moral and legal standards.

interactionist view

The belief that those with social power are able to impose their values on society as a whole, and these values then define criminal behavior.

A Definition of Crime

Because of their diverse perspectives, criminologists have taken a variety of approaches in explaining crime's causes and suggesting methods for its control (see Concept Summary 1.3). Considering these differences, we can take elements from each school of thought to formulate an integrated definition of crime:

Crime is a violation of societal rules of behavior as interpreted and expressed by the criminal law, which reflects public opinion, traditional values, and the viewpoint of people currently holding social and political power. Individuals who violate these rules are subject to sanctions by state authority, social stigma, and loss of status.

Concept Summary 1.3 The Definition of Crime

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

Consensus view

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

Conflict view

- The law is a tool of the ruling class.
- Crime is a politically defined concept.
- "Real crimes" such as racism, sexism, and classism are not outlawed.
- The law is used to control the underclass.

Interactionist view

- Moral entrepreneurs define crime.
- Acts become crimes because society defines them that way.
- Criminal labels are life-transforming events.

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

L04 Discuss the different purposes of the criminal law.

(3)

Code of Hammurabi

The first written criminal code, developed in Babylonia about 1750 BCE.

Mosaic Code

The laws of the ancient Israelites, found in the Old Testament of the Judeo-Christian Bible.

precedent

A rule derived from previous judicial decisions and applied to future cases; the basis of common law.

common law

Early English law, developed by judges, which became the standardized law of the land in England and eventually formed the basis of the criminal law in the United States.

statutory crimes

Crimes defined by legislative bodies in response to changing social conditions, public opinion, and custom.

felony

A serious offense that carries a penalty of imprisonment, usually for one year or more, and may entail loss of political rights.

misdemeanor

A minor crime usually punished by a short jail term and/or a fine.

Criminology and the Criminal Law

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

The concept of criminal law has been recognized for more than 3,000 years. Hammurabi (1792–1750 BCE), the 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 (*lex talionis* or “an eye for an eye”).

More familiar is the **Mosaic Code** of the Israelites (1200 BCE), including the Ten Commandments. 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, perjury, and adultery preceded, by several thousand years, the same laws found in the modern United States.

Common Law

The present system of law can be traced back to the reign of Henry II (1154–1189), when royal judges began to publish their decisions in local cases and their legal reasoning began **precedent**, to be applied in similar cases around the land—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*, or inherently evil and depraved. When the situation required, the English Parliament enacted legislation to supplement the common law shaped by judges. Crimes defined by Parliament, which reflected existing social conditions, were referred to as *mala prohibita*, or **statutory crimes**.

Before the American Revolution, the colonies, then under British rule, were subject to the common law. After the colonies acquired 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, creating new elements in the various state and federal legal codes.

Contemporary Criminal Law

Criminal laws are now divided into felonies and misdemeanors. The distinction is based on seriousness: a **felony** is a serious offense, a **misdemeanor** 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:

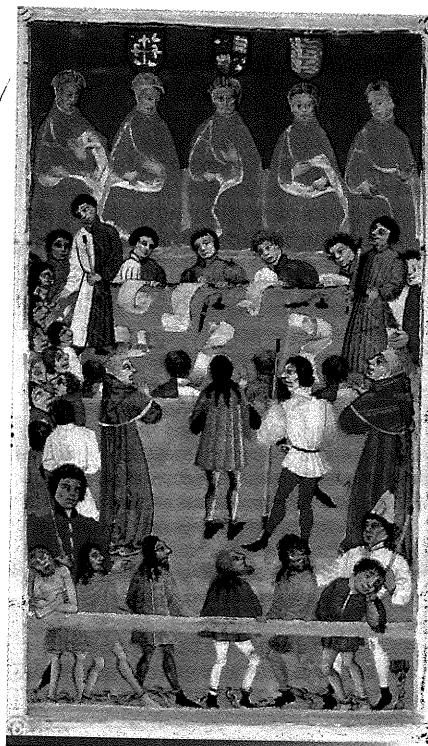
- *Enforces social control.* Those who hold political power rely on criminal law to formally prohibit behaviors believed to threaten societal well-being or to challenge their authority.

- *Discourages 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. Although the application of state retaliation may offend the sensibilities of some people, as Oliver Wendell Holmes stated, it prevents “the greater evil of private retribution.”²⁸
- *Expresses public opinion.* Criminal law reflects constantly changing public opinion on such controversial acts as using recreational drugs, selling obscene material, or performing abortions. Criminal law is used to codify these changes.
- *Teaches moral values.* By observing how the law is applied, people, especially children, learn to distinguish between appropriate and prohibited behavior. Application of the criminal law provides a moral lesson.
- *Deters criminal behavior.* Criminal law has a social control function. Because it applies criminal punishments such as fines, prison sentences and even death, it is designed to control, restrain, and direct human behavior and prevent crimes before they occur.
- *Applies “just desert.”* Those who violate criminal law are subject to criminal sanctions because they have maltreated others and harmed society. It is only fair then that they should be punished for their misdeeds; offenders *deserve* their punishments.
- *Creates equity.* Criminals benefit from their misdeeds. People who violate security laws can make huge profits from their illegal transactions. Through fines, forfeiture, and other economic sanctions, the criminal law redistributes illegal gains back to society, thereby negating the criminal’s unfair advantage.
- *Maintains the social order.* The legal system is designed to support and maintain the boundaries of the social system they serve. Our economic and social system is also supported and sustained by criminal law.

~ 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 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. Such laws prohibit “the willful, malicious, and repeated following and harassing of another person.”²⁹ 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.³⁰

The criminal law may also change because of shifts in culture and social conventions and thus may reflect a newfound tolerance for behavior condemned only a few years before or conversely, condemnation of behavior that was heretofore considered normative and legal. An example of the former can be found in changes to the law of rape. In several states, including California and Maryland, the law has evolved so that it is now considered rape if a woman consents to sex, the sex act begins, she changes her mind during the act and tells her partner to stop, and he refuses and continues. Before this legal change, such a circumstance was not considered rape but merely aggressive yet consensual sex.³¹ Another example of how changing morals may be reflected in the law can be found in the case of *Lawrence v. Texas*, where the Supreme Court declared that state laws criminalizing sexual relations between consenting adults, heretofore classified as sodomy, were unconstitutional because they violated the due process rights of citizens because of their sexual orientation.³² Because consensual sex between same-sex adults was now legal, the *Lawrence* decision paved the way for the eventual legalization of same-sex marriage by the Supreme Court in 2015.³³



A. C. Cooper Ltd., by permission of The Inner Temple, London

Common law was created by English judges during the Middle Ages. It unified local legal practices into a national system of laws and punishments. Common law serves as the basis for the American legal system.

L05 Describe the criminal justice process.

criminal justice

System made up of the agencies of social control, such as police departments, courts, and correctional institutions that handle criminal offenders.

criminal justice system

The agencies of government—police, courts, and corrections—that are responsible for apprehending, adjudicating, sanctioning, and treating criminal offenders.

Criminology and Criminal Justice

Not only is the study of criminology bound up in the criminal law, it is also closely linked to the workings of the criminal justice system. 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. 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 are concerned with 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. What is the criminal justice system, how big is it, and how does it operate?

The Criminal Justice System

The **criminal justice system** consists of the agencies of government charged with enforcing law, adjudicating crime, and correcting criminal conduct. It is essentially an instrument of social control: Society considers some behaviors so dangerous and destructive that it either strictly controls their occurrence or outlaws them outright. The agencies of justice are designed to prevent social harm by apprehending, trying, convicting, and punishing those who have already violated the law, as well as deterring those who may be contemplating future wrongdoing. Society maintains other types of informal social control, such as parental and school discipline, but these are designed to deal with moral, not legal, misbehavior. Only the criminal justice system maintains the power to control crime and punish those who violate the law.

The contemporary criminal justice system can be divided into three main components:

- Police and law enforcement, which consists of federal, state, and municipal agencies charged with such tasks as maintaining the peace, rendering emergency assistance, investigating crimes, and apprehending suspects
- The court system, which houses the prosecution and the judiciary, and is responsible for charging criminal suspects, carrying out trials, and sentencing those convicted of crime
- The correctional system, which incapacitates convicted offenders and attempts to aid in their treatment and rehabilitation

Because of its varied and complex mission, the contemporary criminal justice system in the United States is monumental in size. It now costs federal, state, and local governments more than \$200 billion per year to administer civil and criminal justice, up more than 300 percent since 1982. There are now almost 18,000 U.S. law enforcement agencies employing more than 1 million people; of these, more than 800,000 are full-time sworn law enforcement officers, and the remainder are part-time officers and civilian employees. There are nearly 17,000 courts, more than 8,000 prosecutorial agencies, about 6,000 correctional institutions, and more than 3,500 probation and parole departments.

The system is massive because it must process, treat, and care for millions of people. Although the crime rate has declined substantially, more than 11 million people are still being arrested each year, including more than 2 million for serious felony offenses. In addition, about 1.5 million juveniles are handled by the juvenile

courts. Today, state and federal courts convict almost 1 million adults a year on felony charges.

Considering the massive proportions of this system, it does not seem surprising that almost 7 million people are under some form of correctional supervision, including 2.3 million men and women in the nation's jails and prisons and almost 5 million adult men and women being supervised in the community while on probation or parole.³⁴ After many years of rapid increase, the correctional population has finally begun to stabilize and/or decline.

The Process of Justice

In addition to viewing the criminal justice system as a collection of agencies, it is possible to see it as a series of decision points through which offenders flow. This process begins with initial contact with police and ends with the offender reentering society. At any point in the process, a decision may be made to drop further proceedings and allow the accused back into society without further penalty.³⁵ The justice process is transformative: at first a person is a suspect, then a convicted criminal, and finally an ex-offender. He is transformed from the accused to a thief, rapist, or killer. Stigma and labeling make reform efforts difficult to achieve.

Although each jurisdiction is somewhat different, a comprehensive view of the processing of a felony offender would probably contain the following decision points:

1. *Initial contact.* The initial contact an offender has with the justice system occurs when police officers observe a criminal act during patrol of city streets, parks, or highways. They may also find out about a crime through a citizen or victim complaint. Similarly, an informer may alert them about criminal activity in return for financial or other consideration. Sometimes political officials, such as the mayor or city council, ask police to look into ongoing criminal activity, such as gambling, and during their subsequent investigations police officers encounter an illegal act.
2. *Investigation.* An investigation may take a few minutes, as when patrol officers see a burglary in progress and apprehend the burglar at the scene of the crime. Other investigations may take years to complete and involve numerous investigators. When federal agents tracked and captured Theodore Kaczynski (known as the Unabomber) in 1996, his arrest completed an investigation that had lasted more than a decade.
3. *Arrest.* An **arrest** is legal when all of the following conditions exist: (a) the officer believes there is sufficient evidence (**probable cause**) that a crime is being or has been committed and that the suspect committed the crime; (b) the officer deprives the individual of freedom; and (c) the suspect believes that he or she is in the custody of a police officer and cannot voluntarily leave. The police officer is not required to use the word "arrest" or any similar word to initiate an arrest, nor does the officer first have to bring the suspect to the police station. For all practical purposes, a person who has been deprived of liberty is under arrest. Arrests can be made at the scene of a crime or after a warrant is issued by a magistrate.
4. *Custody.* After arrest, the suspect remains in police custody. The person may be taken to the police station to be fingerprinted and photographed and to have personal information recorded—a procedure popularly referred to as **booking**. Witnesses may be brought in to view the suspect in a lineup, and further evidence may be gathered on the case. Suspects may be interrogated by police officers to get their side of the story, they may be asked to sign a confession of guilt, or they may be asked to identify others involved in the crime. The law allows suspects to have their lawyer present whenever police conduct an in-custody **interrogation**.
5. *Complaint/charging.* After police turn the evidence in a case over to the prosecutor, the prosecution weighs the evidence to determine whether there are sufficient facts to support the accusation. If, in its discretion, the prosecutor's

arrest

The taking into police custody of an individual suspected of a crime.

probable cause

A set of facts, information, circumstances, or conditions that would lead a reasonable person to believe that an offense was committed and that the accused committed that offense. It is the level of proof needed to make a legal arrest.

booking

Fingerprinting, photographing, and recording personal information of a suspect in police custody.

interrogation

The questioning of a suspect in police custody.

nolle prosequi

A declaration that expresses the prosecutor's decision to drop a case from further prosecution.

indictment

A written accusation returned by a grand jury charging an individual with a specified crime, based on the prosecutor's demonstration of probable cause.

grand jury

A group of citizens chosen to hear testimony in secret and to issue formal criminal accusations (indictments).

information

A filing before an impartial lower-court judge who decides whether the case should go forward (this filing is an alternative to the use of a grand jury).

preliminary hearing

Alternative to a grand jury, in which an impartial lower-court judge decides whether there is probable cause sufficient for a trial.

arraignment

The step in the criminal justice process in which the accused is brought before the trial judge, formal charges are read, defendants are informed of their rights, a plea is entered, bail is considered, and a trial date is set.

bail

A money bond intended to ensure that the accused will return for trial.

recognizance

Pledge by the accused to return for trial, which may be accepted in lieu of bail.

plea bargain

Agreement between prosecution and defense in which the accused pleads guilty in return for a reduction of charges, a more lenient sentence, or some other consideration.

hung jury

A jury that is unable to agree on a decision, thus leaving the case unresolved and open for a possible retrial.

appeal

Taking a criminal case to a higher court on the grounds that the defendant was found guilty because of legal error or violation of his or her constitutional rights.

office believes there is insufficient evidence to move the case forward, it issues a **nolle prosequi** declaration, which signifies its decision to drop the case from further prosecution. If there is sufficient evidence, the case will be brought forth to a grand jury or preliminary hearing.

6. **Preliminary hearing/grand jury.** Because it is a tremendous personal and financial burden to stand trial for a serious felony crime, such as murder or rape, the U.S. Constitution provides that before a person can be charged, the state must first prove to an impartial decision-making authority that there exists probable cause that the accused committed the crime and that there is sufficient evidence to try the person as charged. In about half the states and in the federal system, the decision is made via an **indictment** issued by a **grand jury**, which considers the case in a closed hearing during which only the prosecutor is permitted to present evidence. If sufficient facts are presented, the grand jury will issue a *true bill of indictment*; insufficient evidence will result in a *no bill*. In the remaining states, a criminal **information** is filed before an impartial lower-court judge, who decides whether the case should go forward and be heard in a felony court. At this **preliminary hearing** (sometimes called a probable cause hearing), the defendant is permitted to appear and dispute the prosecutor's charges. In both procedures, if the prosecution's evidence is found to be factual and sufficient, the suspect will be summoned to stand trial for his or her crime. (In misdemeanor cases, the term typically used in charging is *criminal complaint*, an allegation made to a court in writing by either a victim or a police officer.)
7. **Arraignment.** At an **arraignment** the accused is brought before the court that will actually try the case. At this hearing, the formal charges are read, and defendants are informed of their constitutional rights (such as the right to legal counsel). Bail is considered, and a trial date is set.
8. **Bail or detention.** **Bail** is a money bond, the amount of which is set by judicial authority; it is intended to ensure the presence of suspects at trial, while allowing them their freedom until that time. Suspects who do not show up for trial forfeit their bail. Suspects who cannot afford bail or are considered too dangerous or too great a flight risk may be required to remain in detention until trial. Many jurisdictions now allow defendants awaiting trial to be released on their own **recognizance**, without bail, if they are stable members of the community.
9. **Plea bargaining.** After arraignment, it is common for the prosecutor to meet with the defendant and his or her attorney to discuss a possible **plea bargain**. If a bargain can be struck, the accused pleads guilty as charged, thus ending the criminal trial process. In return for the plea, the prosecutor may reduce charges, request a lenient sentence, or grant the defendant some other consideration.
10. **Adjudication/trial process.** If a plea bargain cannot be arranged, a criminal trial takes place. This involves a full-scale inquiry into the facts of the case before a judge, a jury, or both. The defendant can be found guilty or not guilty, or the jury can fail to reach a decision (**hung jury**), thereby leaving the case unresolved and open for a possible retrial.
11. **Disposition/sentencing.** If found guilty by trial or plea, a defendant is sentenced by the presiding judge. Disposition usually involves a fine, a term of community supervision (probation), a period of incarceration in a penal institution, or some combination of these penalties. About two-thirds of all defendants convicted of felonies receive incarceration sentences. Of course, this means that many people convicted of serious criminal offenses, including murder and rape, are granted a community sentence—that is, probation.
12. **Appeal.** After conviction, if the defendant believes he or she was not treated fairly by the justice system, the individual may **appeal** the conviction. An appellate court reviews trial procedures to determine whether an error was made. Such issues as whether evidence was used properly, whether the judge conducted the trial in an approved fashion, whether the jury was representative, and whether the attorneys in the case acted appropriately may be the basis for

an appeal. In most instances, if the appellate court rules in favor of the defendant, she or he is granted a new trial.

13. *Correctional treatment.* Offenders who are found guilty and are formally sentenced come under the jurisdiction of correctional authorities. They may serve a term of community supervision under control of the county probation department, they may spend time in a community correctional center, or they may be incarcerated in a large penal institution.
14. *Release.* At the end of the correctional sentence, the offender is released into the community. Most incarcerated offenders are granted parole before the expiration of the maximum term given them by the court, and therefore they finish their prison sentences in the community under supervision of the parole department.
15. *Postrelease/aftercare.* After termination of correctional treatment, the offender must successfully return to the community and be supervised by corrections department staff members, typically parole officers. Successful completion of the postrelease period marks the end of the criminal justice process.

Ethical Issues in Criminology

A critical issue facing criminology students 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 on issues, their pronouncements and opinions may become the basis for sweeping changes in 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 argued successfully for social service, treatment, and rehabilitation programs to reduce the crime rate; others consider these 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 both aware of the ethics of their profession and prepared to defend their work in the light of public scrutiny. Major ethical issues include what to study, whom to study, and how to conduct those studies.

- *What to study.* Criminologists must be concerned about the topics they study. Their research must not be directed by the sources of funding on which research projects rely. 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. It has been shown over the past decades that criminological research has been influenced by government funding linked to the topics the government wants research on and those it wishes to avoid. Recently, funding by political agencies has increased the likelihood that criminologists will address drug issues, while spending less time on topics such as incapacitation and white-collar crime.³⁶ Should the nature and extent of scientific research be shaped by the hand of government, or should research remain independent of outside interference?
- *Whom to study.* Another ethical issue in criminology concerns selection of research subjects. Too often, criminologists focus their attention on the poor and minorities, while ignoring middle-class white-collar crime, organized crime, and government crime. For example, a few social scientists have suggested that criminals have lower intelligence quotients than the average citizen and that because the average IQ score is lower among some minority groups, their crime rates are high.³⁷ This was the conclusion reached in *The Bell Curve*, a popular but

CHECKPOINTS

- ▶ There are a number of views of what crime entails. The three major views are the consensus, conflict, and interactionist perspectives.
- ▶ The American legal system is a direct descendant of the British common law.
- ▶ The criminal law has a number of different goals, including social control, punishment, retribution, deterrence, equity, and the representation of morality.
- ▶ The criminal law is constantly changing in an effort to reflect social values and contemporary issues and problems.
- ▶ The criminal justice system is designed to identify, apprehend, try, and treat criminal offenders.
- ▶ The system can be viewed as both a group of organizations and also as a process that begins with initial contact and ends with post-incarceration care.

L06 Identify the ethical issues in criminology.

highly controversial book written by Richard Herrnstein and Charles Murray.³⁸ 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.

- *How to study.* A third area of concern involves the methods used in conducting research. One issue is whether subjects are fully informed about the purpose of research. For example, when European American and African American youngsters are asked to participate in a survey of their behavior or to take an IQ test, are they told in advance that the data they provide may later be used to demonstrate racial differences in their self-reported crime rates? Criminologists must also be careful to keep records and information confidential in order to maintain the privacy of research participants. But ethical questions still linger: Should a criminologist who is told in confidence by a research subject about a future crime report her knowledge to the police? How far should a criminologist go to protect her sources of information? Should stated intentions to commit offenses be disclosed?³⁹

In studies that involve experimentation and treatment, care must be taken to protect those subjects who have been chosen for experimental and control groups. For example, is it ethical to provide a special program for one group while depriving others of the same opportunity just so the groups can later be compared? Conversely, criminologists must be careful to protect subjects from experiments that may actually cause harm. An examination of the highly publicized "Scared Straight" program, which brings youngsters into contact with hard-core felons in a prison setting, found that participants may have been harmed by their experience. Rather than being frightened into conformity, subjects actually increased their criminal behavior.⁴⁰ Finally, criminologists must take extreme care to ensure that research subjects are selected in a random and unbiased manner.⁴¹

Of course, it is critical that criminological research do no harm to subjects, but this may not be enough: criminological research can, and should, be empowering and directly useful to research participants. To be truly ethical, criminological research must have social value to research participants rather than simply doing no harm.⁴²

Thinking Like a Criminologist

Testing Violent Brains

You have been experimenting with various techniques in order to identify a surefire method for predicting violent behavior in delinquents. Your procedure involves brain scans, DNA testing, and blood analysis. Used with samples of incarcerated adolescents, your procedure has been able to distinguish with 75 percent accuracy between youths with a history of violence and those who are exclusively property offenders. Your research indicates that if all youths were tested with your techniques, potentially violence-prone career criminals could be easily identified for special treatment. For example, children in the local school system could be tested, and those identified as violence prone could be carefully monitored by teachers. Those at risk for future violence could be put into special programs as a precaution.

Some of your colleagues argue that this type of testing is unconstitutional because it violates the subjects' Fifth Amendment right against self-incrimination. There is also the problem of error: some children may be falsely labeled as violence prone.

Writing Assignment

Write an essay addressing the issue of predicting antisocial behavior. Address such issues as the following: Is it fair or ethical to label people as potentially criminal and violent, even though they have not yet exhibited any antisocial behavior? Do the risks of such a procedure outweigh its benefits?