



# VICTIMOLOGY

Legal, Psychological, and Social Perspectives

FOURTH EDITION

HARVEY WALLACE • CLIFF ROBERSON

# **VICTIMOLOGY**

**LEGAL, PSYCHOLOGICAL, AND SOCIAL PERSPECTIVES**

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*Fourth Edition*

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LEGAL, PSYCHOLOGICAL, AND SOCIAL PERSPECTIVES

Harvey Wallace

Cliff Roberson

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*To Paul Harvey Wallace, coauthor, friend, and fellow Marine.  
And to Elena Azaola for her tireless and dedicated work on behalf of the many  
victims and to promote human rights in Latin American countries.*

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# PREFACE

*The primary goal of the victims' rights movement needs to be to elevate victims' rights to the same status as the rights of the accused*

—HARVEY WALLACE, 2005

## NEW TO THIS EDITION

- Victimology as a discipline
- The birth of criminology
- The different approaches to victimization
- The Violence Against Women Act of 2013
- Expanded discussion on restorative justice
- Expanded discussion on the National Incident-Based Reporting System
- The consequences of grief
- Differences between ASD and PTSD
- Homeless victims
- Social media and victim services
- Vicarious/Secondary Trauma to Services Providers
- History of Amber Alerts
- How to develop a victim impact statement
- Significant partner homicides
- Sexual assault classifications
- National Child Abuse Prevention Month
- Sandusky child sex abuse and mandatory reporting
- Elder Justice Act of 2010

## INTRODUCTION

Harvey Wallace was the sole author of the first edition of *Victimology*. Because of health problems when he was revising the textbook for the second edition, he asked for my assistance. We both assumed that his health problems were temporary. Little did we know that it would be one of the last projects that we would work on together. Harvey and I were friends and fellow Marines. We coauthored ten books over a sixteen-year time span. Harvey died shortly after completing the second edition. Before his death, he was teaching in the Victim Services Summer Institute presented by California State University, Fresno.

My first involvement with victim issues came in 1981 when the State Bar of Texas appointed a committee on victim issues. I was fortunate to be appointed to that committee, which was chaired by Dean John Douglas. During 1983–1984, when I served as the Director of Programs for the National College of District Attorneys, the DAs college began holding classes for career prosecutors on victim issues. For the college, victim issues were advocated by Norman S. Early, Jr., the then district attorney for the Second Judicial District in Denver, Colorado; Spencer Lawton, the then district attorney in Chatham County, Georgia (Savannah); and Michael Turpin, the then Attorney General of Oklahoma. In 1984 when I took over as Director of the Justice Center, California State University, Fresno, I authorized funds to hold a training course on victim services. The only reason that I authorized the funds was that I was

being pressured to do so by Professor Steven Walker. It was easier to agree than to disagree with Stephen. Years later as a faculty member at Washburn University, I attended a conference in Kansas City on victim services. It was at this conference that the American Society of Victimology was founded and I joined as a life member. Unfortunately, the society has not been very active in recent years.

The study of victimology is in its infancy. However, the plight of victims of crime has been discussed for centuries. In our early history, victims were an integral part of the criminal process. We then moved away from that model, and the state became the representative of the victim. Finally, we are again moving toward acknowledging the rights of victims of crime. This shift has caused scholars to re-examine the victim–offender relationship in more detail.

Victimology as a discipline is an outgrowth of law, sociology, psychology, and criminology and as such has its distractors as well as its advocates. It will continue to grow and take on more substance with the passage of years. Any attempt to list those topics that are critical to the study of victimology is bound to generate controversy. Most textbooks on the market today include sections dealing with family violence issues. That may be because we have more information regarding the victim–offender interaction in these areas or because many scholars believe these are critical issues in the study of victimology. We have included a number of these same topics in this textbook.

We also drew upon Harvey Wallace's previous textbook, *Family Violence: Legal, Medical, and Social Perspectives*, published by Pearson and currently in its fifth edition, as a source of information. On the basis of comments from professors using this textbook, we have updated and changed the material when appropriate to reflect the victim's perspective.

We have also attempted to take a global perspective on the study of victimology. Chapter 1 introduces the reader to the discipline of victimology, a brief history of it and victimological theories. Chapter 2 presents an overview of the Justice System. Chapter 3 discusses the measurement of crime and its effects. The consequences of victimization are discussed in Chapter 4. Chapter 5 examines the empowerment of victims. Next, homicide victims are discussed in Chapter 6, followed by a discussion in Chapter 7 on Sexual Victimization. Intimate partner abuse, child abuse, and elder abuse are discussed in Chapters 8, 9, and 10. Chapter 11 looks at hate crimes, and in Chapter 12, special victim populations are discussed.

Chapter 13 explores tort actions. The constitutional and civil rights of victims are discussed in Chapter 14. Chapter 15 explores compensation and restitution for victims. The legal issues involved with victim impact statements are covered in Chapter 16. The final chapter examines the international aspects of victimology, and the textbook concludes with discussions on the discipline.

This is not to say that we have covered all these topics adequately. First Harvey, and now I have attempted to present an overview of some complex and controversial subjects and to supply the reader with resources in the form of references and readings that allow for more in-depth study and research of these areas. Omission of some topics, such as robbery, burglary, kidnapping, and others, does not mean that they are unimportant. Victims of these crimes would argue that they have suffered just as much as other victims. Space limitations, however, preclude discussion of every crime and its implications for victims. The crimes that are discussed, along with the broader topics such as the consequences of victimization and victims' rights, can be generalized to varying degrees to apply to all victims.

Just as we are becoming more interested in the study of family violence, so are increasingly more universities offering classes on victim issues. These classes will become more popular as students, the general public, and the various professionals who deal with victims become aware of their availability. It is a young discipline that continues to grow, and it is exciting to be present to watch that growth. Someday, maybe the victim will have as many rights as a defendant in a criminal case.

## **SUPPLEMENTS**

To access supplementary materials online, instructors need to request an instructor access code. Go to **www.pearsonhighered.com/irc** to register for an instructor access code. Within 48 hours of registering, you will receive a confirming e-mail including an instructor access code. Once you have received your code, go to the site and log on for full instructions on downloading the materials you wish to use.

Here you will find:

- My Test
- Instructor's Manual with Test Bank
- PowerPoints

## **ACKNOWLEDGMENTS**

On behalf of Harvey Wallace and me, I would like to express our appreciation to a number of individuals for their support, guidance, and advice during the time it has taken to complete this project. First and foremost, I would like to thank the editor, Gary Bauer, who provided support for this project. I would also like to thank Vinod Kumar, who assisted in the preparation and copyediting of the manuscript and the project manager, Allan Rayer for his assistance in creating the final product. Christine Edmunds, Anne Seymour, Ellen Alexander, Skip Sigmon, Trudy Gregorie, Janice Lord, Dan Eddy, Dean G. Kilpatrick, Jane Burnley, and other friends associated with various victim organizations provided their advice and guidance regarding a number of issues. Mario Gaboury, University of New Haven, and Steve Walker, California State University, Fresno, provided us with invaluable suggestions and corrections that helped improve this textbook. A special thanks to a friend and a tireless worker for victim rights, Stephanie Frogge, University of Texas at Austin. Thanks to the following reviewers: Brown, Kathleen, University of Pennsylvania; Muscat, Bernadette T., California State University, Fresno; Tolbert, Tracy F., California State University, Long Beach; Zimmerman, Gregory, University at Albany, SUNY. Deborah Barrett, Rowan-Cabarrus Community College; and Patrick Harvey, Slippery Rock University So many of Harvey's friends, colleagues, and students have helped me with this revision, I cannot begin to name them all. Some have been there to offer words of encouragement and support: Tom Dull, Otto Schweizer, and Arthur Wint are those good friends. Many professionals, colleagues, and academics have offered advice or suggested changes that have resulted in a better product: Thomas Underwood for his suggestions about discussing more theories and Steve Walker for his update on the history of victimology are just two of those professionals. Of special note is John Dussich, who made substantial suggestions regarding the textbook. John went through every page and updated or corrected the first edition. Most of those changes were incorporated into the second and third editions. Most important, there have been a number of students who have helped me in a variety of ways. Many graduate students, including Lindsey Fausett and Stephanie Fratto, were of great assistance in gathering various research materials for this textbook. Shiho Yamamoto, another graduate student, was also of invaluable assistance. She conducted much of the early research and was always there to assist in any manner. Finally, the many students who used this textbook in classes across the nation have contributed to its content with suggestions, questions, and comments. The nice thing about publishing with Pearson is working with the professionals such as Jessy Sykes, Gary Bauer, and Vern Anthony.

*Cliff Roberson*

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# Introduction and History of Victimology

## Chapter Outline

### Introduction

- Victim Defined
- Victimology as a Discipline

### The Development of Laws

- The Code of Hammurabi
- Other Early Codes and Laws
- Modern Codes and Laws

### Social Forces

- The Feminist Movement
- Development of Civil Rights Laws
- Conservatism Regarding Crime

### Victimology Theories

- Mendelsohn's Theory of Victimization
- Von Hentig's Theory of Victimization
- Schafer's Functional Responsibility
- Wolfgang's Study of Homicide
- Karmen's Theory of Victimology

### Other Theories of Victimology and Victimization

- Lifestyle Theory
- Routine Activities Approach
- The Opportunity Model of Victimization
- Critical Victimology
- Victim Blaming

### Victim's Contribution to the Crime

### The Rise of the Victims' Rights Movement

- The Beginning of the Movement
- Gains and Losses
- Increased Public Awareness
- Increased Professionalism
- Additional Laws

*Summary*

*Key Terms*

*Discussion Questions*

*Suggested Readings*

*Endnotes*

## LEARNING OBJECTIVES

**After reading this chapter, you should be able to:**

- Distinguish between criminology and victimology
- Discuss how laws have affected victims
- Understand social forces that have impacted on the development of victimology
- Distinguish between the various victimology theories

## INTRODUCTION

Victimology in its most simple form is the study of the victim or victims of a particular offender. Victimology first emerged in the 1940s and 1950s, when several criminologists (notably Hans von Hentig, Benjamin Mendelsohn, and Henri Ellenberger) examined victim-offender interactions and stressed reciprocal influences and role reversals.<sup>1</sup>



## Homicides in San Francisco

Coauthor Cliff Roberson in his PhD dissertation researched into the criminal homicides in San Francisco for the calendar years 1970 to 1972. In his research, he noted that there were two small convenience stores on one block in the city. One store had been robbed three times and each time an individual was murdered. The other store, which was across the street, had been robbed twice and no one had been

injured in the robberies. While this is a very small sample and therefore any research conclusions would be suspect, it did raise the question of why the level of violence was much higher in one store than in the other similar store. This is the type of research that is of interest to researchers looking into the second component of victimology.

Victimology as an academic discipline is a relatively new concept in the United States. The first academic institution in the United States to offer a Bachelor of Science degree in criminology or criminal justice with a victimology option was the California State University at Fresno in the late 1990s.

The discipline of victimology can be divided into two separate components. One component deals with the injuries or harm suffered by victims, how to reduce victimization, and actions to be taken against the victimizer. This component will receive the vast majority of attention in this text. Too often when we talk about victims, we limit our discussion only to victims of crime. In this text we also include victims of other activities such as child abuse and bullying. The second and lesser known aspect of victimology deals with the victim–victimizer relationship. In this component, the victim’s role in being selected as the victim is examined. Some individuals will claim that the second component is nothing but a “blaming the victim” approach. However, it is not so. The second component merely tries to understand why one person was selected over another person by the victimizer.

### Victims Defined

In *Kelly v. California*, 129 S. Ct. 564 (U.S. 2008), Associate Supreme Court Justice John Paul Stevens stated:

These two capital cases raise questions concerning the admissibility of so-called “victim impact evidence” during the penalty phase of a capital trial. The term is a misnomer in capital cases because the evidence does not describe the impact of the crime on the victim—his or her death is always an element of the offense itself. Rather, it describes the impact of the victim’s death on third parties, usually members of the victim’s family.

To most of us involved in victimology, the members of a murder victim’s family are more than a “third party.” According to Nash, the definition of “victim” is a slippery concept. Nash notes that as a matter of law, whether someone is a victim of a crime may depend, among other things, on the type and extent of injury sustained, the tenuousness of the connection of injury to the offender’s conduct, and whether the victim was at fault in the criminal transaction. Nash also notes that the term “victim” is inconsistently applied in the various arenas of federal criminal law. While the definitions of “victim” found in the federal restitution and victims’ rights statutes are functionally identical, the Federal Rules of Criminal Procedure define “victim” differently. It is interesting to note that the Federal Sentencing Guidelines do not define the term “victim,” leaving the federal courts to sketch out the contours of its meaning.<sup>2</sup>

### Victimology as a Discipline

Criminology is the science upon which victimology is founded. Criminology itself is a relatively new discipline, and there are those who argue that it is not a true academic discipline or science,

## The Birth of Criminology

According to Adrian Raine, the scientific study of crime started one morning in November, 1871, in Italy. Cesare Lombroso, a psychiatrist and prison doctor at an asylum for the criminally insane, performed an autopsy on an infamous criminal named Giuseppe Villella. During the autopsy, Lombroso discovered an unusual indentation near the base

of Villella's skull. Based on this single observation, Lombroso concluded that criminals were physically different from non-criminals.

*Source: Adrian Raine, The Anatomy of Violence: The Biological Roots of Crime (Random House, New York) 2014.*

but rather a subspecialty of sociology.<sup>3</sup> However, there is an abundance of current literature and research to support the proposition that criminology is a science.

In 1947, Edwin H. Sutherland, an eminent criminologist, set forth the following definition:

Criminology is the body of knowledge regarding crime as a social phenomenon. It includes within its scope the process of making laws, of breaking laws. . . . The objective of criminology is the development of a body of general and verified principles and of other types of knowledge regarding this process of law, crime, treatment, or prevention.<sup>4</sup>

**Criminology** is the study of crime as a social phenomenon. Scholars have looked at several aspects of criminology, and several have presented definitions of victimology, which will be examined in detail later in this chapter. For purposes of clarity, however, the following definition of victimology is offered: **Victimology** is the study from the victims' perspective of the victim, the offender, and society. This definition can encompass both the research or scientific aspects of the discipline and the practical aspects of providing services to victims of crime. This combined definition allows for a wide-ranging examination of various issues affecting victims of crime.

A complete and accurate understanding of the concepts inherent in victimology can only be attained by a review of the development of law, its history, and its philosophy. Modern criminal law is the result of an evolutionary process in the development of law that has attempted to deal with deviant behavior in society.

## FOCUS

### Critical Dates in the History of Victimology

1750 B.C.—Code of Hammurabi adopted	1996—U.S. constitutional amendment proposed
1200 B.C.—Mosaic Code established	2003—American Society of Victimology established
450 B.C.—Twelve Tables written	2004—Crime Victims' Rights Act, which provides for fair treatment and opportunities for input in federal court proceedings, enacted by Congress. Office of the Victims' Rights Ombudsman was also established by the act
529 A.D. Roman Empire—Justinian Code drafted	2004—The "Justice for All" Act was signed into law on October 30, 2004. The law includes a modified version of Senate Bill 2329, the statutory alternative to the Federal Crime Victims' Rights Amendment.
1066 A.D.—Norman Conquest of England	2013—The Violence Against Women Act is reenacted and is expanded to protect individuals involved in same gender relationships, in questionable immigration status, and individuals on American Indian reservations.
Middle Ages—Development of common law	
1215—Magna Carta signed	
1787—U.S. Constitution created	
1965—First victims' rights law passed	
1976—NOVA established	
1979—World Society of Victimology created	
1985—United Nations Declaration	

## THE DEVELOPMENT OF LAWS

**Primitive law** was a system of rules used by preliterate societies to govern the tribe, clan, or other gathering of individuals. These rules or regulations represent the foundation upon which the modern legal system is built. Primitive laws usually contained three premises: (1) acts that injured others were considered private wrongs, (2) the injured party was entitled to take action against the wrongdoer, and (3) this action usually amounted to in-kind retaliation. These types of laws encouraged blood feuds and revenge as the preferred methods of making the victim whole.

As society continued to evolve, we learned the art of reading and writing. One result of this evolution was the development of written codes of conduct. An example of an early written code was the Code of Ur-Nammu, which dates back to the twenty-first century B.C. Many of these codes treated certain wrongs, such as theft or assault, as private wrongs, with the injured party being the victim.<sup>5</sup>

### The Code of Hammurabi

The Code of Hammurabi is considered one of the first known attempts to establish a written code of conduct. King Hammurabi ruled Babylon at approximately 2000 B.C. He was the sixth king of the First Dynasty of Babylonia and ruled for nearly fifty-five years. Babylon during that period was a commercial center for most of the known and civilized world. Because Babylon's fortune lay in trade and other business ventures, the Code of Hammurabi provided a basis for order and certainty. The code established rules regarding theft, sexual relationships, and interpersonal violence, and it was intended to replace blood feuds with a system sanctioned by the state.<sup>6</sup>

The Code of Hammurabi had five sections:

1. A penal code listing the acts that were considered as criminal
2. A section containing instructions for judges, police officers, and witnesses
3. A section on the rights and duties of husbands, wives, and children
4. Regulations establishing wages and prices
5. An ethical code for merchants, doctors, and officials<sup>7</sup>

The code established certain obligations and objectives for the citizens of Babylon to follow. These included the following:

1. An assertion of the power of the state. This was the beginning of state-administered punishment. Under the code, the blood feuds that had occurred previously between private citizens were barred.
2. Protection of the weaker from the stronger. Widows were to be protected from those who might exploit them, elder parents from sons who would disown them, and lesser officials from higher ones.
3. Restoration of equity between the offender and the victim. The victim was to be made as whole as possible and in turn forgave vengeance against the offender.

Of noteworthy importance in the code was its concern for the rights of victims.<sup>8</sup> In reality, this code may have been the first "victims' rights statute" in history. However, it was relatively short-lived. Victims were again to be neglected in society's rush to punish the offender with the result that victims' rights would not resurface again until the mid-twentieth century.<sup>9</sup>

### Other Early Codes and Laws

The Mosaic Code, which is based on the assumption that God entered into a contract or covenant with the tribes of Israel, had a long-lasting impact on our collective consciousness. According to legend, Moses returned from a mountaintop carrying the Ten Commandments, which were inscribed on two stone tablets. These commandments subsequently became the foundation of Judeo-Christian morality. The Mosaic Code also became the basis for many of the laws in our

modern society: The prohibition against murder, perjury, and theft was present in the Mosaic Code thousands of years before the founding of the United States.<sup>10</sup>

Another important milestone in the development of American law was early Roman law. Roman law was derived from the Twelve Tables, which were written around 450 B.C. These laws had existed for centuries as unwritten law and applied only to the ruling patrician class of citizens. A protest by the plebeian class, who were the workers and artisans of Rome, caused commerce to come to a standstill. These workers wanted the law to apply to all citizens of Rome.<sup>11</sup> As a result, the laws were inscribed on twelve wooden tablets and prominently displayed in the forum for all to see and follow. These tables were a collection of basic rules relating to the conduct of family and religious and economic life.

In the middle of the first century, England was conquered by Roman legions. Roman law, customs, and language were forced on the English people during the next three centuries of Roman rule.

In 529 A.D., Emperor Justinian I codified Roman laws into a set of writings. The Justinian Code, as these writings became known, distinguished between two major types of laws: public laws and private laws. Public laws dealt with the organization and administration of the Republic. Private laws addressed issues such as contracts, possessions, and other property rights; the legal status of various persons such as slaves, husbands, and wives; and injuries to citizens. It contained elements of both our civil and criminal law and influenced Western legal theory into the Middle Ages.

Prior to the Norman Conquest of 1066, the legal system in England was very decentralized. There was little written law except for crimes against society. As a society, we had forgotten or moved away from the teaching of the Code of Hammurabi, and crimes during this period were again viewed as personal wrongs.

When an offense was committed, compensation was paid to the victim or to the victim's family. If the perpetrator failed to make payments, the victim's family could seek revenge, usually ending in a blood feud. For the most part during this period, criminal law was designed to provide equity to what was considered a private dispute.

The Norman Conquest under William the Conqueror established royal administrators who rode circuit and rendered justice. These royal judges would use local custom and rules of conduct as a guide in rendering their judgments. This system, known as **stare decisis** (Latin for the phrase "to stand by the decided law"), would have far-reaching effects on modern American criminal law.

The next major development in the history of law was the acknowledgment of the existence of common law. Early English common law forms the basis for much of our present-day legal system.<sup>12</sup> Common law is a traditional body of unwritten legal precedents created by court decisions throughout the Middle Ages in England. During this period, when cases were heard, judges would start their deliberations from past decisions that were as closely related as possible to the case under consideration. In the eleventh century, King Edward the Confessor proclaimed that common law was the law of the land, and subsequently court decisions were recorded and made available to lawyers who could then use them to plead their case. This concept is one of the most important aspects of today's modern American law.

## Modern Codes and Laws

The Magna Carta of England and the U.S. Constitution both stand as great documents and great moments in the history of American law. The Magna Carta was signed on June 15, 1215, and was later interpreted to grant basic liberties for all British citizens. The U.S. Constitution established certain individual rights, defined the power of the federal government, and limited punishment for violation of laws.

American law combines both common law and written statutes. Statutory laws are enacted by state legislatures and Congress and are the major source of American criminal law today. These laws are usually compiled in various codes and are subject to revision by the legislatures.

An offshoot of written law, **administrative law** is made up of rules and regulations adopted by governmental agencies at the federal, state, and local levels. Many governmental agencies are

invested with the power to pass regulations that prohibit certain types of conduct. Some of these regulations provide for fines rather than imprisonment of the offender.

In 1787, the U.S. Constitution was adopted. Constitutional law is another source of American criminal law. The Constitution does not define new crimes (the only crime defined in the Constitution is treason); rather it sets limits on other laws as they apply to individuals. An example of this principle is the U.S. Supreme Court ruling that flag burning, which was proscribed as criminal conduct by a state statute, is protected under the First Amendment right of freedom of expression.

## **SOCIAL FORCES**

A number of forces in the past several decades have contributed to the development of victims' rights. The major contributing forces have been the feminist movement, the development of civil rights laws, and a growing conservatism regarding crime.<sup>13</sup>

### **The Feminist Movement**

The feminist movement alerted us to centuries of discrimination and violence directed against women. By speaking out, feminists forced us to realize that women were victims not only of violent crime on the streets of cities, but also of sexual harassment within the work environment and family violence within the home. Although men may also become victims of crime and violence, the types of crimes suffered by women are distinct from those suffered by men.

Many of these crimes, although sexual in nature, are in fact nothing more than aggressive assaults that have little to do with sex. Sexual assaults are in reality a way for the perpetrator to control, dominate, and humiliate the victim.

Three works by feminist authors and researchers set the stage for the beginning of our awareness of the sexual victimization of women. Millet's *Sexual Politics*, Griffin's article "Rape: The All-American Crime," and Brownmiller's *Against Our Will* each raised our consciousness regarding the domination of women by men.<sup>14</sup>

*Sexual Politics* examines the concept of patriarchy, which Millet claims is a social and political system utilized by men to control women. She argues that patriarchy is a feature of all past and present societies and exists across cultures and socioeconomic systems today. Millet concludes that power and coercion are central features of patriarchy and are used to control women's sexuality.

Griffin's short article, "Rape, The All-American Crime," contains numerous themes. One important theme concerns the nature of the crime of rape. Griffin argues that rape is not a sexual act but rather a violent, political act. She concludes that the threat of rape is used as a method of social control and affects all women.

Brownmiller discusses the history of rape. She asserts that rape is an act used by men to maintain their dominance over women through the use of force. She expands on both Millet's and Griffin's works and concludes that the threat of rape creates a climate of fear. It is this fear that acts as a form of social control that benefits men.

Kelly, in her book *Surviving Sexual Violence*, reviewed these early feminist approaches to sexual abuse and concluded that sexual violence is based on three concepts: power, sexuality, and social control.<sup>15</sup>

Power in the feminist analysis is not police or political power; rather power is defined in terms of a relationship that structures the interactions between men and women. Power therefore is not a property right, but a personal force that establishes male control and dominance over women. This power is multifaceted and thus quite complex. It not only is present in interpersonal relationships but also extends to society's social structure and beliefs.

Sexuality has two aspects: First, male control of women's sexuality is a key factor in women's oppression; and second, sexuality is defined by men's experiences that legitimize the use of force or coercion in intimate relationships. There is some conflict among feminists regarding the issue of sexuality and whether it has the same significance for women in all cultures.

Social control is the outcome of power and sexuality. The mere threat of sexual violence may result in women developing strategies for self-protection that will limit their mobility, work, or advancement. The reality of sexual violence not only impacts women in intimate and work relationships but also spills over into an environment that was previously thought safe: the campus setting. Many colleges and universities now provide “escort services” for women who attend evening classes. This measure speaks volumes for the fear that exists in all areas of our lives.

Millett, Brownmiller, Griffin, and other feminists laid the foundation that allows us to more fully understand the concept of sexual violence and women. The first concrete effort by feminist groups in the United States to help women who were victims of crime was the establishment of rape crisis centers in Berkeley, California, and Washington, D.C., in 1972. These centers have spread rapidly and are now an integral part of the criminal justice system. In 1976, the federal government established a comprehensive research program, the National Center for the Prevention and Control of Rape, within the Department of Health, Education, and Welfare (this agency is now called Health and Human Services).

The feminist movement not only attacked society’s perceptions regarding victims of sexual assault but also focused its efforts on educating the public regarding domestic violence. It is important to note that at the same time battered women’s shelters were being established, there was a growing awareness that victims of crime, as a class of citizens, were being treated unfairly by the criminal justice system. This awareness coincided with changes within the judicial system.



As a service provider in victim services, it is difficult to understand why anyone would hurt a young child. As we explore the various theories discussed in the text, ask yourself why a young child should suffer from violence. © A.Drean/Fotolia.com

### Development of Civil Rights Laws

During the 1960s and 1970s, a series of U.S. Supreme Court decisions established certain principles regarding the constitutional rights of individuals. These decisions were in the areas of both criminal procedure and civil rights. The Supreme Court established constitutional safeguards for those accused of crime. By interpreting the Constitution as applying to each and every individual, the court required that society afford those accused of crime certain procedural and substantive rights. These rights embraced the entire spectrum of liberties, including freedom from unreasonable search and seizures, the right to an attorney, and fundamental fairness during a criminal trial. By adopting a philosophy that individuals carried with them certain inalienable rights, the court was poised to expand this concept in the area of civil rights.

The Supreme Court acted to enforce both statutory and constitutional provisions during the 1960s and 1970s in the area of civil rights. These decisions allowed a black man to attend a previously all-white university, maintained that police officers could be held liable for use of excessive force, and required that all persons be treated equally under the law. As a result of these and other decisions, cases such as *Thurman v. City of Torrington*<sup>16</sup> (discussed in Chapter 14) were decided in favor of victims of family violence.

### Conservatism Regarding Crime

Another factor that contributed to the awareness of the plight of victims arose as a result of a change in attitude in America. In the 1980s and 1990s, society became more conservative and concerned about crime in general. This law and order movement was a result of citizens becoming more fearful of violent crime and of many groups consequently calling for more stringent punishment of those who violate the law. In addition, the victims' rights movement was gaining momentum. Imprisoning offenders was viewed as a way of vindicating victims of crime. Victim organizations began lobbying for changes in the criminal justice system. These changes were aimed at making the system more victim-oriented. The rights of victims of family violence began to grow and expand as our society became more aware of this type of violence.

These forces brought about awareness on the plight and the dilemma of victims of crime.<sup>17</sup> As a result, victims began to realize that they could have an effect on sentencing in criminal cases and could pursue civil litigation to recover for damages they suffered as a result of the perpetrator's actions.

## VICTIMOLOGY THEORIES

As with any new profession, many of victimology's early thinkers proposed theories or concepts that, on further study, were revealed as incorrect. However, by examining these early efforts, we can better understand the growth and present status of victimology. From its inception in the 1940s to the present day, victimology, like family violence, has been an interdisciplinary approach to violence and its effect on victims.

### Mendelsohn's Theory of Victimization

Benjamin Mendelsohn was a practicing attorney. In the course of preparing a case for trial, he would conduct in-depth interviews of victims, witnesses, and bystanders.<sup>18</sup> He would use a questionnaire that was couched in simple language and contained more than 300 questions concerning the branches of criminology and associated sciences. The questionnaire was given to the accused and all others who had knowledge of the crime. In 1963, on the basis of these studies, Mendelsohn came to the conclusion that there was usually a strong interpersonal relationship between the offender and the victim. In an effort to clarify these relationships further, he developed a typology of victims and their contributions to the criminal act.<sup>19</sup> This classification ranged

from the completely innocent victim to the imaginary victim. Mendelsohn classified victims into six distinct categories:

1. **The Completely Innocent Victim.** This victim may be a child or a completely unconscious person.
2. **The Victim with Minor Guilt.** This victim might be a woman who induces a miscarriage and dies as a result.
3. **The Victim Who Is as Guilty as the Offender.** Those who assist others in committing crimes fall within this classification.
4. **The Victim More Guilty Than the Offender.** These are persons who provoke others to commit a crime.
5. **The Most Guilty Victim.** This occurs when the perpetrator (victim) acts aggressively and is killed by another person who is acting in self-defense.
6. **The Imaginary Victim.** These are persons suffering from mental disorders such as paranoia who believe they are victims.

Many scholars credit Mendelsohn with coining the term *victimology*, and still others consider him the father of victimology.<sup>20</sup> His typology was one of the first attempts to focus on victims of crimes rather than to simply examine the perpetrator. However, Mendelsohn was only one of two early scholars who explored the relationship between victims and offenders. The other noted early researcher in victimology was Hans von Hentig.

### Von Hentig's Theory of Victimization

In 1948, in an early classical text *The Criminal and His Victim*, von Hentig explored the relationship between the “doer” or criminal and the “sufferer” or victim.<sup>21</sup> Von Hentig also established a typology of victims.<sup>22</sup> This classification was based on psychological, social, and biological factors. Von Hentig established three broad classes of victims: the general classes of victims, the psychological types of victims, and the activating sufferer. His classification identified victims by examining various risk factors. The typology includes a general class of victims, the psychological class, and activating sufferer class.

The general class included the young, the female, the old, the mentally defective, and a group that consisted of minorities, immigrants, and weak individuals. The psychological class included the depressed, the lonely or heartbroken, the wanton, the acquisitive, and the tortmentor.

Von Hentig theorized that a large percentage of victims, because of their acts or behavior, were responsible for their victimization.<sup>23</sup> This concept has since been repudiated by modern studies that have more closely examined and defined the relationship between the victim and the offender.

### Schafer's Functional Responsibility

In 1968, using von Hentig's approach, a third scholar was also instrumental in establishing another classification of victims. Stephen Schafer examined both Mendelsohn's and von Hentig's work in his text *The Victim and His Criminal* and attempted to classify victims on the basis of responsibility instead of risk factors.<sup>24</sup> Schafer believed that the study of the criminal–victim relationship indicated an increasing recognition that the criminal justice system must consider the dynamics of crime and treat both criminals and victims.

Schafer went on to state that “the study of criminal–victim relationships emphasizes the need to recognize the role and responsibility of the victim, who is not simply the cause of, and reason for, the criminal procedure, but has a major part to play in the search for an objective criminal justice [system] and a functional solution to the crime problem.”<sup>25</sup> He stated that responsibility is not an isolated factor in society; rather it is an instrument of social control used at all times by all societies to maintain themselves.<sup>26</sup> Schafer believed responsibility was a critical issue in the problem of crime.

According to Schafer, crime was not only an individual act but also a social phenomenon. He believed that not all crimes simply “happen” to be committed, but that victims often