

FOURTH EDITION

CRIMINOLOGY

Theory, Research, and Policy



Gennaro F. Vito
Jeffrey R. Maahs

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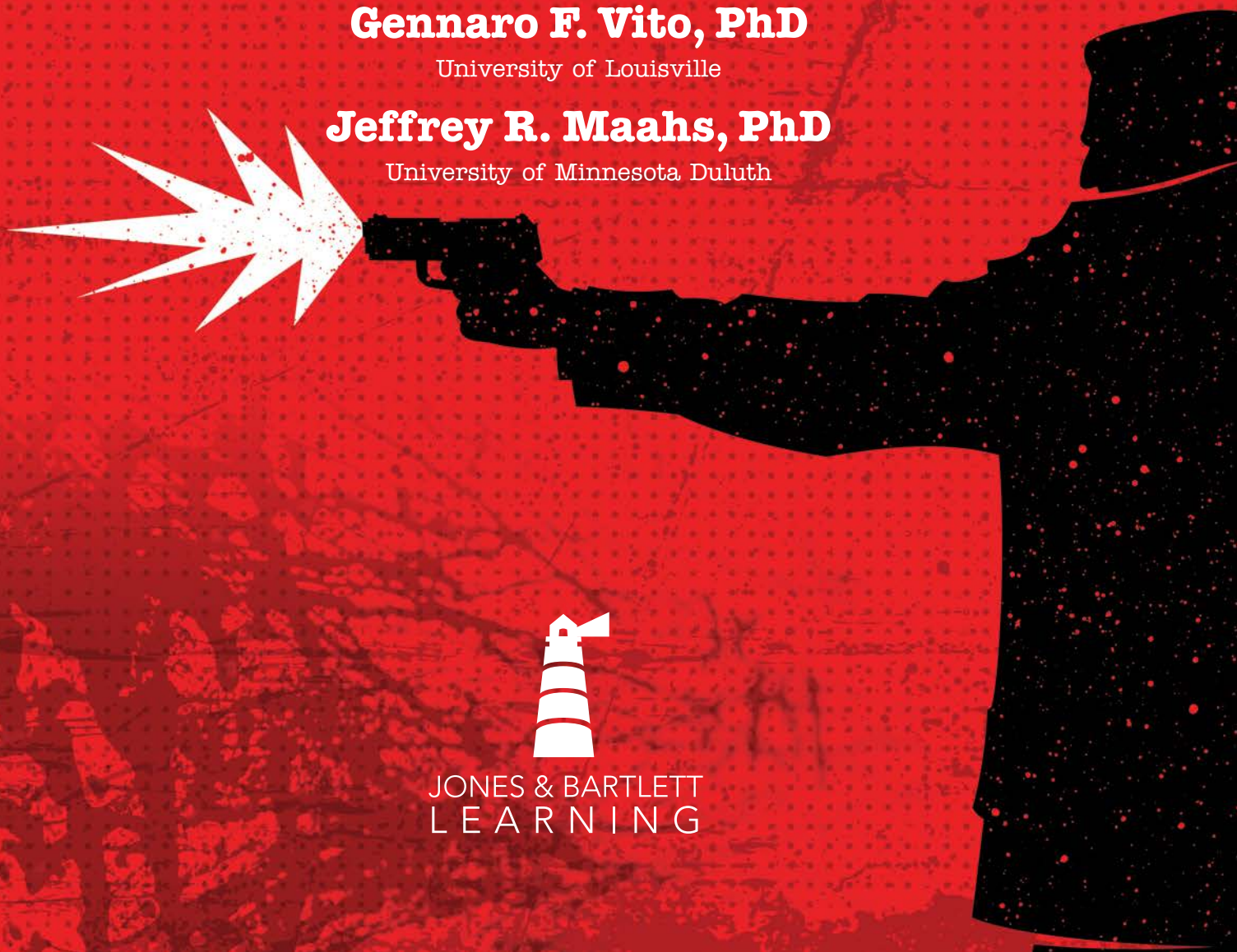
Theory, Research, and Policy

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**Gennaro F. Vito dedicates
this book to Harry E. Allen.**

**Jeffrey R. Maahs dedicates
this book to his family.**

Shooter, © Matchev/Shutterstock

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Crime and the fear of crime have permeated the fabric of American life.

—**Warren E. Burger**, Chief Justice, U.S. Supreme Court¹

We don't seem to be able to check crime, so why not legalize it and then tax it out of business?

—**Will Rogers**²



Crime and Criminology

Objectives

- Define criminology and understand how this field of study relates to other social science disciplines. **Pg. 4**
- Understand the meaning of scientific theory and its relationship to research and policy. **Pg. 8**
- Recognize a “good” theory of crime, based on criteria such as empirical support, scope, and parsimony. **Pg. 10**
- Know the criteria for establishing causation and identify the attributes of good research. **Pgs. 9–10**
- Understand the politics of criminology and the importance of social context. **Pgs. 19–20**
- Define criminal law and understand the conflict and consensus perspectives on the law. **Pg. 5**
- Describe the various schools of criminological theory and the explanations that they provide. **Pgs. 9–14**

Introduction

Crime is a social phenomenon that commands the attention and energy of the American public. When crime statistics are announced or a particular crime makes national headlines, the public demands that “something be done.” American citizens are concerned about their own safety and that of their families and their possessions. In 2011, 48 percent of respondents felt that there was more crime than there was a year ago or less.³ Because of the public’s concern about the safety of their communities, crime is a perennial political issue that candidates for political office are compelled to address.

Dealing with crime commands a substantial portion of the country’s tax dollars. In fiscal year 2011, the criminal justice system operations (police, courts, corrections) cost taxpayers over \$131.8 billion—down from a peak expenditure of \$138.4 billion in 2009.⁴ This decline is due in part to the fact that governments and citizens have become more sensitive to the great cost of incarceration. Revision of the drug laws and their sentences have fed this decline. From 2007 to 2012, the overall state imprisonment rate fell from 447 sentenced prisoners per 100,000 population to 413 per 100,000.⁵ Over the same period, the federal imprisonment rate edged higher, from 59 to 62 sentenced prisoners per 100,000.⁶

As these statistics indicate, crime is an important social issue. Further, *how* policymakers deal with crime (via crime policy) can have enormous social and financial implications. A basic tenant of this text is that a combination of theory and research can help provide direction to crime policy. The chapters in this book attempt to organize ideas in order to explain criminal behavior. This includes the factors that contribute to crime and the social reactions (including proposed and actual policies) to crime. In short, this book explores the discipline of criminology.

Deviance is behavior that violates social norms.

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Defining Criminology

Simply put, criminology is the scientific study of crime. More broadly, Edwin Sutherland identified criminology as the study of lawmaking, law-breaking, and the response to law-breaking.⁷ Some scholars further distinguish criminal justice from criminology. Here, Sutherland’s definition is subdivided into two related fields, where criminology focuses on law-breaking (i.e., the nature, extent, and causes of crime), and criminal justice focuses on the response (i.e., policing, courts, and corrections) to criminal behavior. Scholars interested in criminal justice, for example, may study the causes and consequences of prison crowding or the effectiveness of different policing models. Of course, there is a relationship between criminology and criminal justice. The response to crime depends largely on one’s view of the causes of crime. For this reason, many criminologists work in both of these areas.

Another discipline related to criminology is the study of *deviance*. A “deviant” is anyone who violates social norms. *Norms* are guidelines that define for members of a society

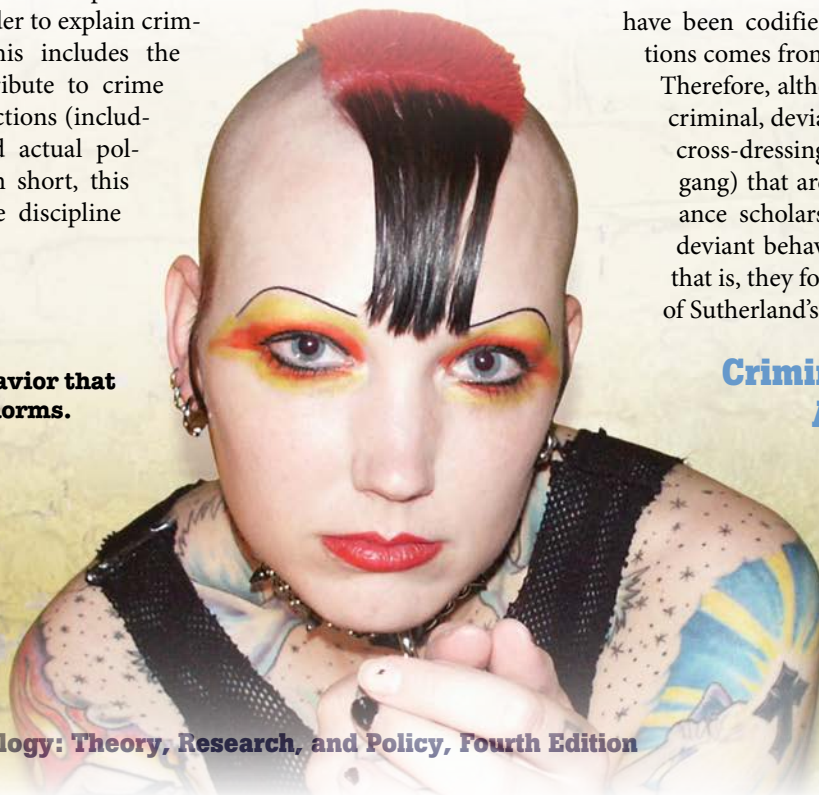
the types of behaviors that are appropriate or inappropriate in certain situations. Norms are classified as folkways, mores, and laws, based largely on the response to their violation.⁸ Folkways are norms against actions that may evoke a snicker or some teasing as a response (e.g., nose picking). Violations of a society’s *mores* evoke a more serious response from others (e.g., teen pregnancy). *Laws* are norms that

have been codified, and the response to violations comes from formal government agencies. Therefore, although some deviant behavior is criminal, deviance can also include acts (e.g., cross-dressing, membership in a motorcycle gang) that are not defined as crimes. Deviance scholars are often interested in how deviant behaviors come to be criminalized; that is, they focus on the “lawmaking” aspect of Sutherland’s definition.

Criminology and Academics

Until recently, people with an academic interest in criminal behavior sought degrees in social science disciplines such as anthropology, psychology,

... how policymakers deal with crime (via crime policy) can have enormous social and financial implications.



economics, law, political science, ethics, and sociology; thus, a student might earn a degree in sociology with an emphasis on deviance and crime. Although some people still study crime through other disciplines, most universities now offer degrees in criminology or criminal justice. Moreover, many universities have separate criminology departments, divisions, or schools. In that sense, criminology has recently emerged as a distinct social science discipline.

This emergence has been partial, however, and a bit awkward. In part, this is because unlike other social science disciplines, criminology is organized around a class of behaviors (crime) rather than a particular way of understanding these behaviors. Social science disciplines tend to be organized around common assumptions, guiding insights, and specific research methodologies.⁹ For example, psychologists generally seek to understand the mental processes that explain human behavior, while sociologists emphasize the role of social institutions and processes. Within any social science discipline, “crime” is only one type of human behavior that attracts interest. A psychologist might also be interested in intelligence, a political scientist in voting behavior, and a sociologist in explaining social movements. One might expect, therefore, that criminology would be multidisciplinary in nature. This is indeed the case—many disciplines have made contributions to the scientific study of crime. Some of the earliest scientific theories of crime came from biologists and psychologists. Few would dispute the fact, though, that sociology has had the largest impact on the study of crime.

Throughout most of the 20th century, sociologists were prominent in social scientific discourse about criminal behavior. The roots of this contribution can be traced to members of the sociology department at the University of Chicago. Ernest W. Burgess, W. I. Thomas, and a host of other sociologists created a body of research methodology, research findings, and theory related to crime that came to be called simply the “Chicago School of Crime.”¹⁰ During the 1930s, Edwin Sutherland, a student of the Chicago School sociologists, became the dominant advocate of criminology with his theories of differential association and white-collar crime. At about the same time, Robert K. Merton, a Columbia University sociologist, developed the sociological theory of *anomie* to explain crime. This theory has been utilized to study different forms of crime, from street crime to organized crime.

Sociological theories have provided one basis for the discipline of criminology. However, criminology is now recognized as interdisciplinary. Scholars from many disciplines, such as political science, psychology, social work, public policy, and law, and those with advanced degrees in criminal justice and criminology all contribute to criminology.



A Brief History of the Criminal Law

The criminal law has a long history, dating back over 3500 years. The first acknowledged set of laws (dated 1792 BC), the Code of Hammurabi, established the precept that the

punishment should fit the crime. This code was adopted from Babylonian and Hebrew laws that existed as early as 2000 BC. The Mosaic Code of the Israelites (1200 BC) developed the laws of the Old Testament, which include the Ten Commandments.¹¹

The root of American law is English common law. Common law developed from English “circuit” courts, where judges traveled from community to community hearing cases. Judges kept written records of their court decisions and initially decided cases based on prevailing community standards. Over time, these judges began to unify and standardize the legal code across different communities. To accomplish this, they used past decisions as precedents (regardless of community) for new legal disputes. Eventually, this web of legal decisions evolved into a national unified set of codes or common law.¹²

The English colonies followed common law, and after the revolution, the new federal and state governments of the United States adopted many of these laws by passing specific legislation called statutes. For this reason, most of the U.S. criminal code is considered **statutory law**. Even here, judges must interpret laws and apply them to specific circumstances; this creates **case law**. Also, where laws do not cover a particular circumstance, U.S. courts still rely on common law. Finally, the federal government and each state have separate, written constitutions that define the general organization and the powers (or limits of power) of the government. **Constitutional law** is expressed within these documents and is the supreme law of the land—the U.S. Constitution for the country and state constitutions for their respective states.¹³

Defining the Criminal Law

The substantive criminal law consists of prohibited behaviors and the possible sanctions for these behaviors. As noted previously, each state has its own criminal code, as does the federal government. Federal and state codes (as well as constitutions) are accessible on the Internet. The Legal Information Institute at Cornell Law School maintains a site that features links to all federal and state statutes.¹⁴

Crimes are defined by two components: the specific act (*actus reas*) and the criminal intent (*mens rea*). *Actus reas* includes the act and the circumstances under which the act occurs (e.g., the common law crime of burglary includes the breaking and entering of another’s dwelling, at night, without consent). *Mens rea* refers to a person’s mental state. There are different levels of criminal intent, defined by the elements of purpose, knowledge, negligence, and recklessness.¹⁵

- A person purposely commits a criminal act when they desire to engage in criminal conduct to cause a particular criminal result.
- To knowingly commit a criminal act, a person must know, believe, or suspect that an action is criminal.
- Criminal negligence occurs when a person grossly deviates from a standard that a reasonable person would use under the same circumstances—the

person is accused of taking a substantial and foreseeable risk that resulted in harm.

- Criminal recklessness is the conscious disregard of a substantial risk—a person accused of recklessness is viewed as more blameworthy than someone accused of negligence.

Some offenses (e.g., traffic offenses) do not require criminal intent. These are considered strict liability offenses. Criminal behavior carries a variety of formal punishments, including imprisonment, death, fine, or probation.

There are various ways to classify crimes within the criminal law. Among the oldest is the distinction between crimes that are *mala in se* and *mala prohibita*. **Mala in se** crimes, considered “evil in themselves,” encompass the core of the criminal code, including acts such as homicide and robbery. **Mala prohibita** crimes are “wrong because they are prohibited.” These crimes represent a particular society’s attempt to regulate behavior, such as drug abuse, gambling, and prostitution, that offends their moral senses. *Mala prohibita* offenses are likely to vary over time and across jurisdictions. For example, casino gambling is legal in several states, and many states have state-sanctioned lotteries. Similarly, the use of alcohol has shifted from legal to illegal and back to legal over time in the United States.

Another common way to classify crimes is according to the seriousness of the offense. On a general level, jurisdictions distinguish between felonies (serious crime) and misdemeanors (petty crimes). Criminal codes further categorize felonies according to degree (e.g., first-, second-, or third-degree felony offenses).

In addition to the substantive criminal law, **procedural law** dictates what actions actors within the criminal justice system may legally take. Procedural law dictates, for example, how police may interact with citizens (e.g., search-and-seizure law) and how criminal trials proceed (e.g., the admissibility of evidence).

The criminal law can also be distinguished from civil law. Civil law includes (among other things) contract law, property law, and tort law.¹⁶ Among the various forms of civil law, tort law bears the strongest resemblance to the criminal law. In a tort case, an individual or group seeks compensation to redress some wrongdoing or harm. Violations of the criminal law can result in both a criminal and tort trial. For example, a person can be tried in criminal court for homicide and also in civil court for wrongful death, regardless of how the criminal trial turns out.¹⁷

Laws are dynamic and greatly influenced by current events, politics, economics, and numerous other external factors. Criminal law continues to change, as judges have to interpret situations associated with the emergence of new technology (e.g., computers) and new threats (e.g., terrorism). For example, the September 11, 2001, terrorist attack in the United States had a substantial impact on the law. The USA Patriot Act was passed on October 24, 2001, just 6 weeks after the events of 9/11. Although the Patriot Act amended numerous laws, the primary intent of the act was

to relax the procedural laws that restrict law enforcement investigation and surveillance powers.

The U.S. Department of Justice hails the Patriot Act as an effective tool for counterterrorism efforts.¹⁸ Critics contend that the law grants sweeping search and surveillance powers to domestic law enforcement without proper judicial oversight.¹⁹ One of the most controversial provisions of the law is the “sneak-and-peek” search warrant, which authorizes law enforcement officers to enter private premises without the occupant’s permission or knowledge and without informing the occupant that such a search was conducted.²⁰ The act also expanded the government’s ability to view records on an individual’s activities that are held by third parties (e.g., libraries, doctors, Internet service providers). Key provisions of the Patriot Act were set to expire on December 31, 2009. Amid debate about whether the act sacrifices too many civil liberties, President Barack Obama approved a 1-year extension of the act on March 1, 2010, without any alterations in its provisions.²¹

Perspectives on the Criminal Law

Criminal law serves several functions in society. First, criminal law discourages revenge, because the government, rather than the victim, is responsible for punishing law violators. Second, the law serves to express public opinion and morality; this is especially apparent for *mala prohibita* offenses. Third, punishment meted out according to criminal law serves as a warning to other citizens who may be thinking of committing the same crime.²²

Typically, criminal law also attempts to make the punishment fit the crime. The aim is to match the severity of the punishment to the severity of the offense and the harm that it creates; thus, the punishment balances the damage caused by the crime. However, the punishment does not always fit the harm of the crime. For example, white-collar offenses often involve large sums of money and affect great numbers of people but typically result in shorter (if any) prison sentences than robbery or burglary. Another area to consider is illicit drugs relative to alcohol. By most measures, alcohol is more dangerous or harmful than marijuana. Despite this fact, marijuana is illegal while alcohol is legal. If criminal laws and the punishments for law violators do not directly reflect the harm caused to society, then what determines how a crime is punished? How do some acts come to be criminalized while others do not? Criminologists approach such questions within the framework of two general perspectives.

The **consensus perspective** illustrates the belief that laws are set in place to keep people from engaging in behaviors that the majority of society believes to be harmful to others and society as a whole. Consensus is defined as a general agreement, and thus, this perspective sees society as having classified specific behaviors as wrong or immoral. This consensus comes from a society’s culture, which includes its beliefs, values, attitudes, and behaviors. From this perspective,

criminologists would argue that laws are in place to be fair to all members of society.

In contrast to the consensus view, the **conflict perspective** portrays the law as the result of a continuous competition or “conflict” among members of society. Here, the law reflects the interests, values, and beliefs of whatever group has power. Power can come from a variety of sources, such as group size or wealth. For example, Karl Marx portrayed capitalist societies as riddled with constant competition that breeds continued conflict among its members. In Marx’s analysis, conflict stems from a system of inequality that allows the wealthy elite to rule or control all other members of society. On a smaller scale, the conflict perspective sheds light on how political interest groups try to shape laws (e.g., gun control, abortion) in a way that is consistent with their beliefs and values. The preceding discussion of the controversy surrounding the USA Patriot Act also illustrates the conflict perspective in action.

These general perspectives on the law influence the research questions that criminologists ask and also help determine how they go about answering such questions. Following the consensus model generally leads criminologists to ask, “Why do some in society violate laws that exist to benefit all members of society?” The conflict perspective generally leads to questions regarding the content and enforcement of the law, such as, “Why is marijuana illegal, and how did it come to be criminalized?” Each of these perspectives appears to have some credence within a specific realm of behavior. Laws against *mala in se* offenses, such as homicide and robbery, are backed by widespread consensus. *Mala prohibita* offenses, such as gambling, prostitution, and illicit drug use, are more relevant to the conflict perspective.

Donald Black’s esteemed treatise, *The Behavior of Law* (2010), lists several propositions about how the criminal justice system, specifically arrest, conviction, and sentencing, operate. To Black, law is governmental social control that is affected by social considerations: “It varies with who complains about whom, who the legal official is, and who the other parties are.”²³ It varies inversely with other forms of social control. For example, a policeman is more likely to arrest a juvenile who lives with his single mother and it is probable that that same juvenile will receive a more severe sentence from a judge.

The behavior of the law also affects how individuals utilize and are treated by the criminal justice system. Among persons of different social status, a higher ranking victim is more likely to call the police when the offender has a lower rank.²⁴ An offender of higher rank who is

convicted and sentenced, is more likely to be pardoned or paroled.²⁵ An investigation of a crime as well as subsequent arrest, prosecution, conviction, and punishment is more likely among wealthy victims.²⁶ Likewise, poor people are more likely to be arrested, prosecuted, convicted, and sentenced to prison.²⁷

The relationship between the victim and the offender also affects the severity of punishment as does the distance between a citizen and the law. Black asserts that capital punishment has generally been reserved for homicides among strangers.²⁸ A police officer is more likely to be lenient toward someone known (friend, relative, neighbor, or fellow officer). Black’s work on the behavior of law is also one on the behavior of actors in the criminal justice system.

However, studies that test Black’s theory have produced mixed results. For example, studies on the police decision to arrest have partially supported Black’s hypotheses. Smith found

that police decision making was influenced by victim attributes. He found that the police were less likely to mobilize the law by making arrests in violent incidents involving black or female victims.²⁹ Regarding the decision to call the police, one study found that the poor relied on the police more than did middle-class people, and women used the law more often than men—directions not supported by Black’s theory.³⁰

In terms of sentencing for cocaine offenses, it was found that both blacks and Hispanics were shown to be significantly more likely to be sent to prison and charged with a felony rather than being released (compared to whites) while controlling for type of drug. This finding supports the black hypothesis that less conventional individuals will be subjected to more law than more conventional offenders. Black and Hispanic cocaine offenders were more likely to be charged with felonies and sentenced to prison than their white counterparts. However, the study also found that cocaine offenders with more prior arrests were less likely to be charged with a felony compared to being released but that those with more prior arrests were more likely to be sent to prison than released, a finding that offers mixed support for Black’s theory.³¹

The relationship between the victim and the offender also affects the severity of punishment as does the distance between a citizen and the law.

Theories of Crime

Theory represents the foundation on which all discussion of crime is built. Unfortunately, students of criminology often struggle to understand the various theories of crime or simply find them to be boring, useless, and confusing.

The premise of this section is that when properly understood, theory can be exciting, thought provoking, and useful. This section covers basic information on theory that will allow students to understand and evaluate the discussions on crime that follow in later chapters.

Defining a Scientific Theory

There is no shortage of opinions regarding the roots of criminal behavior; news articles, movie dialogue, politicians, relatives, and friends all offer opinions on the causes of crime. Often these sources point to a single factor: drugs, violent movies, poor parenting, or bad companions. Such theories are often based on speculation or “hunches.” Scientific theories of crime include many of these common-sense explanations, yet unlike a hunch, a theory of crime must explain in a logical and clear manner how such factors relate to crime.

A theory is nothing more than a set of principles or statements that attempts to explain how concepts are related. In the case of crime theory, these statements typically explain how one or more factors lead to criminal behavior. A scientific theory must also be testable, meaning that it must be stated in such a way that other scientists can go out into the real world, collect information, and test the theory’s validity. If a theory is too vague or if the central concepts cannot be measured, it is essentially useless to science.

Consider, for example, the following statement: “Little green creatures that live inside peoples’ brains cause them to engage in crime.” Furthermore, suppose that one argues that science is unable to detect little green creatures through brain scans or other technology and that people are generally unaware of their existence. How could one test this theory? Of course, the little green creature theory is rather absurd. However, what if the words “little green creatures” were changed to “a lack of conscience,” and the theory becomes

that a lack of conscience causes crime? Unless researchers devise a way to measure conscience, this will remain a theory with no scientific value, even though it may sound credible.

A theory may also be impossible to test if it is based on circular reasoning. Scientists refer to this kind of reasoning as *tautological*. Literally, a tautological theory of crime would argue that “crime causes crime.” Of course, tautological statements are usually not as obvious as that and can therefore be more difficult to detect. Let us stick with the example of “a lack of conscience” as the cause of crime and think about how one might test that theory. One could argue that people who do bad things must not have a conscience. In doing so, however, one is engaging in circular reasoning: People who do “bad things” engage in criminal behavior (bad things), which is like arguing that crime causes crime.

In order for a theory to be useful then, one must be able to subject it to empirical tests. Assuming that a theory meets this minimal standard (and most do), what next? What makes one scientific theory better than another?

Evaluating Theory

A number of useful criteria are presented here for evaluating theory. An important fact to keep in mind, however, is that not all criteria are equally important. **FIGURE 1-1** illustrates how different criteria relate to one another. Testability has already been covered; the remaining criteria include empirical support, scope, and parsimony.

Empirical Evidence

After a theory is determined to be testable, the next step in the evaluation process is establishing whether those tests support the theory. In other words, when this theory is applied to the real world, does it work? Does the research support this theory? The importance of this criterion cannot be overstated; if tests fail to support a theory, that theory is incorrect. It makes little sense to look at other aspects of the theory if it fails to work in the real world.

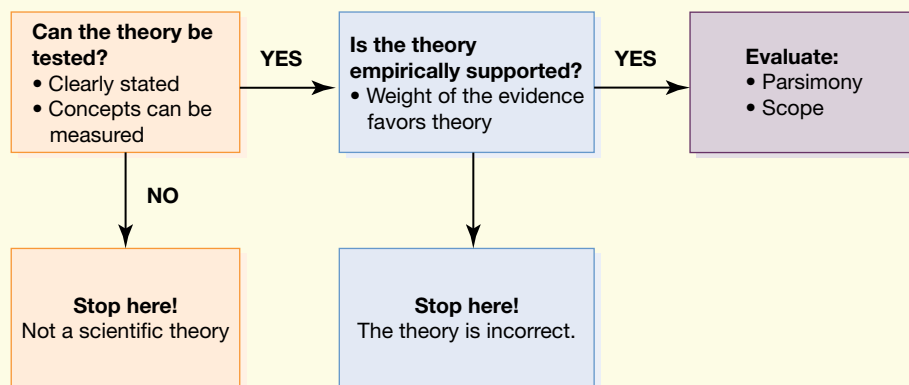


FIGURE 1-1 Evaluating theories.

Unfortunately, most theories of crime are never completely supported or refuted. Some empirical tests may support the theory, others might offer partial support, and still others may refute the theory. It may also be necessary to compare different theories against each other and consider:³²

- The amount of empirical support (confirming evidence)
- The scope of coverage (breadth of explanation offered)
- The weight of statistical evidence

The final question suggests that not all empirical tests are the same. How much weight to put on an individual study depends on how confident the researcher is in the research design. Some research designs are better than others at demonstrating cause-and-effect relationships.

Demonstrating Cause and Effect

A number of methods are available to test theories of crime. Because most theories predict cause-and-effect relationships (e.g., poverty causes crime), a good empirical test tries to establish that certain factors have a causal relationship with crime. To clarify this point, an example may be useful. Start with a simple theory: Hanging around with criminal friends causes criminal behavior. To establish causation, a test needs to demonstrate three things:

1. Having criminal friends is related to criminal behavior.
2. Having criminal friends happens before engaging in criminal behavior.
3. The relationship between criminal friends and criminal behavior is not spurious.

The first point would be rather easy to demonstrate. Ask a group of people to report how many of their closest friends have been arrested for a crime. Also ask them to report their own criminal behavior. If those with criminal friends are more likely to engage in crime themselves, a relationship was

established (mathematically, this is called a correlation). The second point, called time ordering, is a little more difficult to verify. The researcher must demonstrate that these individuals had criminal friends before they engaged in crime (i.e., the factor that does the causing must happen before the effect). Demonstrating this is important because the relationship between criminal friends and criminal behavior might be the result of criminals wanting to hang out together. In other words, engaging in criminal behavior might cause people to seek out other criminals. One way to demonstrate time ordering is to conduct a longitudinal study. The researcher could measure criminal friends at one point in time and then measure criminal behavior 6 months later and then further on in time. Assuming that the researcher can establish time ordering, they can move to the third point.

A relationship is considered spurious when, even though two things are related, one does not cause the other. For example, suppose that a survey of residents in a city revealed that “time spent in the past week riding a bicycle” was correlated (related) to engaging in vandalism. People who reported riding a bicycle were more likely to have also engaged in vandalism. Does this mean that the act of riding a bicycle caused people to vandalize property? A more plausible explanation is that younger people were more likely to ride bikes (because they do not yet have a driver’s license) and vandalize property. Isolating causes of crime (and excluding spuriousness) is the most difficult challenge of doing research in criminology. How spuriousness is dealt with depends largely on research methods.

Experimental Designs

Experimental research designs are the most efficient way to establish cause-and-effect relationships and exclude spuriousness. Although there are many variations, the basic experimental design is illustrated in **FIGURE 1-2**. The key to the experimental method is the random assignment of subjects to control and experimental groups. If the sample

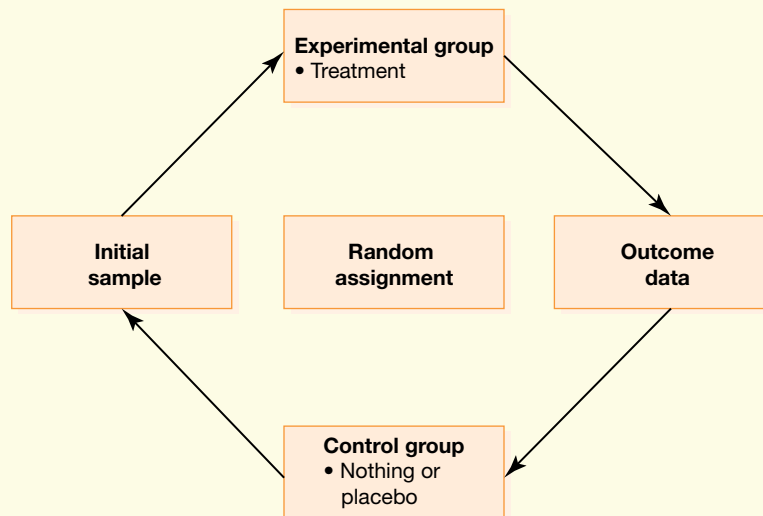


FIGURE 1-2 The Experimental Design.