



# CJ

REALITIES  
and CHALLENGES

THIRD EDITION

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# CJ

## REALITIES AND CHALLENGES

3RD EDITION

**Ruth E. Masters** California State University–Fresno

**Lori Beth Way** California State University–San Francisco

**Phyllis B. Gerstenfeld** California State University–Stanislaus

**Bernadette T. Muscat** California State University–Fresno

**Michael Hooper** Sonoma State University

**John P. J. Dussich** California State University–Fresno

**Candice A. Skrapec** California State University–Fresno



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# A Note from the Author Team

As both practitioners and academics, we have endeavored to write a compelling, contemporary, and fact-based account of vital American institutions. We understand that this course is faculty's first chance to engage students in a meaningful exposure to the ideals of the American criminal justice system. *CJ: Realities and Challenges*, Third Edition, translates the passion that we feel in the classroom into a learning program that nourishes students' enthusiasm for the field while dispelling widely held myths.

*CJ: Realities and Challenges*, Third Edition, encourages students to think critically about how the American criminal justice system operates in practice. Recognizing the myths and interpreting the facts underlying the system lead to an appreciation of its complexities. Students who succeed in this course will emerge with a realistic understanding of the system and of the opportunities that await them if they should choose to pursue a career in criminal justice.

OBSERVE → INVESTIGATE → UNDERSTAND

## A Critical Thinking Approach to Criminal Justice

*CJ: Realities and Challenges*, Third Edition, takes a critical thinking approach to examining traditional and emerging issues and topics in criminal justice. A three-part framework—Observe, Investigate, Understand—asks students to:

**OBSERVE** the core principles underlying the criminal justice system.

**INVESTIGATE** how these foundational principles are applied in the real world.

**UNDERSTAND** how and why these principles and practices are still evolving.



**6** Policing Operations

OBSERVE → INVESTIGATE → UNDERSTAND

After reading this chapter, you should be able to:

- Identify the principal policing roles.
- Compare the various policing strategies.
- Describe the different jobs in policing.
- Explain how police departments strive to maximize their resources.
- Identify the factors that shape public opinion about the police.
- Compare the service needs of diverse populations.

Each chapter opens with a series of learning objectives tied to this framework. These goals are explored in the chapter using vivid examples to reinforce student learning. At the end of each chapter, this same framework is used to recap key concepts and

## OBSERVE → INVESTIGATE → UNDERSTAND

### Review

#### Identify the principal policing roles.

- A major part of the workload of police is maintaining order.
- Police engage in law enforcement when they enforce criminal law and apprehend lawbreakers.
- Service activities are nonenforcement actions performed on an as-needed basis.

#### Compare the various policing strategies.

- In preventive patrol, officers are assigned to randomly drive or walk around an area.
- Problem-oriented policing focuses on discovering the underlying causes of problems and encouraging police to find innovative solutions to solve those problems.
- Community-oriented policing emphasizes reducing crime and disorder by involving residents in the job of policing.
- Aggressive order maintenance entails that police focus on minor public order offenses that affect residents' quality of life.

#### Describe the different jobs in policing.

- The rookie police officer quickly learns the realities of police work while working under the guidance of a training officer.
- Patrol officers are the first individuals to respond to a call for service.

- A follow-up investigation occurs after a patrol officer documents the facts of the crime.

- Police are the primary public safety agency in charge of enforcing traffic laws.

- Communications coordinates the performance of law enforcement activities.

- Custody is the incarceration of parties either accused or convicted of a crime.

- Forensics is the application of scientific knowledge and methods to criminal and civil investigations and legal procedures, including criminal trials.

#### Explain how police departments strive to maximize their resources.

- Departments use geographic information systems (GIS) technology to produce detailed descriptions of crime occurrences and to analyze the relationships between variables such as location and time. This information helps police know how to respond to an incident.

- CompStat is a computerized information system that integrates information from crime maps across the community for department leaders' review. This information helps police administrators decide how to allocate their resources.

conclusions. Students revisit chapter-specific learning objectives in Connect Criminal Justice, where all activities are linked specifically to these learning outcomes.

The **OBSERVE → INVESTIGATE → UNDERSTAND** framework helps students make logical connections between the principles and the practices of criminal justice. As a case in point, in Chapter 6, “Policing Operations,” students learn about the varied tactics of community policing, including foot patrol. Reading the opening vignette, students **OBSERVE** how the city of Philadelphia has used foot patrol in high-crime areas. The chapter narrative then guides students to **INVESTIGATE** effective policing strategies, which may include foot patrol. This discussion leads students to **UNDERSTAND** the difficulties law enforcers face in their efforts to prevent crime, as well as the varied consequences of the strategies they choose to employ. In these ways, the **OBSERVE → INVESTIGATE → UNDERSTAND** pedagogy actively involves students in making connections and exploring ideas that support learning.

# Probing the Myths and the Realities of Criminal Justice

Another main goal of this text is to erase rampant misconceptions about the criminal justice system. We created the **MYTH/REALITY** feature to reinforce the text’s real-world basis. Integrated throughout the chapters, **MYTH/REALITY** selections challenge students to reflect critically on their own beliefs and to develop an understanding of the way the system actually works. Each entry is connected to a broader discussion that uses supporting data to explain a key principle. Among the persistent myths we investigate are:

- Older adults are more likely to be victimized than people in any other age group. (Chapter 2, “Types of Crime”)
- Police must always read suspects their *Miranda rights*. (Chapter 7, “Legal and Special Issues in Policing”)
- Drug offenders are treated leniently by the criminal justice system. (Chapter 10, “Sentencing”)
- Juvenile crime rates are skyrocketing. (Chapter 15, “Juvenile Justice”)

OBSERVE → INVESTIGATE → UNDERSTAND

## Reality-Relevant Special Features That Reinforce the Text’s Framework

*CJ: Realities and Challenges*, Third Edition, offers an array of special-feature boxes that highlight and reinforce the *Observe, Investigate, Understand* framework:

- **Matters of Ethics** explores moral dilemmas and problems that may arise in various criminal justice scenarios and settings; see,

for example, Chapter 8's selection, "Expert Witnesses: The Good, the Bad, and the Criminal," and Chapter 11's example, "Private Prisons."

- **A Case in Point** links key text concepts to actual events and cases.
- **A Global View** compares American justice to international justice.
- **Disconnects** explores the gap between the intent of policies and law and their application in the real world.



### Victims of Culture Conflict

In 2010, the TLC Network launched a reality television show offering a glimpse into the daily lives of the Brown family, whose members are living a plural family lifestyle in Lehi, Utah. The show, *Sister Wives*, features the husband, Kody, his 4 wives, and their 13 children and 3 stepchildren. Though legally married only to his first wife for many years, Kody legally divorced her to legally marry his fourth wife. The sister wives claim the legal divorce and marriage was a joint family decision. Kody has had marriage rituals with the other three women and calls them his wives, and they refer to him as their husband. All the wives entered into the polygamist lifestyle voluntarily. In fact, the wedding planning for Brown's fourth ceremony and reception was the focus of one of the series' episodes.

This show is an excellent illustration of culture conflict—in this case, how not only the norms but also the laws of mainstream society clash with fundamentalist

Mormon values. The modern Mormon Church has not advocated polygamy since 1890; however, an estimated 38,000 fundamentalist Mormons continue to believe in, and practice, multiple marriage secretly in the United States.

Although rarely prosecuted unless children are being harmed, bigamy is a crime in Utah, punishable by a sentence of up to five years in prison. A person may be found guilty of bigamy in Utah through *cohabitation*—not just by entering into legal marriage contracts. By going public, the Browns exposed themselves to possible criminal prosecution, and the state of Utah launched an investigation. In 2012 Utah's case against the Brown parents under the state's bigamy statute was dismissed. However, the family is continuing its suit against Utah's bigamy law.

The Brown family adults decided to come out of the closet with their lifestyle to help others understand that they are deeply committed to one another, their children, and their family structure and to show that their children are well adjusted. Moreover, the parents do not want their children to have to live in secrecy or shame, denying to others the truth about their family.

### OBSERVE → INVESTIGATE → UNDERSTAND

- Are the Browns' 16 children victims of their parents' lifestyle choice? Explain.
- Is it emotionally abusive to raise children in a lifestyle for which the parents might be arrested and go to jail? Why or why not?
- Is it emotionally abusive to raise children in a lifestyle that makes it difficult for them to fit into the dominant society, or that makes it impossible for them to have privacy? Why or why not?
- Do some research into other cases in which culture conflict has resulted in law violation.

**SOURCES:** Jennifer Dobner, "Police Investigating Family in 'Sister Wives' Show," *KOMONews.com*, November 30, 2010. [www.komonews.com/news/entertainment/103940544.html](http://www.komonews.com/news/entertainment/103940544.html) (retrieved November 30, 2010); "Sister Wives' Lawsuit: Kody Brown and Family Suing Utah over Bigamy Law," *Huffingtonpost.com*, July 25, 2012. [http://www.huffingtonpost.com/2012/07/25/sister-wives-lawsuit-kody-brown-utah-bigamy-law\\_n\\_1701450.html](http://www.huffingtonpost.com/2012/07/25/sister-wives-lawsuit-kody-brown-utah-bigamy-law_n_1701450.html) (retrieved January 5, 2013); Esther Lee, "Sister Wives Stars Say Polygamist Kody Brown's Divorce, New Marriage Will 'Legally Restructure' Family," *US Weekly*, February 4, 2015. <http://www.usmagazine.com/celebrity-news/news/sister-wives-divorce-brown-family-to-legally-restructure-201542> (retrieved April 18, 2015).

## Matters of Ethics

### Private Prisons

The fact that private prisons are a lucrative business has led to charges of corruption in several states. For example, in 2010 the New Mexico corrections secretary refused to penalize a private prison contractor for understaffing prisons it operated—a violation of its contract with the state. New Mexico lost more than \$18 million in penalties due to this lack of contract enforcement. The state saved money, but at the expense of adequately staffing the prison. It turns out that the corrections secretary in New Mexico was a former employee of and a warden for the same private prison corporation. Furthermore, the prison corporation had been accused of unfair political activity by contributing to the campaign of a candidate for sheriff while using unregistered lobbyists to secure a lease renewal of a jail it operated.

In another case, a private prison company took advantage of the small town of Hardin, Montana. It convinced the town to sell \$27 million in bonds for the construction of a facility that was built but never used. The bonds have since gone into default.

Arizona, too, has seen private prisons entangled with politics. In 2010 the two major nationwide prison corporations helped draft a tough new



immigration law in Arizona that would yield hundreds of millions of dollars in revenue by increasing the number of illegal immigrants detained in their private prisons. The prison companies not only lobbied hard for this legislation, they also contributed to the governor's electoral campaign. In addition, two of the governor's top advisers were former lobbyists for private prison companies. The governor signed the immigration bill and has advocated the privatization of the prisons housing these immigrants.

### OBSERVE → INVESTIGATE → UNDERSTAND

- What is a compelling argument for barring current or former employees of private prison corporations who assume political office from developing contracts with private prison corporations?
- Should states be allowed to contract with private corporations to incarcerate prisoners? Why or why not?
- Might prisoners be subject to longer incarceration in private prisons than in government-run facilities? Explain.



**SOURCES:** Trip Jennings, "No Penalties for Understaffed Private Prisons," *New Mexico Independent*, September 2, 2010; Trip Jennings, "Corrections Secretary's Previous Work for Private Prison Operator Highlighted," *New Mexico Independent*, September 7, 2010; Trip Jennings, "NM Could Have Repeatedly Fined Private Prisons for Low Staffing Levels," *New Mexico Independent*, September 10, 2010; Trip Jennings, "Corrections Give Up \$18 Million in Uncollected Penalties," *New Mexico Independent*, September 15, 2010; *East County Magazine*, "Private Prison Group Uses Unregistered Lobbyists while Giving Money to Sheriff Gore," [www.eastcountymagazine.org/node/3463](http://www.eastcountymagazine.org/node/3463) (retrieved December 31, 2010); Matthew Reichback, "Private Prison Developer Behind Montana Fiasco Involved in Construction of NM Private Prisons," *New Mexico Independent*, October 12, 2009; Trip Jennings, "Private Prisons Pushed for AZ Immigration Law," *New Mexico Independent*, October 28, 2010; Casey Newton, Ginger Rough, and J. J. Henley, "Arizona Inmate Escape Pays Spotlight on State Private Prisons: Questions Arise over Safety Standards, Taxpayer Savings," *Arizona Republic*, August 22, 2010; Michael Birley, "Private Prison Companies Have Significant Ties to Arizona Immigration Law," *San Francisco Examiner*, October 29, 2010. [www.sanfrancisco.com/time-in-san-francisco-private-prison-companies-have-significant-ties-to-arizona-immigration-law-1070](http://www.sanfrancisco.com/time-in-san-francisco-private-prison-companies-have-significant-ties-to-arizona-immigration-law-1070) (retrieved January 5, 2011).

## Race, Class, Gender

### Gender and Crime

Females represent a small but increasing percentage of the offending population in the United States for all crimes. In 2010, there were approximately 1.6 million people in state and federal institutions, of whom 113,000 were female offenders. Almost half of incarcerated females are White, whereas 32 percent of incarcerated males are White. Black males (37 percent) make up the largest portion of incarcerated males. Black females (22 percent) were imprisoned at a rate twice that of White females (113 per 100,000 for Black females versus 51 per 100,000 for White females).<sup>1</sup> Since 2000, the growth in the incarceration rate of females in state or federal institutions increased 21 percent in comparison to only 15 percent for males.<sup>2</sup>

Although males represent the largest percentage of prison inmates, female inmates present with more mental health problems than do males. A 2006 study of the mental health of those incarcerated found that 23 percent of females both in state facilities and in local jails were diagnosed with a mental health problem, compared to 8 and 9 percent of male inmates, respectively.<sup>3</sup>

Males offend with significantly greater frequency than do females, and in general male offenders are more likely than are female offenders to be violent. Women are much less likely than men to commit assault or murder and the rate of murders committed by women has declined since 1980.<sup>4</sup> Yet the data show that women increasingly are engaging in violent crimes. A study that examined the gender of violent felons in the 75 largest counties from 1990 to 2002 found that males were responsible for 91 percent of all violent felonies and females for 9 percent.<sup>5</sup> The most recent data, from 2008, support previous statistics. At year-end 2008, there were 1,267,400 males incarcerated in state facilities as compared to 94,800 women. When comparing males and females in specific crime categories, the statistics from year-end 2008 indicate that 53.8 percent of males and 35.6 percent of women were incarcerated for violent crimes; 17.7 percent of males and 29 percent of females were incarcerated for property crimes; and 17.8 percent of males and 26.9 percent of females were incarcerated for drug crimes. As these data indicate, while males are committing more violent crimes, females are committing more property and drug crimes.<sup>6</sup>



According to National Crime Victimization data of juvenile victims (ages 12–17), despite the increase in female violence, males continue to commit certain violent crimes with greater frequency than do females, including intimate partner violence, stalking, aggravated assault, forcible rape, robbery, and murder. In 2010, juveniles of both genders were equally likely to experience a violent crime such as rape, robbery, or aggravated assault.<sup>7</sup>

### OBSERVE → INVESTIGATE → UNDERSTAND

- What might explain why a larger proportion of incarcerated women than men presents with mental health problems?
- Why do you think the rate of murders committed by women has declined since 1980?
- The statistics indicate that females are becoming more violent than ever before, but not for murder. What might explain this finding?

**SOURCES:** E. Anne Carson, "Prisoners in 2013," Bureau of Justice Statistics Bulletin (Washington, DC: U.S. Department of Justice, September 16, 2014). [www.bjs.gov/index.cfm?ty=pbdetail&id=5109](http://www.bjs.gov/index.cfm?ty=pbdetail&id=5109) (retrieved May 18, 2015).

<sup>1</sup>Lauren E. Glaze and Danielle Kaebler, "Correctional Populations in the United States, 2013," Bureau of Justice Statistics, December 19, 2014. [www.bjs.gov/index.cfm?ty=pbdetail&id=5277](http://www.bjs.gov/index.cfm?ty=pbdetail&id=5277) (retrieved May 18, 2015).

<sup>2</sup>Doris J. James and Lauren E. Glaze, "Mental Health Problems of Jail and Prison Inmates," Bureau of Justice Statistics Special Report, September 2006, NCJ 213600. <http://ojp.usdoj.gov/bjs/pub/pdf/mhsp06.pdf> (retrieved December 20, 2008).

<sup>3</sup>Lawrence Greenfield and Tracy Snel, "Women Offenders," Bureau of Justice Statistics Special Report (Washington, DC: U.S. Department of Justice, December 1999).

<sup>4</sup>Brian A. Reaves, "State Court Processing Statistics, 1990–2002: Violent Felons in Large Urban Counties," Bureau of Justice Statistics, July 2006. [www.ojp.usdoj.gov/bjs/pub/pdf/vfsc06.pdf](http://www.ojp.usdoj.gov/bjs/pub/pdf/vfsc06.pdf) (retrieved December 28, 2008).

<sup>5</sup>Heather C. West, William J. Sabol, and Sarah J. Greenman, "Prisoners in 2009" (Washington, DC: Bureau of Justice Statistics, December 2010). <http://ojp.usdoj.gov/content/pub/pdf/p09.pdf> (retrieved July 3, 2011).

<sup>6</sup>Nicole White and Janet L. Lauritsen, "Violent Crime against Youth, 1994–2010," Bureau of Justice Statistics, December 2012. [www.bjs.gov/content/pub/spec/vcy94101x](http://www.bjs.gov/content/pub/spec/vcy94101x) (retrieved May 19, 2015).

- **Real Careers** profiles recent graduates who have chosen a career in criminal justice.
- **Real Crime Tech** illuminates the ways in which technology is currently used in a range of criminal justice situations and settings.
- **Race, Class, Gender** traces the experiences of people who historically have been left behind in the process of criminal justice.
- **What about the Victim?** reminds us that the criminal justice story is also about the victim.



# An Author Team That's Connected to the Real World

*CJ: Realities and Challenges*, Third Edition, provides a uniquely interdisciplinary view of criminal justice not found in any other text. As both academics and practitioners with diverse backgrounds in law enforcement, the courts, corrections, and victim services, we provide a comprehensive, contemporary, and realistic perspective on these vital institutions.

We wrote this text using a highly collaborative process. To ensure that each branch of the criminal justice system was thoroughly represented, we organized our research, writing, and editing efforts as a peer review circle. Each chapter was the product of an ongoing, iterative review by the entire author team. The result of this synergistic effort is a unified voice providing a balanced, insightful point of view that is informed by the experience of the entire author team and has been affirmed by the feedback of course instructors.

We encourage students to read this text much in the spirit in which it was created: to have an open mind, think critically, engage in discussion, and exploit the wide knowledge and practical experience represented by the author team. Our collective experience demonstrates the need for collaboration in addressing the complexity of the criminal justice system.

## The Authors

### **Ruth E. Masters, Ed.D.**

Professor Emerita, Department of Criminology, California State University, Fresno. Expertise: Ruth E. Masters's specialties are corrections, correctional counseling, drug addiction, criminological theory, and cross-cultural administration of justice. She has worked for the California Department of Corrections (now California Department of Corrections and Rehabilitation) as a Parole Agent supervising addicted adult felons. She has been teaching criminology since 1972.

### **Lori Beth Way, Ph.D.**

Associate Dean of Academic Planning and Professor of Criminal Justice, San Francisco State University. Expertise: Lori Beth Way's research and teaching areas include policing, the courts, and issues of race,

class, and gender. Her policing research primarily focuses on police behavior and discretion. She published *Hunting for 'Dirtbags': Why Cops Overpolice the Poor and Minorities* with Northeastern University Press in 2013. She was the director of a U.S. Department of Justice Violence Against Women Campus Grant for Chico State, where she was a faculty member for 14 years, and Butte College, where she was a police academy instructor. She also has a master's certificate in Women's Studies from Syracuse University, where she earned her doctorate.

### **Phyllis B. Gerstenfeld, J.D., Ph.D.**

Chair and Professor, Department of Criminal Justice, California State University, Stanislaus. Expertise: Phyllis Gerstenfeld has a law degree as well as a Ph.D. in Social Psychology. Her primary areas of

research include hate crimes, juvenile justice, and psychology and law. She has published a monograph and co-edited an anthology on hate crimes. She has worked for a large private law firm as well as a public legal services agency and has been teaching criminal justice since 1993.

**Bernadette T. Muscat, Ph.D.**

Interim Associate Dean, College of Social Sciences, and Professor, Department of Criminology, California State University, Fresno. Expertise: Bernadette Muscat has worked with victims of domestic violence by serving as a legal advocate and by providing counseling, education, and legal advocacy in shelter and court environments. She has worked with law enforcement agencies, victim service programs, and court programs in program and policy development, evaluation, research, and training to ensure effective administration of victim assistance. She works extensively with local, state, and national level multidisciplinary task force groups to address family violence and violence against women. She has worked with the California Office of Emergency Services (OES) Victim Witness Division on the creation and implementation of the California State Victim Assistance Academy (CVAA) to provide 40-hour training to victim service practitioners throughout California.

**Michael Hooper, Ph.D.**

Lecturer, Department of Criminology and Criminal Justice Studies, Sonoma State University. Expertise: Michael Hooper began his involvement with the criminal justice system as a member of the Los Angeles Police Department. His 23 years of LAPD experience encompassed positions as a patrol officer, field supervisor, and watch commander. This was followed by five years of service on the Criminal Justice Program faculty at Penn State University's Capitol Campus. He subsequently served 13 years as a bureau chief at the California Commission on Peace Officer Standards and Training.

**John P. J. Dussich, Ph.D.**

Professor Emeritus, Department of Criminology, California State University, Fresno. Expertise: John P. J. Dussich is one of the world's leading authorities on victimology, victim services, criminology, victimological theory, and criminological and victimological

research. He has worked as a criminal justice planner, as a police officer, as a warden of a prison, as a director of a program evaluation unit, and as a director of an international victimology research institute in Japan. He is the founding and immediate past editor-in-chief of the online journal *International Perspectives in Victimology*. He has taught criminology since 1966 and victimology since 1976. The American Society of Victimology has named the John P. J. Dussich Award in his honor, and gives it each year to a person who has made significant lifelong achievements to the field of victimology. The National Organization for Victim Assistance's service award in 1980 was named the "John Dussich Founder's Award," to be given to individuals who perform outstanding service on behalf of NOVA. He was recently awarded the prestigious 2016 Ronald Wilson Reagan Public Policy Award. This award "honors those whose leadership, vision, and innovation have led to significant changes in public policy and practice that benefit crime victims." The award is given by the U.S. Office for Victims of Crime, and the nominee is approved by the U.S. Attorney General.

**Candice A. Skrapec, Ph.D.**

Professor, Department of Criminology, California State University, Fresno. Expertise: Candice Skrapec is a psychologist and criminologist. For the past 30 years she has maintained her research focus on psychopathy and serial murder (particularly in terms of underlying biological and psychological factors) and continues her interviews of incarcerated serial murderers in different countries. Her professional works and academic research result in regular calls from the media, movie and documentary producers, as well as authors of fact and fiction books in the areas of serial murder and investigative profiling. With over 30 years of experience in the law enforcement field working with officers and agencies in Canada, the United States, and Mexico, she is also frequently consulted by police around the world to assist in the investigation of homicide cases. She has taught a wide range of criminology courses since 1988 and has trained police and correctional officers in different countries in the areas related to her academic research and professional experience.



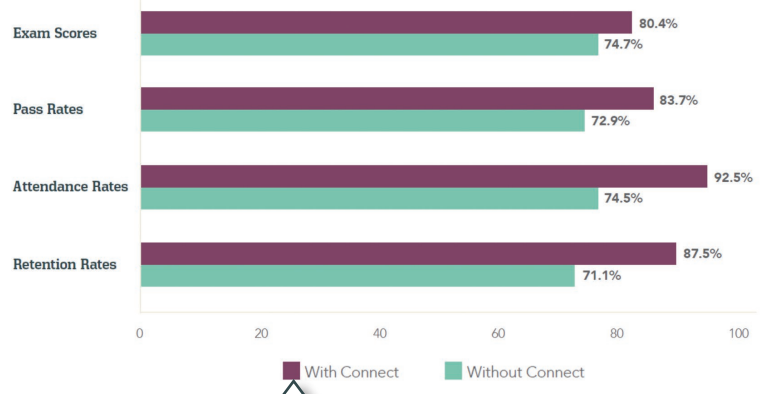
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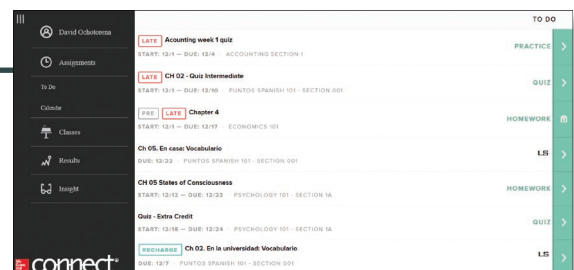


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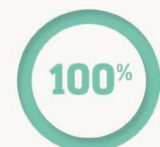
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## Instructor Resources

Supplements provide teaching aids and tools to help instructors leverage the classroom experience and provide students with a wide range of study and assessment tools to reinforce comprehension of the text. These supplements are available on the Instructor Resources sections of Connect.

- **Instructor's Manual.** Provides a comprehensive guide to teaching the introductory course using *CJ: Realities and Challenges*, including chapter guides that feature learning objectives, chapter previews and reviews, detailed outlines, lecture summaries, additional lecture ideas, and class discussion topics.
- **Test Bank.** The Test Bank contains 70 multiple-choice questions per chapter, of which 20 are scenario-based. Each question is tagged with bloom's Taxonomy learning domains and page references from the text. McGraw-Hill's computerized EZ Test allows you to create customized exams using the publisher's supplied test items or your own questions. EZ Test runs on your computer without a connection to the Internet. A version of the test bank will also be provided in Microsoft Word files for those instructors who prefer this format.
- **PowerPoint Slides.** The PowerPoint slides provide instructors with dynamic lecture support and include chapter outlines and key figures.
- **Online Library of CJ Video Clips.** Instructors frequently request video clips to be used in their CJ classes. Using the Internet as a resource, we provide a dynamically updated annotated index of CJ-related video clips that can be viewed online. The list is organized both by chapter and topic.
- **State Supplements.** A collection of useful background essays on the unique histories and development of laws in key states, including California, Texas, and Florida.
- **Quizzes.** Provides multiple-choice, true-false, and critical thinking questions for each chapter.
- **Careers and Internships.** Offers students additional information about a wide variety of careers in criminal justice and how to prepare for them.

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# Chapter-by-Chapter Changes

## PART 1:

### CRIME, LAW, AND THE CRIMINAL JUSTICE SYSTEM

#### Chapter 1: What Is the Criminal Justice System?

- New Realities and Challenges vignette, “Media Portrayals of Real Crime: Fact or Fiction?”
- New A Global View box, “How U.S. Legal Norms Differ from Those in Singapore: The Case of Michael Fay”
- Updated discussion of changing views on marijuana use and trends toward decriminalization
- Revised Disconnects box, “Evolution of Marijuana Laws”

#### Chapter 2: Types of Crime

- New Realities and Challenges vignette,
- New A Global View box, “Measuring Crime around the World”
- Updated A Case in Point box, “Michigan’s Task Force Approach to Violent Crime Reduction”
- New mass murder example focusing on the Hawke-Petit case
- New Matters of Ethics box, “Ethical Issues When Dealing with Treatment of Offenders or Victims”
- Updated coverage of legalization of marijuana for recreational use
- Updated statistics of state and federal prisoners convicted of drug offenses
- Discussion of drug and alcohol use among veterans of Iraq and Afghanistan
- Updated Real Crime Tech box, “Emerging Drug-Testing Technologies”
- Updated Race, Class, Gender box, “Gender and Crime”
- Updated crime statistics
- Updated material on immigration offenses

#### Chapter 3: Causes of Crime

- New Realities and Challenges vignette, “Theater 9 at Century 16: 12 Dead, 70 Wounded”
- Updated, expanded Real Crime Tech box, “Lie Detection by Brainwave Analysis”
- Updated Matters of Ethics box, “Revising the *DSM: A Process on Trial in the Court of Professional Opinion*”
- Updated and expanded discussion of mental disorders
- New A Case in Point box, “An Awakening in India for Women: A Rape in New Delhi”
- New What about the Victim? box, “Victims of Culture Conflict”
- Updated coverage of crime desistance
- New Disconnects box, “Mentally Ill Death Row Inmates”

#### Chapter 4: Criminal Law and Defenses

- Updated Realities and Challenges vignette, “Is Hazing a Crime?”
- Updated A Global View box, “Intellectual Property Piracy in the Twenty-First Century”
- New A Case in Point box, “Convicted *without Criminal Intent*”
- New extended discussion of “Criminal Defenses”

## PART 2:

### LAW ENFORCEMENT

#### Chapter 5: Overview of Policing

- New Realities and Challenges vignette, “The Power of Community Partnerships”
- Reorganized section on the English model
- New A Case in Point box, “Conflict with Occupy Wall Street Protestors”
- Discussion of police departments’ growing use of background checks on social media activity by candidates for police positions
- Updated Disconnects box, “Where Are the Women?”
- New What about the Victim? box, “The Police Subculture and a Linkage to Intimate Partner Strife”
- New Matters of Ethics box, “Department of Justice Investigation of the Ferguson, Missouri, Police Department”
- Updated Global View box, “India’s Growing Reliance on the Security Industry”

#### Chapter 6: Policing Operations

- Updated Realities and Challenges vignette, “Foot Patrol in a Big City”
- New A Case in Point box, “Problem-Oriented Policing in Action: The Colorado Springs Police Department’s HOT Program—Providing Outreach to the Homeless”
- Updated Disconnects box, “A Literal Disconnect: Agencies’ Inabilities to Communicate”
- New text material on robotic workstations to keep up with the accelerated demand for DNA testing by players in the criminal justice system
- Updated discussion of evidence-based policing and its value
- Updated discussion of CompStat
- New A Global View box, “Public Perceptions of the Police in Russia”

#### Chapter 7: Legal and Special Issues in Policing

- New Realities and Challenges vignette, “An In-Custody Death in Baltimore”
- New text discussion of recent Supreme Court cases

- New text section, “Dynamics of Use of Force”
- New text discussion of video evidence
- Updated Race, Class, Gender box, “Pedestrian Stop-and-Frisk in the Big Apple”
- Updated What about the Victim? box, “Providing Transition Assistance for the Police Officer Returning from Combat Deployment”
- New details in the text on the problem of suicide among police officers

## **PART 3: ADJUDICATION**

### **Chapter 8: The Courts**

- Updated opening vignette
- Updated statistics on court processes
- Updated Race, Class, Gender box, “Race and Jury Decision Making”
- Updated Real Crime Tech box, “Freeing Wrongfully Convicted Persons”
- Added details on presentence investigation reports and elocution in the text discussion of victim impact statements

### **Chapter 9: Pretrial and Trial**

- New Realities and Challenges vignette, “Tried for the Third Time—Over 30 Years Later”
- Updated What about the Victim? box, “Balancing Victims’ and Offenders’ Rights to a Speedy Trial”
- Expanded, fine-tuned discussion of the pretrial process, featuring substantially augmented discussions under the headings “Discovery” and “Plea Bargaining”
- New Matters of Ethics box “A Jury of Your Peers? . . . Not Really”

### **Chapter 10: Sentencing**

- New text details updating the discussion of the revised USSC sentencing guidelines
- New A Matter of Ethics box, “When Is a Mandatory Minimum Sentence Unjust?”
- Updated text discussion of controversies and court challenges over lethal injections—and the effect on executions
- Updated and expanded discussion on capital punishment
- Updated Race, Class, Gender box, “Exonerating the Innocent”

## **PART 4: CORRECTIONS**

### **Chapter 11: Overview of Corrections**

- New Realities and Challenges vignette, “Values are the Driving Force behind Corrections Models”
- Updated Myth/Reality features

- Updated statistics and figures throughout
- In-depth coverage of Public Safety Realignment Policy and mass incarceration
- New What About the Victim? box, “Implications for Victims of California’s Realignment Policy”
- New A Case in Point box, “Hawaii’s HOPE Program for High-Risk Offenders”
- New Race, Class, Gender box, “Treating Women in Prisons . . . as Second-Class Citizens of the System”
- New coverage of California’s Public Safety Realignment Policy and women prisoners
- Updated discussion of inmate race and gender differences
- Updated discussion of private and faith-based prisons
- Updated Critical Thinking Questions
- Updated coverage of correctional populations in the United States
- Updated coverage of, state prison inmates

### **Chapter 12: Jails and Prisons**

- New coverage of jails becoming de facto asylums for the mentally ill and dumping grounds for poor and addicted populations
- Updated jail and prison statistics throughout
- New coverage of the shift away from the policy of mass incarceration and “get tough” sentencing practices
- Coverage of how mass incarceration affects people of color
- Matters of Ethics box replaces second edition What about the Victim? box, “Prisoners as Research Subjects”
- New A Case in Point box, “The National Emotional Literacy Program for Prisoners”
- California Public Safety Realignment policy and female prisoners
- Updated examples of prisoner rights
- Updated prison gang discussion
- New coverage of transgender, lesbian, gay, and bisexual prisoners
- Updated coverage on AIDS and ill inmates
- Updated Critical Thinking Questions
- Expanded discussion of prisoner rights
- New A Global View box, “A Different Kind of Prison: Venezuela’s San Antonio Prison”
- New Real Crime Tech box, “Personal Communication Technology and Prisons,” that emphasizes tablet technology
- Updated discussion of rapidly rising number of women in U.S. prisons

### **Chapter 13: Community Corrections**

- Updated “Probation” and “Parole” sections
- Coverage of how Public Safety Realignment policy affects probation, parole, and community corrections



- Updated statistics throughout
- New Race, Class, Gender box, “Celebrity Justice?”
- Expanded discussion of the role of the probation officer
- Expanded discussion on factors in the future success of probation
- New A Case in Point box, “Parole and the Jaycee Dugard Case”
- Expanded discussion on the effectiveness of parole in the future
- New coverage on the relationship between doing away with policies of mass incarceration and community-based corrections
- New Disconnects box, “What Is an Appropriate Fine?”
- Updated Matters of Ethics box, “Relationships between Correctional Personnel and Offenders”

## **PART 5: SPECIAL ISSUES**

### **Chapter 14: Understanding and Helping Victims**

- New Race, Class, Gender box, “Charleston Shooting”
- New text on the U.S. Census of Domestic Violence Services
- New Disconnects box, “When Victims Are Revictimized”
- Updated perspectives on victim assistance for older adults
- New A Case in Point box, “The Killings at Sandy Hook Elementary School”

### **Chapter 15: Juvenile Justice**

- New Realities and Challenges vignette, “Two Years in Solitary”
- Updated discussion and analysis of measuring juvenile crime
- Updated statistics on juvenile crime

- Updated Matters of Ethics box, “Policing the Schools”
- Updated discussion of juvenile court jurisdiction
- New Disconnects box, “Punishing Truancy”
- Updated Juvenile Corrections statistics
- Expanded discussion of sexual abuse of male and female juveniles held in custody
- New discussion of the Juvenile Justice Realignment bill

### **Chapter 16: Contemporary Challenges in Criminal Justice**

- New Realities and Challenges vignette, “Boston Marathon Bombing”
- New resources for victims of identity theft
- New contextual framework for combating identity theft
- Updated information on the extent of cybercrime
- New information on the ever-expanding value of digital evidence
- New information sharing protocols to combat cybercrime
- New text discussion on occurrences of worldwide terrorist attacks, their impact, and law enforcement’s responses to them
- New information on the extent and nature of terrorism
- New text on the USA FREEDOM Act
- Updated A Case in Point, “The Fusion Center Approach to Preventing Terrorism”
- New Matters of Ethics box, “Airport Security Technology in the United States”
- Updated hate crime statistics
- New Race, Class, Gender box, “The Killing of Onesimo Marcelino Lopez”
- Consideration of the first National Professional Training Conference on Responding to Crime Victims with Disabilities

# Contributors

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## Connect Reviews

VICTORIA BECK, University of Wisconsin-Oshkosh

RANDALL DAVIS, Santa Ana College and Santiago Canyon College

MARTHA EARWOOD, University of Alabama at Birmingham

RICHARD FINN, Western Nevada College

SHANA MAIER, Widener University

PATRICIA MAREK O'NEILL, Hudson Valley Community College

JACQUELINE M. MULLANY, Triton College

MICHAEL PITTARO, East Stroudsburg University

WAYNE D. POSNER, East Los Angeles College

DARREN K. STOCKER, Cape Cod Community College

MICHAEL SUCH, Hudson Valley Community College

“The Masters text is a comprehensive collection of information presented in an easy to read manner. The pictorial display presented in the text highlights and supplements the written material in [a] student-friendly way. And, the text incorporates information about the victim throughout the material, which is a pleasant rarity in a textbook.”

—Lisa A. Hoston, Allegany College of Maryland

“This is a thorough and highly relevant textbook that will encourage students to further their pursuit of criminal justice as a field of academic study.”

—Martha Earwood, University of Alabama at Birmingham

## Content Reviewers

VICTORIA BECK, University of Wisconsin-Oshkosh

RANDALL DAVIS, Santa Ana College and Santiago Canyon College

MARTHA EARWOOD, University of Alabama at Birmingham

RICHARD FINN, Western Nevada College

ANDY GONIS, Santa Ana College

LISA A. HOSTON, Allegany College of Maryland

LI YING LI, Metropolitan State University-Denver

SHANA MAIER, Widener University

PATRICIA MAREK O'NEILL, Hudson Valley Community College

PAMELA MERTENS, University of the District of Columbia

JACQUELINE M. MULLANY, Triton College

MICHAEL PITTARO, East Stroudsburg University

WAYNE D. POSNER, East Los Angeles College

SHANNON SANTANA, University of North Carolina-Wilmington

DAREN K. STOCKER, Cape Cod Community College

MICHAEL SUCH, Hudson Valley Community College

ARNOLD RAY WAGGONER, Rose State College

TRACEY WOODARD, University of North Florida

# Dedications

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—Ruth Masters

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—Lori Beth Way

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—John Dussich

CJ

REALITIES  
AND CHALLENGES

3RD EDITION



# 1 What Is the Criminal Justice System?



## OBSERVE → INVESTIGATE → UNDERSTAND

After reading this chapter, you should be able to:

- Illustrate how social norms help us define crime.
- Define crime and explain how it is classified.
- Describe the consequences of crime for the offender and the victim.
- Outline the basic structure of the criminal justice system.
- Describe key models of the workings of the criminal justice system.
- Describe how criminal justice is influenced by public opinion, the media, politics, and policy.
- Review the challenges to the criminal justice system today.

# Realities and Challenges

## Media Portrayals of Real Crime: Fact or Fiction?

Many of us are fascinated by crime and the many questions that surround it. *Who did it, and why did this happen?* Depictions of crime abound in the media, with stories and headlines that both shock and call into question how these crimes can occur in seemingly serene locales like the historic Emanuel African Methodist Episcopal Church in Charleston, South Carolina, where nine people were shot to death during their evening prayer meeting—apparently because they were African American. Stories of the Boston Marathon bombings, Sandy Hook, the Aurora theater shootings, kidnappings, serial murders, and other heinous crimes are depicted on the news, in documentaries, and true crime shows and are dissected by criminologists, lawyers, and other pundits offering varying perspectives on the crimes and the perpetrators. People watch courtroom dramas unfold, and the interest in crime extends to the popularity of television shows such as *The Jinx: The Life and Deaths of Robert Durst*, *Orange Is the New Black*, *Law & Order: Special Victims Unit*, and a proliferation of true crime-related shows. There is even an entire network, Investigation Discovery, featuring crime-related shows. People also tuned in in droves to listen to the *Serial* podcasts, and other comparable podcasts are in the works. While we may see and hear so much, often as consumers we cannot separate fact from fiction and are not privy to how the criminal justice system works. This book seeks to help you understand the nature of crime, how crime is measured, the laws that govern criminal behavior, and the practitioners who work within the criminal justice system. The intent of this text is to highlight the myths about criminal justice, but to focus on the realities and the challenges faced by those who interact with and work within the criminal justice system. As you read the text, critically assess the current criminal justice practices described. Consider which practices are working positively and ensuring justice, and which perhaps need to be revisited or abandoned.

Police, detectives, victim advocates, judges, lawyers, prosecutors, jurors, correctional officers, parole officers—these are the people with whom the suspect, the victim, and the victim’s family deal when interacting with the criminal justice system. It is a complex and sometimes lumbering machine, as it tackles the job of taking criminals off the street, ensuring a fair trial, supporting victims, protecting society, and punishing and attempting to rehabilitate offenders.

Of course, there are challenges to match the complexity. Have the police followed proper procedures? Has the victim been treated fairly, and does the individual understand his or her rights? Have the prosecutors shared all the relevant evidence with the defending lawyers? Was the jury trial fair? What role did the victim and/or the victim’s family play in the criminal justice process? Were due process rights protected? Was the sentencing appropriate for the offense? Has the offender been mistreated in prison? Are there opportunities to rehabilitate? Has parole been granted (or denied) in a fair manner? There are many points at which justice may be either served or derailed.

We hope that this book will help you learn to think critically about the realities and challenges of the world of criminal justice. We want to help you interpret facts and recognize myths about the criminal justice system so you will understand and appreciate its complexities. We hope you come to understand how the roles of offenders, protectors, and victims are interwoven in a system dedicated to detecting those who violate the rules, determining their guilt, and carrying out an appropriate punishment. We begin in this chapter with a brief exploration of the nature of rules whose violations constitute

crime and an introduction to how the criminal justice system is structured and works.

## THE RULES THAT BIND: NORMS AND LAWS

### MYTH/REALITY

**MYTH:** Some behaviors are so wrong that they are crimes in all societies.

**REALITY:** It is not the nature of an act that makes that act a crime; it is the nature of society that defines a particular act as a crime in that society.

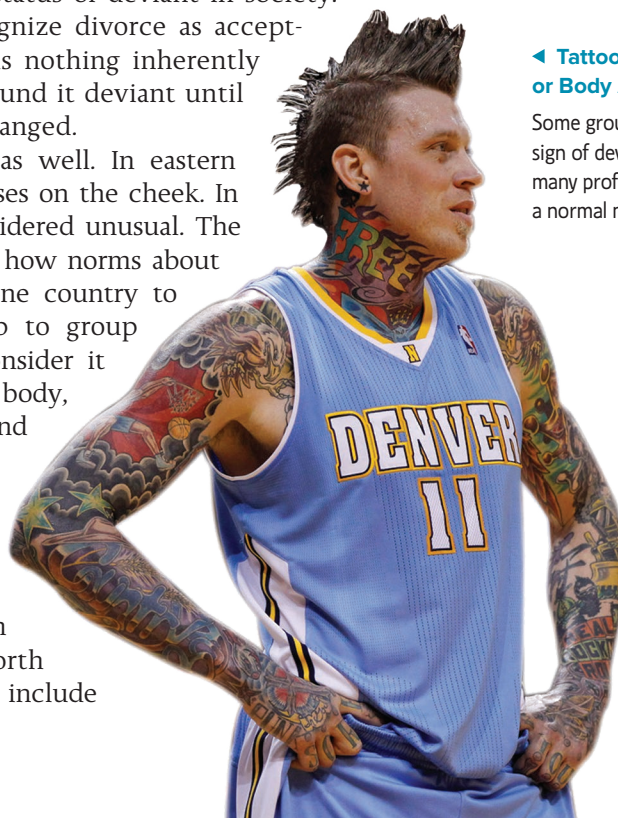
A **norm** is a rule that makes clear what behavior is appropriate and expected in a particular situation. If, for example, it is the norm to arrive at meetings on time, being late violates the norm. The term *abnormal* connotes **deviance**, the violation of a norm. (The prefix “ab” means “away from,” so *abnormal* means “away from the norm.”) No behavior is inherently deviant—that is, deviant solely by virtue of its nature. Rather, whether a particular act is considered deviant depends on many factors, including context, place, time, and the individual(s) judging it.

Let’s consider how a behavior’s deviance depends on the context in which it occurs. For example, if you were to spit on 42nd Street in New York City, people might frown at you, but you would not be arrested. But if you were to spit in the subway, you would be violating a formal regulation of the New York City Transit Authority and could face criminal prosecution in a municipal court. The fact that each week 7 million people pass through the close quarters of the subway system makes hygiene a factor in determining what is deviant in that situation.

Our ideas of deviance also change over time. For example, before the 1970s, being divorced conferred the status of deviant in society. In contrast, today’s social norms recognize divorce as acceptable behavior. In other words, there is nothing inherently deviant in getting divorced: Society found it deviant until the 1970s, and then our attitudes changed.

Norms vary from place to place as well. In eastern Europe, men greet other men with kisses on the cheek. In the United States this behavior is considered unusual. The “A Global View” box on page 4 shows how norms about corporal punishment can vary from one country to another. Norms also vary from group to group within a society. While some may consider it deviant to have tattoos covering one’s body, it is the norm within many gangs and among many professional athletes.

A **social norm** specifies how people are expected to behave. Social norms are informal rules that are not written but that we nonetheless know and follow. We learn them from parents, peers, and teachers. In North American society, informal social norms include



## Preview

THE RULES THAT BIND: NORMS AND LAWS

WHAT IS CRIME?

THE CONSEQUENCES OF CRIME

THE STRUCTURE OF THE CRIMINAL JUSTICE SYSTEM

HOW CRIMINAL JUSTICE WORKS: THE REALITIES

INFLUENCES ON CRIMINAL JUSTICE

CHALLENGES TO CRIMINAL JUSTICE TODAY

SUMMARY

REVIEW

KEY TERMS

STUDY QUESTIONS

CRITICAL THINKING QUESTIONS

### norm

A rule that makes clear what behavior is appropriate and expected in a particular situation.

### deviance

The violation of a norm.

### social norm

A rule that specifies how people are expected to behave.

### ◀ Tattoos: Sign of Deviance or Body Art?

Some groups may consider tattoos a sign of deviance; for others, including many professional athletes, tattoos are a normal means of expression.



# A Global View

## How U.S. Legal Norms Differ from Those in Singapore: The Case of Michael Fay

The focus of this case is not so much on the crime as it is on the punishment. On March 3, 1994, Michael Peter Fay, a St. Louis, Missouri, teenager living in Singapore, was sentenced to four months in jail, a fine of 3,500 Singapore dollars (about 2,214 U.S. dollars at the time), and six strokes of a rattan cane for the crimes of theft and vandalism. Norms differ regarding the appropriateness of the type of corporal punishment known as caning between the United States and Singapore. To understand the context of these crimes and their punishment, it is relevant to know that the Singapore government had been trying to cope with a rash of vandalisms leading up to this case. About six months earlier, car vandalism emerged as a noticeable new problem and was reported in one of the local newspapers. Cars parked near apartments were being damaged with hot tar, paint remover, red spray paint, and hatchets; and some taxi drivers reported having their tires slashed. In both countries vandalism and theft are usually considered nonviolent crimes and are

considered as misdemeanors. The exception to this rule is when the property damaged or stolen has high value (in the United States if it exceeds \$500), in which case it can be considered as a felony. In Singapore it is quite normal for the criminal courts to issue sentences of caning; this punishment is unheard of in the United States. Ironically, 19 U.S. states do permit corporal punishment to be used to “discipline” children and to be administered by parents and/or teachers. In Singapore this form of punishment may only be used on males. President Clinton considered Michael Fay’s punishment so inappropriate that he interceded and appealed to the president of Singapore, who, out of deference to the U.S. president, reduced the number of strokes from six to four. The caning was carried out on May 5, 1994, and the rest of the sentence was completed after four months. In the United States, the typical forms of punishment for vandalism can include fines, probation, community service, restitution, and/or jail sentence.

### OBSERVE → INVESTIGATE → UNDERSTAND

- Should the Singapore court have taken into account that the offender had been socialized in a different culture? Explain.
- When living in a foreign country, should a guest from the United States be held to a higher standard? What are your reasons?
- Was it appropriate for the president of the United States to intervene? What might have been the consequences either way? What message did his intervention send to other Americans living in foreign countries?

**SOURCES:** “U.S. Student Tells of Pain of His Caning in Singapore,” *New York Times*, June 26, 1994. <http://www.nytimes.com/1994/06/26/us/us-student-tells-of-pain-of-his-caning-in-singapore.html> (retrieved May 15, 2015); Alejandro Reyes, “Rough Justice: A Caning in Singapore Stirs Up a Fierce Debate about Crime and Punishment,” *Asiaweek*, Hong Kong, May 25, 1994. <http://www.corpun.com/awfay9405.htm> (retrieved May 16, 2015); Valerie Strauss, “19 States Still Allow Corporal Punishment in School,” *Washington Post*, September 18, 2014. <http://www.washingtonpost.com/blogs/answer-sheet/wp/2014/09/18/19-states-still-allow-corporal-punishment-in-school/> (retrieved May 18, 2015).



▲ Michael Fay

waiting your turn in line to purchase tickets at a movie theater and not eating mashed potatoes with your fingers.

Formal social norms, also called *legal norms*, are formally written. Formal norms forbid theft and assault, for instance. Although not all deviance from norms constitutes a crime, the violation of formal norms, or *laws*, sets the criminal justice system in motion. In fact, informal social norms can evolve into legal norms. Because it is laws that determine what crimes are, we need to take a closer look at how these legal norms come about.

## WHAT IS CRIME?

What constitutes crime? The answer is not as obvious as it may seem. Certainly, a crime is an act that breaks a law. But this description, though concise, does not help us understand the complexity of classifying criminal behavior. As we will see in this section, it is common to distinguish between



### ▲ Violating a Legal Norm

Spitting in the subway is a crime that violates a formal regulation of the New York City Transit Authority.

two broad categories of crime: *mala in se* and *mala prohibita* crimes.

#### MYTH/REALITY

**MYTH:** People are either criminal or not.

**REALITY:** Virtually all people commit crimes at some point in their life. Whether we consider them criminals depends largely on what offenses they commit.<sup>1</sup>

### Can Crimes Be Inherently Wrong?

A crime is referred to as *mala in se* if it is categorized, as its Latin name suggests, as an “evil unto itself,” a behavior that is morally wrong. This definition implies that a given behavior would be wrong in any context, even if there were no law against it. However, just as there is no such thing as an inherently deviant act, there is no such thing as an inherently criminal act. Society creates crime in the same way it creates deviance—by labeling specific behaviors as such.

Because no behavior is criminal until society makes it so, distinguishing a category of crime as *mala in se* can be confusing. We discuss this category of crime here because it is a term often used by researchers and practitioners in the field of criminal justice.

Traditionally, *mala in se* offenses are seen as a violation of a basic universal social value. On the surface, it may seem reasonable to identify an act such as forcible rape as violating some universal code of morality. But no universal social code of justice exists. For example, historically the victim of a sexual assault was not considered the woman herself but rather her husband, father, or brother. The “What about the Victim?” box illustrates that the definition of sexual assault crimes is influenced not only by time period but also by the understanding of the victim and the relationship to the perpetrator.

### Crimes Prohibited by Law

*Mala prohibita* crimes, also known as **statutory crimes**, are acts that are criminal because they are prohibited by law. *Mala prohibita* crimes reflect public opinion at a particular moment in time. As standards of social tolerance change, so do the behaviors included in this category.

Laws against adultery provide a case in point. Historically, when a married person had consensual sexual relations with someone

## What about the Victim?

### “No Means No” . . . at Least in Some States



Depending upon the legal jurisdiction (that is, the legal authority whose laws are binding), the element of force is no longer necessary to be convicted of forcible rape. Two state jurisdictions have changed their rape laws in this regard. In January 2003, the California Supreme Court decided

that 16-year-old John Z. raped 17-year-old Laura T. when, at a party in 2000, he continued to have sexual intercourse with her for 1 to 2 minutes over her objections. In fact, they had engaged in intercourse for approximately 10 minutes, during which time Laura repeatedly told him she had to go home while physically struggling to stop him. John’s response was “to give [him] a minute.” The court held that even though Laura initially consented to intercourse, John’s failure to stop when she withdrew her consent—after penetration—constituted rape. By 2004, courts in eight states, including California, had extended the interpretation of their rape laws. No longer is the use of force, violence, or threat of harm to the victim required to convict for rape.

Illinois went a step further. After the John Z. decision, the state legislature passed the “No Means No” Act later in the same year. This legislation added a section to the Illinois rape statute that recognizes an individual’s legal right to withdraw consent to intercourse at any point after giving that consent. This development made Illinois the first state to pass a law explicitly protecting the rights of women in this regard. As Matthew Lyon (2004) notes in his discussion of how definitions of rape are evolving over time, cases like that of John Z., legislative initiatives like that of Illinois, and media coverage of cases like the accusation of rape against basketball phenomenon Kobe Bryant are likely to prompt other state legislatures to consider similar statutes.

Other countries are also adopting various “no means no” laws. In Scotland and Australia, for example, similar legislation was passed in 2007. One illustration is a New South Wales case of an alleged rape where withdrawal of consent was at issue. In ruling for the victim, one of the judges noted, “The rights of modern women include the right to refuse to consent to sexual intercourse, at any time, and for any reason.”

#### OBSERVE → INVESTIGATE → UNDERSTAND

- Although the California court rejected John Z.’s “primal urge” claim—that is, the idea that he just could not stop himself—what do you think about the argument that once a male has begun to have consensual intercourse, it is not reasonable to expect that he can “just stop”? What is a reasonable time for a partner to stop after a woman removes her consent?
- What if a woman is too drunk to give consent?

**SOURCES:** *People v. John Z.*, 60 P.3d 183, 184 (Cal. 2003); Matthew R. Lyon, “No Means No? Withdrawal of Consent during Intercourse and the Continuing Evolution of the Definition of Rape,” *Journal of Criminal Law and Criminology* 95 (2004): 277–314.

***mala in se***

A behavior categorized as morally wrong (“evil in itself”).

***mala prohibita***

A statutory crime that reflects public opinion at a moment in time.

**statutory crime**

An act that is criminal because it is prohibited by law.

**consensus perspective**

A view of crime that sees laws as the product of social agreement or consensus about what criminal behavior is.

**conflict perspective**

A view of crime as one outcome of a struggle among different groups competing for resources in their society.

outside the marriage, the punishment could be death. Under some laws today, such as strict Islamic law (known as *Shariah*), adulterers can still be executed. Although adultery remains illegal in many countries today, penalties are relatively minor and are rarely enforced. Currently in the United States more than 20 states have laws prohibiting adultery. While prosecutions are rare, legal penalties range from a \$10 fine to life in prison.

What motivates a society to criminalize some behaviors and not others? Two predominant points of view about how crimes become defined capture the essence of this divergence: the consensus perspective and the conflict perspective.

### Consensus and Conflict Perspectives

The **consensus perspective** of crime views laws as the product of social agreement or consensus about what criminal behavior is. According to this view, criminals are individuals whose behavior expresses values and beliefs at odds with those of mainstream society. For example, they rob banks while most of us work for a living. Laws, as the product of social consensus, promote solidarity: “We’re all together on this.” In this perspective, murder is a crime because it violates a consensus belief in the sanctity of life. We agree that killing is wrong, so we criminalize this act. Those who subscribe to the consensus perspective believe that defining some behaviors as criminal is necessary (or functional) because it is in everyone’s interest to control those who deviate.

The **conflict perspective**, on the other hand, views the definition of crime as one outcome of a struggle among different groups competing for resources in society. The people who own and control society’s resources (land, power, money) are able to influence those who determine what laws are passed. Rather than looking at individual wrongdoers to understand crime, the conflict perspective looks at the process that determines who is a criminal and who is not. It asks, for example, why we apply more law enforcement resources to the bank robber than to the stockbroker who steals millions of dollars through insider trading on Wall Street.

The conflict perspective holds that laws are influenced and created by those who control the political and economic power within the society. The unequal distribution of resources in society generates competition, and hence conflict, among the groups vying for power. The “Disconnects” box illustrates how powerful corporate interests may have aided, if not been largely responsible for, passage of laws prohibiting marijuana use. An overview of marijuana’s long and complicated history reveals that nothing about the nature of the act itself makes marijuana use a crime. But whether laws against it are consensus or conflict based is a matter of debate. Let’s consider both sides.

Is using marijuana illegal because society agrees it should be (consensus model)? The fact is that public views on the use of marijuana have changed over time. A Gallup Poll conducted in 2010 revealed 46 percent of Americans support the legalization of marijuana (and 70 percent support it for medical use). In contrast, only about 20 percent favored its legalization in the early 1970s.<sup>2</sup> Accordingly, and consistent with the position that consensus drives legislation, a number of states are introducing initiatives toward the decriminalization of marijuana use.

Alternatively, is marijuana use illegal because powerful interests are served by making it so (conflict model)? For example, it is conceivable that profits related to particular drugs produced by the pharmaceutical industry could be threatened by the legalization of marijuana use. A third possibility may be that marijuana laws are the result of both consensus and conflict—to varying degrees at different points in time.

## Evolution of Marijuana Laws

The evolution of marijuana laws illustrates that laws are mere social constructions that change as we and our social landscape change.

In the United States from the mid-1800s until 1937, marijuana was largely a medicinal drug legally available by prescription. Few knew it as a recreational drug beyond people living in the Mexican American communities close to the Mexican border. But growing anti-Mexican sentiment in various regions of the country spread fears of Mexicans' bringing their "loco weed" into the United States and fueled the call for marijuana prohibition. Legislation proposed to control marijuana use cited its alleged harmful effects and reflected the views of authorities like the commissioner of the Federal Bureau of Narcotics, Harry Anslinger, who testified before Congress that "marijuana is an addictive drug that produces in its users insanity, criminality, and death." Such claims made it appear that marijuana laws would be for the good of the whole society—reflecting a consensus view. Remarkably, however, the American Medical Association went on record in those same 1937 congressional hearings to note that there was no medical evidence to support the contention that the drug was harmful. It is unlikely the

medical profession would offer the same testimony today. For example, the National Institute on Drug Abuse links long-term marijuana use to addiction and symptoms of serious mental disorder, and there is research documenting the carcinogenic properties of marijuana smoke. Such research is only likely to increase as more states decriminalize marijuana use for medicinal or recreational purposes.

But back in 1937, a conflict view was at work as well. Powerful corporate interests joined the crusade against marijuana when they recognized that hemp—the source plant for the drug—could be used to make textiles and paper, thereby posing a threat to already established U.S. industries. Fears of the economic potential of the hemp plant—not its psychoactive properties—largely stimulated calls for passage of the Marijuana Tax Act of 1937. Under this law, anyone who imported, distributed, or sold marijuana was required to register with the Internal Revenue Service and to pay a prohibitive tax. Although the act did not outlaw marijuana, it sought to severely curtail its use. Similarly, opposition to the legalization of marijuana for medicinal and/or recreational use today has been alleged to come from, among other sources, the pharmaceutical industry and alcohol companies—both of which stand to lose profit if marijuana is accepted as an alternative to existing products.

Public support for decriminalizing marijuana use has been increasing since the 1990s. A 2012 poll found a majority of U.S. voters (51 percent versus 44 percent) agree with the legalization of marijuana for recreational use, and it is legal for medicinal purposes in at least 20 states. And while its use—recreational or otherwise—continues to be prohibited under federal law, individual states are making moves toward decriminalization. In 2012, Colorado and Washington became the first states to legalize and regulate the possession of an ounce or less of marijuana by adults over 21. Alaska, Oregon, and the District of Columbia have passed similar legislation. It remains to be seen whether the federal government will enforce federal law in these jurisdictions.



### OBSERVE → INVESTIGATE → UNDERSTAND

- In what ways have the laws against marijuana reflected a consensus perspective? In what ways have they represented a conflict perspective?
- What might make the campaign against marijuana different from campaigns against other recreational drugs, such as cocaine?
- Do you think a tax is a better way to control marijuana use than a law against it? State your reasons.

**SOURCES:** John Galliher, David Keys, and Michael Elsner, "Lindesmith v. Anslinger: An Early Government Victory in the Failed War on Drugs," *Journal of Criminal Law and Criminology* 88 (Winter 1988): 66; Richard Bonnie and Charles Whitehead, *The Marijuana Conviction: A History of Marijuana Prohibition in the United States* (New York: Lindesmith Center, 1999); National Institute on Drug Abuse, "NIDA InfoFacts: Marijuana," revised November 2010, National Institute on Drug Abuse, Bethesda, MD. <http://drugabuse.gov/PDF/InfoFacts/Marijuana.pdf> (retrieved December 18, 2010); Quinnipiac University Poll, "American Voters Back Legalized Marijuana, Quinnipiac University National Poll Finds: Voters Split on Gay Marriage, but Catholics Back It," December 5, 2012. <http://www.quinnipiac.edu/institutes-centers/polling-institute/national/release-detail/?ReleaseID=1820>.

The conflict perspective is well illustrated in the case of vagrancy laws in England.<sup>3</sup> Vagrancy laws were passed in the fourteenth century to prevent peasants from leaving the employ of wealthy landowners to seek independent work in neighboring towns. Because it took time to develop a trade

and become established in the towns, peasants who wandered would, at least initially, lack any apparent means of support. Laws defining unemployed wanderers as vagrants targeted those peasants. Given the choice of being imprisoned for vagrancy or returning to the landowners, many returned to work the land.

Vagrancy laws served the interest of the wealthy by preserving the status quo and their position of power and privilege. Such laws could also, however, be seen as a protection for society because the wandering unemployed would eventually have to commit crimes to support themselves.

Using the evolution of vagrancy laws as a model can help us understand many of today's laws in the United States. Most of our laws and the resources of the criminal justice system focus on "crime in the streets" at the expense of attention to corporate crime and government corruption, the "crime in the suites" that costs society billions of dollars each year. Like the wealthy landowners of feudal England, today's large corporations get their interests translated into laws. Those who come to be identified as criminals are often, like the peasants of medieval society, those who lack power and wealth.

The basis for a particular law also may change over time. For example, we could argue that laws against theft were initially consistent with the conflict model because the will of the more powerful "haves" dictated the passage of laws against theft to protect their own property. The "have-nots" had less in the way of material goods and tended to be the ones identified as criminals. With the passage of time and a decrease in the previously massive disparity in economic well-being, however, most people came to a consensus about laws against theft.

## THE CONSEQUENCES OF CRIME

The consequences of crime—for victims and perpetrators alike—are numerous and varied. Some are obvious and can be readily measured. For example, the victim of an assault suffers a broken nose that requires surgery, and she loses two weeks of work as a result. The convicted offender spends five years in prison. Other consequences are indirect and more difficult to assess. How, for instance, do we measure the fear that accompanies the victim every time she walks alone to her car? How do we measure what is lost by spending years in prison? The criminal justice system is society's formal response to criminal behavior. But, of course, not all offenders are caught and convicted, and the effects of victimization can extend far beyond the legal arena.

### Sanctions

There is no sense in having rules if there are no consequences for those who break them. **Sanctions** are prescribed consequences intended to reinforce people's conformity to norms; they can be positive (rewarding) or negative (punishing). Although we are well acquainted with the rationale behind punishing bad behavior, we tend not to associate the term *sanction* with rewards for good behavior. In fact, positive sanctions can be just as effective—if not more so—than negative sanctions in shaping people's behavior. Rewarding an ex-convict's efforts to learn to read and write, for example, may prove more effective in changing his criminal ways than sending him to jail a second time.

Sanctions can be formal or informal. For example, someone who behaves badly in public is likely to be met with disapproving glances, an informal response designed to encourage the deviant to cease and desist. Even though informal sanctions generally do not carry the weight of their formal counterparts, they can have a major impact on behavior.

#### sanctions

Prescribed consequences intended to reinforce people's conformity to norms.

Our criminal justice system delivers a range of formal negative sanctions in response to criminal behavior. If the crime is relatively minor—say, driving 10 miles per hour over the speed limit—the offender may be given a fine. A criminal infraction of a more serious nature—say, vandalizing a park—is likely to be sanctioned by a harsher penalty such as probation, which restricts personal freedom by requiring regular meetings with a probation officer and avoidance of drugs, alcohol, and other people on probation. For more serious crimes, such as robbery and assault, the court may set a term of incarceration. Prison inmates are removed from society and deprived of their liberty. For the most serious crimes, in 35 states the offender can be executed.<sup>4</sup>

We have considered the formal and informal sanctions that offenders face as consequences of their criminal behavior. As would be expected, victims also suffer consequences from criminal behavior; however, often these consequences are not as well understood given our criminal justice system's focus on offenders.

### Impact of Crime on Victims

Victims are the targets of illegal actions by others. As a result, victims suffer physical, sexual, or emotional harm, death, or a combination of these injuries.

More often than not, criminals and their victims are of the same race and in the same age range, live in the same neighborhood, belong to the same socioeconomic strata, and—with the important exception of rapists and most of their victims—are the same sex. Victims tend to occupy the same social space as do offenders. Would-be criminals notice the victims' vulnerabilities, seize the opportunity, and commit a crime.<sup>5</sup>

Victims are often neglected and even abused by the criminal justice system, and this reality makes their suffering significantly worse. Some become fearful and less willing to cooperate with the prosecution. It is normal to want to avoid fear and pain. That is why many victims choose not to report their crime, not to cooperate with criminal justice officials, and not to serve as key witnesses.

The plight of victims gave rise to the victim rights' movement (see Chapter 14). This movement began to have an effect on the criminal justice system, initiating reforms in the early 1970s. As a result, victims are now being treated better and can receive compensation for their injuries and losses. Furthermore, most suffer fewer hardships and recover more quickly from monetary losses. However, much remains to be done before all victims are treated with the respect, dignity, and care they deserve.

## THE STRUCTURE OF THE CRIMINAL JUSTICE SYSTEM

The **criminal justice system**, our focus in this section, comprises the wide array of actors and agencies at the local, state, and federal levels of government that deal with the problem of crime. The term *criminal justice system* denotes the process by which adult offenders are handled, while *juvenile justice system* (see Chapter 15) refers to the process for those under 18. The major institutional components of the traditional criminal justice system include law enforcement, the judiciary, and corrections. These components are interdependent in that decisions made in one component often affect decisions made in others.

A contemporary view of the system also considers victim services as an emerging element of the system because of the collaborative effort to incorporate victim services into law enforcement agencies, the courts, and corrections

### **criminal justice system**

The interdependent actors and agencies—law enforcement agencies, the courts, the correctional system, and victim services—at the local, state, and federal levels of government that deal with the problem of crime.