Test Bank for CJ 2022 2nd Edition by Fagin

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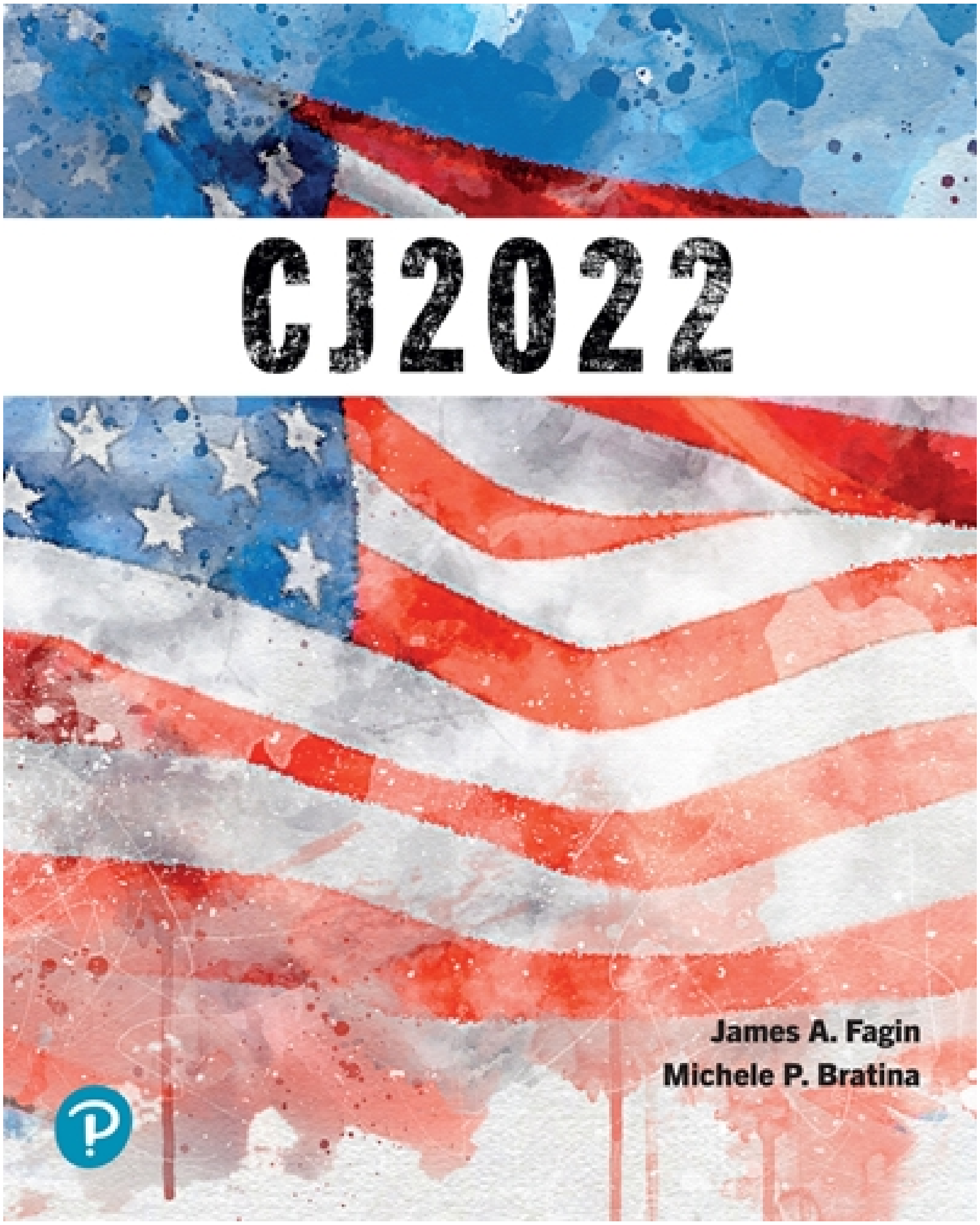

Test Bank

Pearson

Online Instructor's Manual with Test bank

for

CJ 2022

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Contents

To the Instructor

This manual is provided to assist and guide you in creating lesson plans for your Introduction to Criminal Justice course using the textbook *CJ2022* written by James A. Fagan. It starts with sample syllabi for a 10-week and a 16-week course. Following the syllabi are frameworks for each chapter, which include a chapter overview, chapter objectives, a lecture outline, additional assignments and class activities, and suggested answers to the end-of-chapter questions. Following the chapter schematics is a test bank containing a variety of assessment options.

CJ2022 is a continuation of the groundbreaking Justice Series. It retains the outstanding format and supplemental materials associated with the Justice Series with some exciting changes. It offers both instructor and student a wide-ranging examination of the criminal justice system, its processes, and controversies. The supplemental materials associated with the Justice Series have been enhanced, especially the alignment of learning outcomes with text material and supplements.

While *CJ2022* has been extensively updated, it has retained the same core of instructional material for each chapter. Thus, instructors will find that they can continue to use instructor-produced PowerPoint slides, lecture outlines, and other instructional lecture material from previous editions. The book is designed to provide an overview of the American criminal justice system for the undergraduate student. It is designed to facilitate different methods of learning by use of visual graphics and chapter features to help students comprehend the material. Each chapter is carefully crafted so that the instructor can customize the topics covered. This concept is extended with various e-book options that allow the instructor to customize the text.

CJ2022 includes coverage of current issues that have been incorporated by use of the Chapter Introductions, Think About It boxes, and case studies. The Think About It boxes and case studies, drawn from the most current media news, encourage students to go beyond memorization to explore applications, conflicts, and ethical issues. These features can be used for online discussion board topics or in-class discussions or short critical thinking paper assignments. Graphs, tables, and data have been updated to reflect the most current data available. In some cases new graphics and figures reflecting more current concerns have been added.

The learning outcomes are clearly identified for each chapter. This feature allows instructors to link the course learning outcomes to department and university learning outcomes. It also helps students retain the major ideas of the chapter. Learning outcomes, glossary terms, and chapter summaries are integrated to help students comprehend the important points of the chapter. Lastly, the timeline has been updated to include current events that have influenced the criminal justice system. This timeline helps students understand the historical development of the criminal justice system and place events in chronological order.

Syllabi

Course Syllabus (10 weeks)

Course Title: Intro to Criminal Justice
Credit Hours:
Date:
Prerequisite:

Course Number:
Course Length: 10 Weeks
Course Schedule:
Instructor:
Phone:
Email:

Course Description:

This course offers an overview of the criminal justice system. It examines the nature and causes of crime, criminal law, constitutional safeguards, and the organization and operation of the criminal justice system including the police, courts, jails, prisons, probation and parole, community corrections, and juvenile justice. It briefly covers the history of crime in America and includes relevant terminology.

Course Materials

- CJ2022
  James A. Fagan & Michele P. Bratina
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Course Assignments

- **Exams** (50 points each 150 points)

  There are three (3) multiple-choice exams. The exams are not cumulative but will be based on the chapters presented immediately preceding each exam.

- **Final exam** (100 points)

  There will be final exam for this class. The format for the exam may consist of some type of multiple choices, fill-ins the blanks, and/or essay questions that pertain to all of the information presented.

- **Instructor homework assignments** (10 points each 80 points)

  Assignments will be given out throughout the semester. Students are expected to complete each assignment and submit them on the due date.

- **Miscellaneous graded in-class assignments** (10 points each for 120 points)

  Students will complete assignments in class for points.

- **Project Paper (50 Points)**

  Students will write a research paper about a criminal Justice career that is of interest to them. The paper will be in A P A format and contain an introduction, the body of the research, and a conclusion. The paper must contain in-text citations from at least three sources.One of the sources must be the textbook.

A P A Style:

Papers that you write in your program of study must follow the guidelines set by the American Psychological Association. (http://apastyle.apa.org/)

Long Island University: (http://www2.liu.edu/cwis/cwp/library/workshop/citapa.htm)

Purdue Online Writing Lab: (http://owl.english.purdue.edu/owl/resource/560/01/)

Visit the Online Writing Lab (called OWL) whenever you have an A P A question.

A P A Tutorial (http://www.apastyle.org/learn/) This tutorial teaches how to write using the A P A format.

Academic Dishonesty/Plagiarism

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- Copying work from any source.
- Assisting, or allowing another to assist you, to commit academic dishonesty.
- Any attempt to share answers whether during a test or in the submittal of an assignment.
- Any attempt to claim work, data or creative efforts of another as your own.
- Resubmitting graded assignments for use in multiple classes (recycling your work).
- Knowingly providing false information about your academic performance to the college.
- To avoid plagiarism, do not “copy and paste” into assignments without using quotation marks and citing, in A P A format, the source of the material.

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- Reduction in grade on the assignment on which the violation occurred
- No credit on the assignment, paper, test, or exam on which the violation occurred
- A failing grade for the course
- Suspension or dismissal from the college

Grade Categories	Total Points
Three quarterly exams	150
Instructor homework assignments	80
In class graded assignments or participation	120
Project Paper	50
Final exam	100
Total:	500

Grading Scale		
Letter Grade	**Point Scale**	**Interpretation**
A	450–500	Excellent
B	400–449	Good
C	350–399	Average
D	300–349	Below Average
F	Below 300	Failed to Meet Course Objectives

Class Rules

- **Attendance**

The requirement to attend class should not be taken lightly. Attendance is considered an important part of the course. Excessive unexcused absences will negatively impact on the classroom participation grade as well.

- **Make-ups**

Students who have scheduling conflicts with an exam are expected to make arrangements with instructor in advance. Students are allowed one make-up on an exam per semester. The instructor will announce the make-up date and time.There is no make-up on the final exam.

- **Student Conduct**

Students are responsible for knowing the regulations of the department, college, and university with regards to topics such as withdrawals, incomplete grades, student conduct, and academic misconduct (those who engage in any form of academic dishonesty will fail this course). Students may review these rules at: ___________.

- No use of cell phones will be allowed in the classroom.

Class Schedule

Class	**Date**	**Discussion Topic**	**Learning Activities / Resources**	**Graded Assignments**
Wk 1		Introduction Overview of syllabus and course material Ice breaker activity Pre-Test	During this first week you will be introduced to the course and walked through the syllabus. You will be given the first *Instructor Homework Assignment*. You will also receive clarification on the research paper so you can get started. Lastly, you will take a pre-test that is not graded. Reading for next week: Ch 1 & 2	I H A #1 *(10 points)* Due ____________
Wk 2		Ch 1: Introduction to Criminal Justice Ch 2: Crime: Measuring Crime and Victimization PowerPoint Lecture	During this class you will participate in a discussion about I H A #1. You will view the first PowerPoint lecture on the first two chapters and participate in class exercises and discussions to earn participation points. Study guides will be passed out for exam #1 over first four chapters. Reading for next week: Ch 3 & 4	I H A #2 *(10 points)* Due ___________ ICA #1 *(10 points)* ICA #2 *(10 points)*
Wk 3		Ch 3: The Search for Understanding Ch 4: Criminal Law: Crimes and the Limits of Law PowerPoint Lecture	During this class you take your 1st exam. You will participate in a discussion about I H A #2. You will view a PowerPoint lecture for chapters 3 & 4 and participate in class exercises and discussions to earn participation points. Reading for next week: Ch 5 & 6	Exam #1 *(50 points)* I H A #3 *(10 points)* Due ___________ ICA #3 *(10 points)*

Wk 4		Ch 5: An Overview of Law Enforcement: History, Agencies, Personnel, and Strategies Ch 6: Oversight and Professionalism of Law Enforcement PowerPoint Lecture	During this class you will participate in a discussion about I H A #3. You will view a PowerPoint for chapters 5 & 6 and participate in class exercises and discussions to earn participation points. Study guide handed out for exam #2 over chapters 5–8. Reading for next week: Ch 7 & 8	I H A #4 *(10 points)* Due ________ ICA #4 *(10 points)* ICA #5 *(10 points)*
Wk 5		Ch 7: The Court System Ch 8: Courtroom Participants and the Trial PowerPoint Lecture	During this class you will take your 2nd exam. You will participate in a class discussion about I H A #4. You will view a PowerPoint for chapter 7 & 8 and participate in class exercises and discussions to earn participation points. Paper is due next week Reading for next week: Ch 9 & 10	Exam #2 (50 points) I H A #5 *(10 points)* Due ________ ICA #6 *(10 points)*
Wk 6		Ch 9: Sentencing Ch 10: Jails and Prisons PowerPoint Lecture	During this class you turn in your paper. You will participate in a discussion about I H A #5. You will view a PowerPoint for chapters 9 & 10 and participate in class exercises and discussions to earn participation points. Reading for next week: Ch 11 & 12	Paper *(50 points)* I H A #6 *(10 points)* Due ___________ ICA #7 *(10 points)*
Wk 7		Ch 11: Community Corrections Ch 12: Reentry, Desistance-Focused Criminal Justice, and Reintegration PowerPoint Lecture	During this class you will receive your graded papers. You will participate in a class discussion on I H A #6. You will view a PowerPoint for chapter 6 and participate in class exercises and discussions to earn participation points. Study guide handed out for exam #3 over chapters 8-12. Reading for next week: Ch 13 & 14	I H A #7 *(10 points)* Due ________ ICA #8 *(10 points)* ICA #9 *(10 points)*

Wk 8		Ch 13: The Juvenile Justice System Ch 14: Trending Topics PowerPoint Lecture	During this class you will take your 3rd exam. You will participate in a class discussion on I H A #7. You will view a PowerPoint for chapters 13 & 14 and participate in class exercises and discussions to earn participation points.	Exam #3 *(50 points)* I H A #8 *(10 points)* Due _________ ICA#10 *(10 points)*
Wk 9			During this class period you will hear from a guest speaker in the criminal justice system or will discuss I H A #8 and participate in class discussions on special topics. Study guide handed out for the final exam over chapters 13–14. Post-test (not graded)	ICA #11 *(10 points)* ICA #12 *(10 points)*
Wk 10		Final Exam	Final Exam	Final Exam *(100 points)*

Course Syllabus (16 weeks)

Course Title: Intro to Criminal Law
Credit Hours:
Date:
Prerequisite:

Course Number:
Course Length: 16 Weeks
Course Schedule:
Instructor:
Phone:
Email:

Course Description:

This course offers an overview of the criminal justice system. It examines the nature and causes of crime, criminal law, constitutional safeguards, and the organization and operation of the criminal justice system including the police, courts, jails, prisons, probation and parole, community corrections, and juvenile justice. It briefly covers the history of crime in America and includes relevant terminology.

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- **Exams** (50 points each 150 points)

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- **Final exam** (100 points)

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- **Instructor homework assignments** (10 points each 70 points)

  Assignments will be given out throughout the semester. Students are expected to complete each assignment and submit them on the due date.
- **Miscellaneous graded in-class assignments** (10 points each for 130 points)

  Students will complete assignments in class for points.
- **Project Paper** (50 Points)

  Students will write a research paper about a criminal Justice career that is of interest to them. The paper will be in A P A format and contain an introduction, the body of the research, and a conclusion. The paper must contain in-text citations from at least three sources. One of the sources must be the textbook.

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Project Paper	50
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Wk 2		Ch 1: Introduction to Criminal Justice PowerPoint Lecture	During this class you will participate in a discussion about I H A #1. You will view the first PowerPoint lecture and participate in class exercises and discussions to earn participation points. Reading for next week: Ch 2	I H A #2 *(10 points)* Due ___________ ICA #2 *(10 points)*
Wk 3		Ch 2: The Search for Understanding PowerPoint Lecture	During this class you will participate in a discussion about I H A #2. You will view a PowerPoint lecture for chapter 2 and participate in class exercises and discussions to earn participation points. Reading for next week: Ch 3	I H A #3 *(10 points)* Due ___________ ICA #3 *(10 points)*
Wk 4		Ch 3: Measuring Crime and Victimization PowerPoint Lecture	During this class you will participate in a discussion about I H A #3. You will view a PowerPoint for chapter 3 and participate in class exercises and discussions to earn participation points. Study guides will be passed out for exam #1 over first three chapters. Reading for next week: Ch 4	ICA #4 *(10 points)*

Wk 5		Ch 4: Criminal Law: Crimes and the Limits of Law PowerPoint Lecture	During this class you take your 1st exam. You will participate in a class discussion on last week's assignment. You will view a PowerPoint for chapter 4 and participate in class exercises and discussions to earn participation points. Paper is due next week Reading for next week: Ch 5	Exam #1 *(50 points)* ICA #5 *(10 points)*
Wk 6		Ch 5: An Overview of Law Enforcement: History, Agencies, Personnel, and Strategies PowerPoint Lecture	During this class you will view a PowerPoint for chapter 5 and participate in class exercises and discussions to earn participation points. Reading for next week: Ch 6	Paper *(50 points)* I H A #4 *(10 points)* Due ________ ICA #6 *(10 points)*
Wk 7		Ch 6: Oversight and Professionalism of Law Enforcement PowerPoint Lecture	During this class you will receive your graded papers. You will participate in a class discussion on I H A #4. You will view a PowerPoint for chapter 6 and participate in class exercises and discussions to earn participation points. Study guide handed out for exam #2 over chapters 4, 5, and 6. Reading for next week: Ch 7	ICA #7 *(10 points)*
Wk 8		Ch 7: The Court System PowerPoint Lecture	During this class you will take your 2nd exam. You will view a PowerPoint for chapter 7 and participate in class exercises and discussions to earn participation points. Reading for next week: Ch 8	Exam #2 (50 points) I H A #5 *(10 points)* Due ________ ICA #8 *(10 points)*
Wk 9		Ch 8: Courtroom Participants and the Trial PowerPoint Lecture	During this class you will participate in a class discussion on I H A #5. You will view a PowerPoint for chapter 8 and participate in class exercises and discussions to earn participation points. Reading for next week: Ch 9	ICA #9 *(10 points)*

Wk 10		Ch 9: Sentencing PowerPoint Lecture	During this class you will view a PowerPoint for chapter 9 and participate in class exercises and discussions to earn participation points. Study guide handed out for exam #3 over chapters 7, 8, and 9. Reading for next week: Ch 10	ICA #10 *(10 points)*
Wk 11		Ch 10: Jails and Prisons PowerPoint Lecture	During this class you will take your 3rd exam. You will participate in a class discussion on the assignment from last week. You will view a PowerPoint for chapter 10 and participate in class exercises and discussions to earn participation points. Reading for next week: Ch 11	Exam #3 *(50 points)* I H A #6 *(10 points)* Due __________ ICA #11 *(10 points)*
Wk 12		Ch 11: Community Corrections PowerPoint Lecture	During this class you will participate in a class discussion on I H A #6. You will view a PowerPoint for chapter 11 and participate in class exercises and discussions to earn participation points. Reading for next week: Ch 12	ICA #12 *(10 points)*
Wk 13		Ch 12: Reentry, Desistance-Focused Criminal Justice, and Reintegration PowerPoint Lecture	During this class you will participate in a class discussion on last week's assignment. You will view a PowerPoint for chapter 12 and participate in class exercises and discussions to earn participation points. Reading for next week: Ch 13	I H A #7 *(10 points)* Due ________ ICA #13 *(10 points)*
Wk 14		Ch 13: The Juvenile Justice System	During this class you will participate in a class discussion on I H A #7. You will view a PowerPoint for chapter 13 and participate in class exercises and discussions to earn participation points.	

Wk 15		Chapter 14: Trending Topics	During this class period you will hear from a few guest speakers in the criminal justice system. Study guide handed out for the final exam over chapters 10–14, and anything else selected by the instructor. Post-test (not graded)	
Wk 16		Final Exam	Final Exam	Final Exam *(100 points)*

Chapter 1

Introduction to Criminal Justice

CHAPTER OVERVIEW

A government by the people should not infringe upon individual rights. The power of government to enforce laws must be balanced in conjunction with the need to preserve individual liberties. The law should not treat individuals differently because of their socioeconomic status, race, religion, or other social characteristics not related to an alleged offense. Hence, when government is perceived to violate individual liberties; protests and demonstrations can result. The balancing of individual rights and public safety is achieved through formal sanctions found within the criminal justice system. A restriction on government power is referred to as due process rights.

An emphasis on efficient and effective justice is known as the crime-control (public-order) model. However, government is restricted in the powers it may exercise in maintaining law and order in society. The constitution guarantees that people have due process rights. Hence, the emphasis on crime-control (public-order) versus an emphasis on individual rights (due process) constantly shifts back and forth.

The U.S. Supreme Court under Chief Justice Earl Warren created many new due process rights for the accused in the 1960s. When the Court tend to create new due process rights, it is referred to as a “liberal court. When the Court tends to make decisions that support public safety rather than due process, it is referred to as a “conservative court”.

One of the best-known guidelines issued by the U.S. Supreme Court came from Miranda v. Arizona (1966), in which the Court mandated the specific due process rights that law enforcement must follow in arrest and interrogation of accused persons. Due process rights protect the accused against abuse of power by police, prosecutors, courts, and corrections at the expense of swift and sure justice for the victim.

There are five stages through which a defendant is processed within the criminal justice system. These stages include: (1) entry into the system by arrest, (2) prosecution and pretrial services to determine if evidence is sufficient, (3) adjudication wherein the defendant enters a plea, (4) sentencing by the judge, if the defendant is found guilty, and (5) corrections, where the defendant can be sentenced to a correctional facility, or given an alternative sanction such as probation. There are limited options as to how a person is processed into the criminal justice system, but there are numerous exit options.

A number of significant historical events have prompted change of the criminal justice system. More specifically, there were five meta-influences that had profound effects in changing various aspects of governmental operations. These historical events were: (1) the civil rights movement, (2) protests and the Vietnam War, (3) the war on crime, (4) the concern over Homeland Security, and (5) public concern regarding bias and discrimination. These events have brought awareness for the need to censure and transform the policy and procedures of the criminal justice system.

The study of crime as an academic discipline emerged in the United States in the twentieth century and was rooted in the academic discipline of sociology. The discipline of criminal justice emerged in the 1960s and matured in the 1980s. The study of law is a distinctly different discipline from criminal justice or criminology. An objective of the study of criminal justice may be to develop theories, but also applied research, or problem-solving research.

CHAPTER OBJECTIVES

1. Understand the concepts of limited government powers and checks and balances.
2. Explain the difference between the crime control model and the due process model.
3. Describe the five stages of the criminal justice system.
4. Describe the five meta-influences upon the criminal justice system and their influence upon the criminal justice system.
5. Explain how the academic field of criminal justice developed and how it differs from closely related fields such as sociology and law.

LECTURE OUTLINE

I. Introduction

Teaching Tip: Consider a pre-test during the first class of the semester. It can be anywhere from 25–50 questions that covers all 14 chapters, gleaned from the test bank. You could later give the same exam at the end of the semester to help gauge the progress of the students' understanding of the material.

II. Introduction to the Criminal Justice System
   A. Criminal justice system is complex and extensive network of agencies, processes, and personnel
   B. Criminal justice system is so complex that few laypersons understand all workings and interactions
      1. System can be contradictory, flawed, and biased
      2. The system is constantly changing
         - Why it is changing
   C. Law enforcement commonly perceived as center of criminal justice system
      1. In reality, courts are center
         - Have authority to decide what the law means, which laws are constitutional, and which social values and individual rights will be protected by law
         - They play central role in determining balance between government power and individual rights and freedoms
         - Only branch of criminal justice system mentioned in U.S. Constitution

III. Government by the People
   A. Most people do not need laws or a criminal justice system to know that certain actions are wrong
      1. Most have sense of what is fair and just
      2. Most have sense of what individual freedoms and rights they believe the government should not infringe upon
   B. Philosophers and politicians have long discussed concept of right and wrong and role of government
      1. John Locke

- Argued that all human beings are endowed with "natural rights"
- Rights given by power higher than government
- Argued that people cannot be deprived of them
- Governments exist to serve individuals
- Social contract

C. When concepts of justice and fairness are perceived to be violated, protests and even violence can result

1. American Revolution
   - Founders of nation declared their purpose was to establish a "more perfect union"
   - Principles of this "more perfect union" incorporated into Declaration of Independence and U.S. Constitution

IV. Order Maintenance versus Individual Liberties

A. Citizens expect law enforcement to play central role in maintaining law and order in society

1. Death of George Floyd on May 25, 2020
   - Set off chain of events leading to demands for racial equality and reform of police
   - Some called for abolishment of law enforcement

B. Society uses several means to balance conflicting rights and social values

1. In general, can be divided into:
   - Informal sanctions
     - ➢ Defined
     - ➢ What they include
     - ➢ Social norms defined
   - Formal sanctions
     - ➢ Defined
     - ➢ Order maintenance defined
2. In homogenous, stable society with common belief system, there is less need for reliance on formal system of social control
   - System of social control defined
     - ➢ When they operate most effectively and efficiently
   - Contemporary U.S. society is not characterized by homogeneous and stable group of people with common belief system
3. When there is conflict, especially if it threatens or involves violence
   - Usually is handled by the criminal justice system
   - If negotiations fail, citizens may protest
   - When protests become violent or result in property damage or injury or death to others, law enforcement usually called in to restore law and order

V. Crime Control versus Due Process

A. Government charged with maintaining harmony among conflicting interests and sanctioning those who violate rights of others

1. Government is restricted in powers and actions it may use

B. Due process rights

1. Defined

2. Primary sources

- Fourteenth Amendment
  - Sometimes called the due process amendment
  - Substantive due process defined

3. Those granted to accused have varied throughout history

- When they apply to state and local governments

4. First Amendment

- Among best-known rights

5. Major due process rights granted by various other amendments

- The way the U.S. Supreme Court guarantees these rights

6. Often rights are incorporated by U.S. Supreme Court landmark decisions

- Landmark decisions defined
- Examples
- Most recent example

7. Some rights are not incorporated

- Seventh Amendment

C. Some would give the government more power and citizens few rights to tip scales toward greater public order

1. Others would give government less power and citizens more rights to achieve acceptable level of crime control but maintain strict limits on government power

D. Balance must exist between law and order and due process rights

1. Emphasis on public order or crime control versus emphasis on due process rights resembles a pendulum

- Swings back and forth between the two values
- Sometimes can take a long time to swing from one viewpoint to another

2. Public opinion can influence whether emphasis is placed on due process or crime control model

E. Crime control (public order) model

1. Defined

2. Cannot be achieved at expense of constitutionally protected liberties

F. Due process model

1. Defined

2. What it means

G. Liberal versus conservative Supreme Court examples
H. One of the primary roles of state and federal courts and laws
   1. Provide guidance as to proper balance between two models
I. Due process rights
   1. Protect accused against abuse of power
   2. Central premise of due process rights
   3. Assumptions they are based upon
J. Due process model
   1. Belief reflected by model
   2. Can create public dissent
   3. Claim often used is "technicality"
      - Technicality defined

Teaching Tip: Consider having students choose which they favor – due process or crime control – and let them debate the issue. You can take the poll of your students by asking whether they believe protecting the public at large is more important than protecting individual rights. During the debate you can assist each side as necessary to make sure all the important points have been considered.

VI. The Structure of the Criminal Justice System
A. The Structure of the Criminal Justice System
   1. Belief during 1960s that system was broken
   2. President's Commission on Law Enforcement and Administration of Justice
      - Appointed to examine criminal justice system
      - Criminal justice system defined
      - One of the main charges of the commission
      - Conclusions
   3. Today, system widely recognized as significant component
B. Agencies in the Criminal Justice System
   1. Can be divided into four types of agencies
      - Law enforcement
      - Prosecutors and the courts
      - Probation and parole agencies
      - Jails, prisons, and other correctional agencies
   2. Exist in local, state, and federal levels of government
      - Each has own agencies and process
   3. There is not a single system
      - Systems are interconnected at different levels
   4. In addition, there is separate system for Native peoples on tribal lands and another for military personnel
   5. In addition to criminal system there is a civil justice system

C. Dual Criminal Justice System
   1. U.S. criminal justice system distinct from those of other nations
   2. Described as a dual system
      - Meaning
   3. There is no central employment agency for the criminal justice system
      - Each set standards of employment, define job responsibilities and duties, and pays its employees independently of central control
         - ➢ Result
   4. Sometimes interrelationship of local, state, and federal agencies described in hierarchical relationship by comparing them to three-layer cake
      - Analogy does not accurately describe the system
   5. Better analogy is the picket fence model
      - Picket fence model defined

D. Checks and Balances
   1. Criminal justice system reflects mistrust of strong centralized government by early founders
   2. As result, government created with numerous checks and balances
      - Checks and balances defined
   3. President's Commission flowchart of five stages in criminal justice system
      - Agencies that compose stages are semiautonomous
   4. Separation of powers acts as checks and balances to ensure fairness and minimize arbitrary exercise of power or abuse of power by one of the agencies
   5. Ways this power of checks and balances works

VII. The Criminal Justice Process

A. The Criminal Justice Process
   1. There is no single criminal justice system
      - Systems of each state and the federal government must provide protection of constitutional rights of accused
      - Despite differences, there is commonality
   2. President's Commission on Law Enforcement and Administration of Justice in 1967
      - Undertook one of the first attempts to describe process of the American criminal justice system
      - Little research prior to the study
      - Produced flowchart of the system
   3. Flowchart of criminal justice system
      - Not reflective of every state's system
      - Provided visual depiction of generalized understanding
      - Has since been updated by other studies and Bureau of Justice statistics

- Describes system as classical input-output model
    - ➢ Input-output model defined

B. Entry into the System

1. Criminal justice system only handles formal sanctions
2. Law enforcement agencies are primary officials responsible for detecting crime violators and bringing these individuals into the system
    - Often a partnership between law enforcement and public
3. Arrest of suspect may be spontaneous or result of months, perhaps years, of planning that involves many different agencies
4. Arrest
    - Defined
    - When arrested, individual must be transferred to facility where they can be booked
5. Booking
    - Defined
    - Purpose of booking
    - Acts as transition point

C. Prosecution and Pretrial Services

1. Government agency must decide whether evidence presented by police is sufficient to pursue prosecution
2. Decision to move accused from booking to prosecution
    - Often decide by collaboration between law enforcement and prosecutor's office
3. Prosecutor
    - Known by different names from state to state
    - Common titles
    - Has complete autonomy to accept, modify, or dismiss charges
    - If they do not seek criminal charges
    - If they decide to bring charges

D. First Appearance

1. Defendant will appear before lower-level judge
    - Various names at state level
    - Magistrate judge at federal level
        - ➢ Magistrate judges defined
    - Duties of judge
2. Accused advised of their legal rights
3. Magistrate must determine whether accused has legal representation

4. Bail may be set
   - Bail defined
   - Decision can be revisited at several points in process
5. Accused not asked whether they plead guilty or not guilty
   - Question of guilt not raised at this time

E. The Path to Indictment
1. After first appearance, prosecutor must obtain indictment if they are to prosecute
   - Indictment defined
   - What it authorizes
2. Indictment can be obtained in two ways
   - Preliminary hearing
     - ➢ Defined
     - ➢ Sometimes called a probable cause hearing
     - ➢ Probable cause defined
   - Grand jury
     - ➢ Defined
     - ➢ Rules differ by state
     - ➢ Process
     - ➢ True bill defined

F. Adjudication
1. Arraignment hearing
   - Defined
2. Charges read
3. Defendant asked to plead
   - If defendant pleads not guilty
   - If defendant pleads guilty
4. Primary responsibility of judge if trial is held

G. Sentencing
1. If found guilty, judge will decide on sentence guided by limits set by law
2. Judge will be assisted by presentence investigation (P S I) report
   - Provided by probation officer
3. Sentence announced at sentencing hearing
   - Both prosecutor and defendant's counsel can challenge sentence and information presented by P S I
4. Sentencing procedure for capital cases is different from noncapital cases (See Chapter 9)
5. After adjudication and sentencing, defendant has right to appeal both conviction and sentence to higher court
6. Highest court of appeal is U.S. Supreme Court

H. Corrections
   1. Once sentenced, convicted offender transferred to correctional facility
   2. For those given alternative sanctions that do not require incarceration they are placed under supervision of probation officials

I. Exit, Recidivism, and Multiple Dimensionality of the Criminal Justice System
   1. Exit
      - Options are numerous
      - Some occur shortly after person enters system
      - Others only occur at end of process model
   2. Few who enter system by arrest processed through entire system
   3. Criminal justice system is not one-dimensional, one-way input-output model

VIII. The Changing Criminal Justice System

A. The Changing Criminal Justice System
   1. System reflects complex interaction of social values, technology, law, concepts of social justice, and economic forces
      - Sometimes changes are deliberate
      - Other forces may have unintentional influences on system
   2. Five meta-influences have shaped U.S. criminal justice system since mid-20th century
      - Meta-influence defined
      - Have ability to transcend immediate environment and objectives in which phenomenon is situated
         - ➢ What it results in

B. The Civil Rights Movement
   1. First meta-influence to shape criminal justice system
   2. In sense, roots of parts of criminal justice system are founded in racial discrimination
   3. Colonial times and during early years of United States
      - Slave patrols defined
   4. Passage of Thirteenth Amendment and Fourteenth Amendment
   5. *Brown v. Board of Education of Topeka* (1954) decision
   6. Protests and demonstrations leading up to passage of Civil Rights act of 1964 marked by extensive and widespread violence
      - Civil Rights Act of 1964 defined
   7. Criminal justice system was at center of conflict
      - Discrimination reflected in co-called Jim Crow laws (Black Codes)
         - ➢ Defined

8. Employment in system not open to people of color and women
   - Until 1972 Equal Employment Opportunity Act
     - Defined
9. Civil rights movement divided into two distinct approaches
   - Those who advocated violence and separation of races
     - Malcolm X
   - Those who advocated nonviolent civil disobedience and integration of races
     - Civil disobedience defined
     - Martin Luther King Jr.
10. King's strategy captured national attention in December 1955
   - 381-day Montgomery bus boycott
     - Defined
   - What triggered this event
11. Movement exposed inequities and discrimination in society, law, and the criminal justice system

C. Protests and the Vietnam War

1. Second meta-influence produced great acrimony in society
2. Characterization of conflict between antiwar protesters and government
   - Strained criminal justice system
3. Vietnam War
   - Defined
   - Considered a war against spread of communism based on the domino theory
     - Domino theory defined
   - There was great debate over legitimacy of U.S. military involvement
4. During approximately 15 years of U.S. involvement in war, antiwar protesters staged numerous and sometimes violent demonstrations
5. Often-violent encounters resulted in public perception of law enforcement officials as being brutal and disrespectful of Constitution
   - Perception contributed to derogation of confidence by public in criminal justice system

D. The War on Crime

1. Third meta-influence was rising crime rates and violence starting in 1960s
   - Violent crime rates hit record highs
   - Emergence of violent youth crime resulted in public's fear or criminalization
2. Criminal justice system perceived as falling apart and failing
3. President Lyndon Johnson declared a War on Crime in 1965
   - War on Crime defined
4. President's Crime Commission
   - Findings and recognition

5. Omnibus Crime Control and Safe Streets Act of 1968
    - Defined
    - Passed by Congress to further implementation of recommendations of President's Crime Commission
6. Law Enforcement Assistance Administration (L E A A)
    - Defined
    - Created by Omnibus Crime Control and Safe Streets Act of 1968
    - Goal of L E A A
        - National Commission on Criminal Justice Standards and Goals
7. Law Enforcement Educational Program (L E E P)
    - Defined
    - Task of L E E P
    - Left a tremendous legacy
8. Movement toward mass incarceration
    - Another legacy of this era
    - Product of concern about rising crime rates and violence
    - Led public to embrace crime control model and corresponding policies
    - Prison population doubled
9. George Floyd murder
    - Renewed examination of police
    - Renewed concern has led to calls for reform with some calling for near abolishment of incarceration

E. The Rise of Concern over Homeland Security
1. Fourth meta-influence
2. Prior to 2001
3. Aftermath of September 11, 2001
    - War on terrorism declared
4. War on terrorism
    - Defined
    - Impact of war on terrorism
    - Enemy combatant defined
    - Poses one of the most serious challenges to balance between public safety and due process
    - Influence continues

F. Public Concern Regarding Bias and Discrimination in the Criminal Justice System (CJS)
1. Fifth meta-influence is revisiting of alleged racial and discriminatory nature of criminal justice system

2. Evolution of system to provide fair and impartial justice for all is underlying theme
3. In 21st century, significant progress has been made, but great challenges still face system
4. Intersectionality
   - Defined
   - Manner by which these factors overlap in justice process is complex
5. Has been resurgence of influence of demand for racial equality
   - 2020 death of George Floyd
   - Public's recognition of 1921 Tulsa Race Massacre
   - Michelle Alexander
   - Shooting of Michael Brown in 2014, followed by other incidents in numerous cities
6. Central premise of due process rights is presumption of innocence
   - Presumption of innocence defined

IX. What is Criminal Justice?

A. Study of criminal behavior
   1. Dates to earliest origins of civilization
   2. Word not coined until describe endeavor until mid-19th century
      - Raffaele Garofalo in 1855
      - Paul Topinard in 1887

B. Study as academic discipline emerged in United States in 20th century
   1. Rooted in academic discipline of sociology
      - Sociology defined
   2. Edwin Sutherland
      - Provided definition still widely used today

C. Criminology
   1. Defined
   2. What it can include
   3. What it has evolved into

D. Discipline emerged in 1960s and matured in 1980s
   1. Many early programs were housed in sociology departments
   2. Criminal justice defined

E. Study of law leading to credentials to practice law as licensed attorney is discipline distinctly different from criminal justice or criminology

F. Today, field includes many related fields

G. New fields of study have created new opportunities

X. Summary

LIST OF CHANGES/TRANSITION GUIDE

- Chapter Introduction, Think About It feature, and Case Study have been updated to reflect current events and issues in criminal justice.
- Chapter timeline has been updated to include current events that have influenced the criminal justice system. This timeline helps students understand the historical development of the criminal justice system and place events in chronological order.
- Graphs, tables, and data have been updated to reflect the most current data available. In some cases, new graphics and figures reflecting more current concerns have been added.

ADDITIONAL ASSIGNMENTS AND CLASS ACTIVITIES

Activity 1: Have students identify a fictional television series that they have watched that portray events involving either: police officers, investigators, or criminal prosecutors. Have them prepare a short paper on whether or not these images seem to be an accurate illustration of the criminal justice system.

Activity 2: Invite a practitioner from your local criminal justice community to explain their duties and responsibilities within the criminal justice agency by which they are employed.

SUGGESTED ANSWERS TO END-OF-CHAPTER REVIEW QUESTIONS

Learning Objective 1: Understand the concepts of limited government powers and checks and balances.

1. Explain why it is important to have a check and balance on government power.

Governments exist to serve individuals. People surrender certain rights with the understanding that they will receive as much, or more, in other benefits, such as safety, order, and preservation of property rights. The government must have the power of physical force to protect people and their property. However, this power should be balanced against the need to preserve individual liberty. When these concepts of justice and fairness are violated, protests and even violence can result.

2. Why is U.S. society not characterized by a homogenous belief system?

Contemporary U.S. society is not characterized by a homogeneous and stable group of people with a common belief system. Rather, the United States is characterized by great diversity in race, religion, ethnicity, and values.

3. How can the balancing of rights and public safety be achieved?

When there is conflict, especially if the conflict threatens or involves violence, usually the conflict is handled by the criminal justice system. Thus, students protesting racism at colleges and universities can attempt to have their demands met by negotiations. However, if negotiations fail and the students engage in protests, especially protests that may threaten violence, the conflict will be resolved through the criminal justice system.

The courts are the center of the criminal justice system. One of the important roles of the courts is crafting the balance between government power and individual rights and freedoms. This balance, which is normally a restriction of government power, is frequently referred to as due Process rights.

Learning Objective 2: Explain the difference between the crime control model and the due process model.

1. How do the crime control model and due process model differ?

Crime control cannot be achieved at the expense of constitutionally protected liberties. The emphasis on ensuring that individuals are protected from arbitrary and excessive abuse of power by the government is known as the due process model of criminal justice. Due process means that in the quest for crime control and public order, the government is bound to follow certain rules and procedures. Even if a person is guilty, if the government does not follow the rules and procedures in obtaining a conviction, the courts can refuse to prosecute the alleged offender or void a conviction obtained in violation of these rights.

Due process rights are based upon the assumption that given the overwhelming resources of the government compared to those of the accused to be fair the scales of justice must restrict the power of the government. This philosophy is reflected in such rules that the prosecutor under the rules of discovery must reveal all of its information to the defense. In a sense, the due process model does not focus on justice but on protecting the accused from possible abusive power of the government. The due process model reflects belief in the saying that it is better that a guilty person should escape the punishment of justice than an innocent person be wrongfully punished.

2. What are the primary sources of due process rights?

Among the best-known rights is the First Amendment that guarantees the right of freedom of speech, religion, and the press and the right of the people to assemble and to petition the government for a redress of grievances. The major due process rights granted by various other amendments as interpreted by the U.S. Supreme Court guarantee protections against unreasonable searches (Fourth Amendment), forced and self-incriminating testimony (Fifth Amendment), excessive bail and fines (Eighth Amendment), cruel or unusual punishment (Eighth Amendment), and the right to a speedy and public trial by jury (Eighth Amendment).

3. Explain how the various criminal justice agencies within local, state, and federal governments resemble a picket fence.

The three horizontal boards in the fence represent the local, state, and federal governments and the vertical boards represent the various criminal justice agencies, such as law enforcement, courts, and corrections. Although separate autonomy of each agency is represented by the space between criminal justice agencies at each level of government, the vertical pickets represent an interrelationship.

Learning Objective 3: Describe the five stages of the criminal justice system.

1. Describe what occurs during the defendant's first appearance.

At the first appearance, the accused is advised of their legal rights, the magistrate must determine whether the accused has legal representation, and bail may be set. At the first appearance, the accused is not asked whether they plead guilty or not guilty to the charges. The question of guilt is not raised at this time.

2. What must a prosecutor obtain if they are going to prosecute the defendant?

After the first appearance, the prosecutor must obtain an indictment if they are to prosecute the defendant. An indictment is a formal, written legal document forwarded to the court, asserting probable cause that the defendant committed an offense.

3. What does the term *true bill* mean?

A path to obtaining an indictment is by use of a grand jury. A grand jury is a legal procedure that in some ways resembles a trial. The grand jury does not determine guilt, but if the prosecutor is successful, the grand jury returns a true bill; this authorizes the prosecutor to arraign the defendant.

4. How does the input-output model explain the processing of a criminal defendant?

Few people who enter the system by arrest are processed through the entire criminal justice system. Since 1990, the percentage of defendants released pretrial has remained relatively stable at about 60%. A typical case disposition suggests that of 100 felony defendants arraigned only 69 will be prosecuted. Sixty-five defendants will plead guilty and only four defendants will go to trial. Three of the four defendants will be convicted and only one acquitted.

The criminal justice system is not a one-dimensional, one-way input–output model. About 43% of felony defendants who enter the criminal justice system have a least one prior felony conviction. Also, many who enter the criminal justice system may be charged with a crime in multiple jurisdictions. About 18% of defendants commit new offenses while they are being processed by the criminal justice system.

Learning Objective 4: Describe the five meta-influences upon the criminal justice system and their influence upon the criminal justice system.

1. What was the purpose behind establishing the Law Enforcement Educational Program (L E E P)?

One of the goals of the National Commission on Criminal Justice Standards and Goals was to increase the professionalism and ethical behavior of criminal justice personnel, particularly law enforcement officers. One of the primary strategies used to achieve this goal was to raise the educational level of criminal justice personnel. The task of the Law Enforcement Educational Program (L E E P) was to achieve this goal. L E E P offered loans and grants to law enforcement personnel who would pursue higher education.

2. How did the civil rights movement impact the criminal justice system?

A half-decade after the civil rights movement influenced society and the criminal justice system, public concerns over racial bias and discrimination in the criminal justice system again rose to nationwide concern. As a result of the civil rights movement and some high profile cases, there were calls for investigations, prosecutions, and systemic changes in the criminal justice system.

3. What impact did the war on terrorism have on the criminal justice system?

The impact of the war on terrorism has transformed the criminal justice system and continues to exert powerful forces for change. The 9/11 attacks resulted in creation of the Department of Homeland Security, new legislation expanding the powers of federal law enforcement agencies, and suspension of due process rights for accused terrorists labeled enemy combatants by the president. The war on terrorism also poses one of the most serious challenges to the balance between public safety and due process.

4. Describe a recent event that demonstrates inequality in the criminal justice system.

Answers may vary. Students may choose to write about the killing of George Floyd by Minnesota police officers on May 25, 2021. The incident was caught on camera and resulted in weeks of protests and rioting and the continued impact of the Black Lives Matter movement. The killing re-focused national attention on the treatment of Black people in the criminal justice system. The killing of George Floyd was both preceded and followed by other incidents in other cities where police were accused of killing Black people.

Learning Objective 5: Explain how the academic field of criminal justice developed and how it differs from closely related fields such as sociology and law.

1. Which academic discipline provided the earliest roots for criminal justice studies?

The study of crime as an academic discipline emerged in the United States in the twentieth century and was rooted in the academic discipline of sociology, the study of human social behavior.

2. What is the purpose of studying criminology?

American sociologist Edwin Sutherland provided a definition of criminology that is still widely used today. He described criminology as the theories that explain why and how laws are made, why some people violate those laws, and how society responds to those who break the laws. While criminology can include the study of the criminal justice system, criminal justice has evolved into a distinctively different discipline from criminology. Sutherland's definition of criminology emphasized that the end purpose was to understand the general principles that influenced people's obedience to laws for the purpose of developing programs and responses that would provide effective treatment and crime prevention strategies. In other words, the purpose of criminology is to develop theories that explain crime as a social phenomenon.

3. Name some of the new fields of study associated with criminal justice?

Today, the field of criminal justice includes many related fields in counseling, forensic science, law, medicine, psychology, science, and sociology. Other new fields of study include aviation security, forensic science, homeland security, intermediate sanctions, psychological profiling, and reentry of offenders into society.

Chapter 2

Measuring Crime and Victimization

CHAPTER OVERVIEW

In the 1920s, the rise in organized crime and illegal alcohol sales prompted media attention that generated public concern about crime. By 1929, Congress authorized the first nationwide reporting of crime data. Consequently, FBI's Uniform Crime Reports (UCR) was created. By the 1970s, emphasis on gathering more reliable crime data became a government concern with a crisis in public safety. In 1972, the National Crime Victimization Survey (NCVS) was created to uncover the significant number of unreported crimes. Seeking even more dependability from crime data, in 1988, the FBI implemented the National Incident-Based Reporting System (NIBRS). The NIBRS serves to broaden the information gathered about crime and its victims. Moreover, scholars, private research institutions, and government agencies conduct self-reporting surveys of perpetrators and victims.

Crime data cannot accurately reflect the public's fear of victimization. Although rising crime rates might cause the public to be more fearful of crime, a decrease in crime rates does not necessarily result in less fear of victimization. The rise and fall of crime rates does not necessarily correlate with the public's fear of crime. As crime statistics are gathered from many different defined time segments, caution should be used in comparisons of such data. Crime trends may require some time before establishing any certainty regarding an increase or decrease. Crime statistics show what crimes have occurred, not what crimes will occur in the future.

The criminal justice system does not provide a perfect remedy for victims of crime. Some states are now providing more rights for crime victims, but often progress is slow. The criminal justice system does not provide a perfect remedy for victims of crime. However, states and the Federal government have provided some victim assistance programs. Additionally, victims can file lawsuits against a perpetrator. Civil lawsuits are empowering because victims are directly involved in the process rather than relying upon the criminal justice system. However, the victim bears the financial cost with filing the lawsuit as a remedy.

CHAPTER OBJECTIVES

1. Describe the different types of data gathered from the various criminal justice data banks.
2. Explain why criminal justice statistics do not predict future crime or public attitudes toward public safety.
3. Discuss how public perceptions of crime and victimization may influence changes in policy.

LECTURE OUTLINE

I. Introduction

II. Crime Data and the Criminal Justice System

   A. Crime Data and the Criminal Justice System

      1. Public perceptions about crime and criminal justice system greatly influenced by media portrayals of crime and criminality

         - Consider sheer number and popularity of crime television shows or docudramas

- What these programs offer
- CSI Effect

2. There is also overreliance on media news outlets
   - Also present distorted view of crime
   - Scramble to promote ratings with most egregious and sensational types of crime events
   - "If it bleeds, it leads"
3. Data about crime important in
   - Understanding criminal justice system
   - Evaluating impact of new programs
   - Assessing overall level of public safety
4. Crime statistics and measures of criminal justice system are subject to error
   - Further one goes back in time, the more prominent the error appears
   - Crime data often difficult or impossible to compare from one historical period to another due to errors in collection

B. The Public Demand for Reliable Crime Data

1. Demand emerged in 1920s and 1930s
   - During this period, news media generated public belief that "crime wave" was sweeping the country
   - How crime was perceived
2. Passage of Eighteenth Amendment in 1919
   - Prohibition Amendment or Volstead Act defined
   - Added fuel to fire
   - Increased rather than decreased crime
   - Crime considered mainly a "big city" problem
   - Population increases after World War I
   - First major cities to perform crime surveys
     - ➢ Motivation for surveys
3. International Association of Chiefs of Police (IACP)
   - Defined
   - Published first national report of crime in United states in 1927
   - In 1929, Congress authorized FBI to gather nationwide crime data and publish it
     - ➢ First published in 1930
     - ➢ Titled the Uniform Crime Report
     - ➢ Has published it continuously since then
     4. Emphasis on collecting and disseminating more comprehensive and reliable crime data

- Did not emerge until 1970s
- Related to government's concern that public safety was in crisis
- Result of this concern

5. Today, two sources are nationally recognized
   - FBI Uniform Crime Reporting Program (UCR)
   - National Crime Victimization Survey (NCVS)
6. Other major sources
   - National Archive of Criminal Justice Data (NACJD)
   - International Crime Victims Survey (ICVS)
   - National Center for Education statistics (NCES)
7. In addition, there are numerous state surveys and surveys by private institutions
8. Data sources can be distinguished as "official" or "unofficial"

Teaching Tip: To start the lecture, try to locate the crime statistics for your university or college and share them with class. Talk about how colleges and universities participate in federal student programs and must comply with data collection and reporting standards set forth by the 1990 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act").

C. The Uniform Crime Report

1. The Uniform Crime Report
   - First federal legislation passed by Congress on June 11, 1930 mandating collection of crime data
   - FBI charged with responsibility
   - Uniform Crime Report (UCR) defined
   - Participation of local and state agencies is voluntary
     - Today, participation is near universal
     - Not the case in early years
   - Had origins at time when there were no computers, no computerized databases, and no statistical software
     - Data collected, stored, and transmitted manually
   - Given early methods, FBI had to adopt rules for counting crimes consistent with limitations imposed by system
2. Rules for Counting Crime
   - It was impossible to count all crimes
     - Only those considered most reflective of public safety were counted
   - Through 2019, collected summary data only on 27 criminal violations, divided into two categories
     - Serious crimes
     - Less serious crimes
   - Categories named Part I crimes and Part II crimes, respectively

- These aggregate-level data are useful for summarizing crime trends
  - Lack incident-level detail for all crimes other than homicide
- Originally there were seven Part I offenses
  - Part I offenses defined
  - Crimes included
  - Violent Crime Index defined
- Part II offenses
  - Defined
  - Consist of 21 less serious offenses
  - Crimes included

3. The Modern UCR
   - FBI claims modern UCR is most comprehensive analysis of violent crime and public crime in nation
   - Crime data published in quarterly and annual reports
   - Annual report is the *Uniform Crime Report: Crime in the U.S.*
   - In addition, includes arrest, clearance, and law enforcement employee data
   - Clearance rate
     - Defined
     - What solved means
     - What solved does not mean
     - How crimes are cleared in most cases
4. The Crime Clock
   - Defined
   - One of the early data presentation strategies used by FBI
   - What it emphasizes
   - 2019 crime clock statistics

Teaching Tip: Review the 2019 crime clock statistics on page 29.

5. Uses of UCR Data
   - Over years, UCR data have become useful as databases for examining crime trends
   - Data have numerous purposes
   - Many agencies often anxiously await release of new UCR data
     - Reasons
   - Agencies across United States have been transitioning to UCR's incident-only reporting system: The National Incident-Based Reporting System (NIBRS)

6. The National Incident-Based Reporting System
    - FBI recognized shortcomings of UCR crime data survey methods and instituted plan to address many problems
    - NIBRS launched in March 1988
    - Incident-based reporting system in which more comprehensive crime information is presented
    - Takes advantage of computer technology now available
    - More than a simple summary of crime data
    - Additional data about crimes are reported
    - Data provide more insight into crime picture
    - Collects data on each single incident and arrest within 22 categories called Group A offenses
    - There are 11 Group B offense categories
        - ➢ Only arrest data are reported
    - Addresses some of the shortcomings of the UCR
        - ➢ Hierarchy rule not used
        - ➢ Hierarchy rule defined
    - Transition in 2021 to full participation in NIBRS as sole data collection and reporting source for U.S. law enforcement agencies had commenced

D. A Snapshot of the UCR

1. A Snapshot of the UCR
    - A voluntary reporting of crime data
    - Published in annual report
    - Crime of arson not included in “violent crimes”
        - ➢ Reason
    - In 2013, FBI revised definition of crime of “rape”
        - ➢ Reason
        - ➢ New definition
        - ➢ Important change
        - ➢ Result of adopting revised definition
    - For third consecutive year, SRS data indicated estimated number of violent crimes in United States has declined compared with statistics from previous year
    - Overall crime has decreased significantly during past two decades
    - 2019 statistics
2. Flaws in UCR Data
    - Data represent only crimes known to local and state police
    - Data are obtained through voluntary cooperation of local and state police agencies for data collection

  - Data are about local and state crimes, but definitions of crimes are not the same from place to place

E. National Crime Victimization Survey

1. National Crime Victimization Survey
    - Defined
    - Considered an "unofficial," though quite important, data source
    - Originated in 1972 when it was recognized that significant number of crimes go unreported
        - Dark figure of crime statistics defined
        - What it recognizes
    - UCR and NCVS report very different rates for crimes such as rape
        - Assumed NCVS does not capture true extent of crime of rape because it also underreports this crime
    - Collects victimization information from representative sample of U.S. households
        - Process
    - First survey conducted in 1973
    - Goals of the victimization survey
    - Gathers data about crime incidents and from crime victims
        - Thus, does not gather data about homicide

2. Deficiencies of the NCVS
    - Depends on self-reported data by the victim, which may be inaccurate
    - Survey sent to households so does not reliably pinpoint geographic location of the crimes
    - Household members who have previously withheld information about victimization from family members are not likely to report their victimization in the NCVS
    - Early survey shortcomings led to revisions in 1993 to provide more information on extent of victimization that occurred within families
3. Comparisons Between the UCR and the NCVS
    - UCR and NCVS designed to serve different purposes
    - Purpose of UCR versus purpose of NCVS
    - May report different data for several reasons
    - One purpose of NCVS is to capture crime not reported to law enforcement
        - For some crimes, there appears to be little difference between actual and reported crime
        - For other crimes, the gap is significant
    - UCR reports crimes against individuals, NCVS reports crimes against households
    - They do not have common definitions for some crimes

- With data from two databases, researchers can compare trends in reported crime to estimated total crime
- Apparent discrepancies between statistics can usually be accounted for by their definitional and procedural differences or the NCVS sampling method

Teaching Tip: Take a class survey and ask how many students have been the victim of a simple theft or larceny and did not report the event. Then comment on how that demonstrates the underreporting of crime in society.

III. Other Criminal Justice Data Banks

A. Other Criminal Justice Data Banks

1. Several federal agencies are dedicated to data collection

B. Bureau of Justice Statistics (BJS)

1. Defined
2. Established by federal legislation in 1979
   - Under the justice Systems Improvement Act of 1979
3. A component of the Office of Justice Programs in the U.S. Department of Justice
4. Mission of the BJS
5. Publishes number of annual and periodic reports of statistical data
6. Is one of the primary sources of statistical data on criminal justice system
7. Promotes itself as "the United States' primary source for criminal justice statistics"
8. Major data reports

C. National Criminal Justice Reference Service (NCJRS)

1. Defined
2. Established in 1972
3. Federally funded resource
4. What it offers
5. Where it can be accessed
6. Hosts one of the largest criminal and juvenile justice libraries and databases in the world
   - NCJRS Abstracts Database
   - Included resources

D. Sourcebook of Criminal Justice Statistics

1. Defined
2. Established in 1973
3. Brings together data from more than 200 resources
4. Funded by U.S. Department of Justice, BSJ
5. Project location
6. Wide range of sources included
7. May duplicate data found in other federal databases

E. School Crime Data

1. At one time, crime that occurred on K-12 campuses or college campuses was not captured
2. Crime Awareness and Campus Security Act of 1992
    - Defined
    - What it required
3. Safe and Drug-Free Schools and Communities Act of 1996
    - Defined what it required
4. Made it possible for parents and students to obtain crime data about educational institutions
    - Also influenced nation's crime data

F. State Surveys and Self-Reports

1. State-sponsored research
    - What this includes
    - Who conducts it
2. Self-reports
    - Who supplies the data
    - Who surveys are often administered to
    - What data often indicate

IV. Caution: Crime Statistics, Public Safety, and Predicting the Future

A. Caution: Crime Statistics, Public Safety, and Predicting the Future

1. Measures do not necessarily reflect public's fear of victimization
    - Victimization defined
2. Rising crime rates can cause public's fear of crime to rise, but lower crime rates do not necessarily result in less fear of victimization
3. One example community policing program in Honolulu, Hawaii
    - Findings
4. One final note regarding counting crime
5. Crime statistics
    - Defined
    - Indicate what has occurred, not what will occur
6. Methodology of data gathering changes and criminal laws and social values change over time
    - Thus, data may be unreliable when longitudinal comparisons are made
    - Longitudinal comparisons defined

B. The Demographics of Criminal Victimization

1. *Criminal Victimization*, 2019 statistics

2. After increasing 27% from 2015 to 2018, the rate of violent crime declined from 8.6 to 7.3 per 1,000 persons age 12 and older in 2019
   - Rate of property crime in 2019 declined from 108.2 to 101.4 victimizations per 1,000 households
3. Victimization by demographic characteristics showed similar data as previous years but there were some variations
4. Prevalence rates by race show that the most frequent victims are those who identify as "Other"
5. Victimization by age reflects data similar to previous surveys
   - Younger persons are victimized more often than older persons
   - Persons 18 to 24 years old are most often victimized
6. Victimization varies by marital status
7. During this period, gap between victimization rate for stranger violence (8.1%) and intimate partner violence (4.2%) has narrowed from previous years
8. The rate of firearms victimizations per 1,000 households remained the same at 1.7% in 2018 and 2019
9. Percentage of victimization reported to law enforcement was similar to data in 2018

C. Situational Characteristics of Victimization

1. Not surprising that spatial patterns of victimization are highly correlated with demographic distribution of people
2. Victimization more likely to occur in places where there is high density of high-risk social groups
3. Victimization is not randomly distributed by geography
   - *Criminal Victimization, 2016*
     - ➢ Higher rates of violence in the Midwest (27.0) and West (26.7) than in the South (16.3) or Northeast (16.7)
     - ➢ In general, there is higher rate of violent crime for urban areas (21.1) and suburban areas (22.3) than rate in rural areas (16.3)
     - ➢ Not true for all types of crime
   - *Crime in the United states, 2019*
     - ➢ While offenses in large cities are generally more numerous than offenses in smaller cities, there are some significant exceptions
4. Victimization theories develop hypotheses to explain why there are different rates of victimization and why there are exceptions to the general rule
   - One theory is dislocation
     - ➢ Dislocation defined
   - Some hypothesize that presence of a "capable guardian" affects victimization rate

V. The Victims' Rights Movement

A. Victimization results in financial, physical, and psychological harm to victim
   1. Some costs are easier to calculate than others
B. Effects of criminal victimization often include
   1. Secondary victimization
      - Defined
C. Victims' rights movement
   1. Defined
   2. What it grew out of
   3. What victims wanted
D. Several events were important to emergence of movement
   1. 1960s brought general concern about individual rights in many arenas
   2. Several government initiatives increased awareness and provided financial support for victims' assistance programs
   3. Number of victims' rights organizations increased dramatically and national coordinating bodies were founded
E. National Organization for Victim Assistance (N O V A)
   1. Defined
   2. Founded in 1976 accomplishments of N O V A
F. President Ronald Reagan
   1. Adopted victims' rights as one of his priority domestic policy issues
   2. In 1982, convened the President's Task Force on Victims of Crime
      - Made more than 60 recommendations for new legislation
G. Movement has had tremendous success
   1. Almost all legislative initiatives proposed by 1982 task force have been enacted
   2. All 50 states have passed a crime victims' bill of rights
   3. Some 29 states have amended their constitutions to focus on rights of crime victims
   4. Several federal laws have been passed
      - 1982 federal Victim and Witness Protection Act
         - What it establishes
   5. Crime Victims' Rights Act
      - Defined
      - Enacted in 2004

VI. Summary

LIST OF CHANGES/TRANSITION GUIDE

- Chapter Introduction, Think About It feature, and Case Study have been updated to reflect current events and issues in criminal justice.

- Graphs, tables, and data have been updated to reflect the most current data available. In some cases, new graphics and figures reflecting more current concerns have been added.

ADDITIONAL ASSIGNMENTS AND CLASS ACTIVITIES

Activity 1: Using the web search for the crime statistics for your city or a nearby metropolitan area. Ask students if they thought certain crime category statistic would be higher or lower?

Activity 2: Ask students to find a news article about a white-collar crime, and have them comment on whether they believe punishment by imprisonment would fit the nature of that offense.

Activity 3: Have your students develop a list of behaviors that were once criminal, but are now accepted as legal in today's society.

SUGGESTED ANSWERS TO END-OF-CHAPTER REVIEW QUESTIONS

Learning Objective 1: Describe the different types of data gathered from the various criminal justice data banks.

1. Why are the FBI's Uniform Crime Reports (UCR) crime-gathering methodologies considered flawed?

There are several major shortcomings of UCR data that encourage the collection of crime data by other means. One shortcoming is that UCR data represent only crimes that are known to local and state the police; unreported crimes are not included. Also, federal crime data are not included in the UCR. To this day, there is no official sanction of local and state police for failing to report crime data to the FBI. Thus, one should do historical trend analysis of UCR data with caution. Finally, UCR data are about local and state crimes, but definitions of crimes are not the same from place to place. In one jurisdiction, a felony theft might be defined as the taking of property valued at $100, whereas in another jurisdiction, the limit for felony theft might be $1,000. One of the most troublesome problems with UCR data was the definition of rape.

2. What are some of the similarities in data gathered by both the FBI's Uniform Crime Reports (UCR) and the National Crime Victimization Survey (NCVS)?

Both measures of crime report similar data for auto theft. The crime of auto theft is not underreported because most stolen vehicles are insured and insurance companies will not provide compensation to the victim unless the victim files a police report. Also the trend line of the two databases generally shows common characteristics. When the crime rate reported by the UCR is up, the NCVS shows a similar increase in crime reporting and vice versa.

3. What is meant by the term "dark figure of crime statistics?"

Unreported crime is called the dark figure of crime statistics in that it recognizes that the official data of crime reported to the police is lower than the actual crime rate.

4. Explain a deficiency in the National Crime Victimization Survey (NCVS)?

The NCVS depends on self-reported data by the victim, which may be inaccurate. The survey is sent to households, so it does not reliably pinpoint the geographic location of the crimes, as do the UCR data. Also, household members who have previously withheld information about victimization from family members are not likely to report their victimization in the NCVS.

5. Why is the National Incident-Based Reporting System (NIBRS) more comprehensive than other data banks?

Taking advantage of the computer technology that is now available in crime reporting, the NIBRS is more than a simple summary of crime data. Under the NIBRS, additional data about crimes are reported, including information about the place of occurrence, the weapon used, the type and value of property damaged or stolen, personal characteristics of the offender and the victim, the nature of any relationship between the two, and the disposition of the complaint. NIBRS data provide more insight into the crime picture, and researchers will have greater success in correlating crime data with other factors suspected of contributing to the incidence of crime and effective crime prevention.

6. Name three major federal agencies dedicated to crime data collection?

1. Federal Bureau of Investigation
2. Bureau of Justice Statistics
3. U.S. Department of Justice

Learning Objective 2: Explain why criminal justice statistics do not predict future crime or public attitudes toward public safety.

1. What group of people is most likely to fear crime? Why so?

Victimization data indicate that older individuals are the least victimized age group, but surveys show that they have the most fear of victimization.

2. Why do past crime statistics not offer a prediction of future such offenses?

Crime statistics do not predict the future. Because of the delay between the gathering and reporting of crime statistics, an alarming report of rising crime rates may be inaccurate. Some data concerning the criminal justice system are gathered annually; other data are gathered periodically every several years. Crime rates might already have dropped by the time a report is issued and might continue dropping, making drastic actions and new programs unnecessary. Also, the methodology of data gathering changes and the criminal laws and social values change over time. Thus, data may be unreliable when longitudinal comparisons of crime data are made from one time period to another.

3. Why are crime data considered only a "snapshot" of past criminal offenses?

Crime statistics indicate what crime has occurred, not what crime will occur. Crime statistics do not predict the future.

Learning Objective 3: Discuss how public perceptions of crime and victimization may influence changes in policy.

1. How have victims' rights been expanded over time?

Several events were important to the emergence of the victims' rights movement. First, the 1960s brought a general concern about individual rights in many arenas, including civil rights, women's rights, inmates' rights, gay rights, and students' rights. Second, several government initiatives increased awareness and provided financial support for victims' assistance programs. Third, the number of victims' rights organizations increased dramatically, and national coordinating bodies such as the National Organization for Victim Assistance (N O V A) were founded.

2. What newly passed federal legislation guarantees victims have the right to be heard in various stages of a criminal prosecution?

The new law, known as the Crime Victims' Rights Act, is the most successful effort of the crime victims' rights movement to date. The law amends Title 18 (Part II, Chapter 25/Section 3771) of the Federal Criminal Code. Federal law now guarantees crime victims the following rights: to be reasonably protected, notified, present, and heard at various stages in the criminal justice system; to confer with the prosecutor; to receive restitution; to expect proceedings free from unreasonable delay; and to be treated with fairness and respect.

3. Provide an example of how someone might suffer a secondary victimization.

Effects of criminal victimization often include additional suffering at the hands of unsupportive friends and family, the news media, and the criminal justice system. Secondary victimization refers to the victimization caused not by the criminal act, but by the inappropriate response of institutions and individuals. Victims of sexual assault may be shunned by their spouse, family, and friends and made to feel guilty and to blame themselves for the assault. Parents of missing children may be overwhelmed by demands of the news media. Even the criminal justice system can harm victims.

Chapter 3

Crime: The Search for Understanding

CHAPTER OVERVIEW

Prior to the 1700s, early explanations of deviant and criminal behavior were nonscientific and based upon superstitions. The earliest school of criminology (1700s) was the Classical school, whose premise was that crime was a free-will choice. During the early 1800s, the biological theories emerged, with the premise that criminal nature was an inherited characteristic. These early theorists would provide the foundation for the transformation to more modern scientific theories of crime causation.

During the 1700s, the classical and neoclassical theories of crime causation facilitated an evolution from early nonscientific theories to more modern scientific theories of crime causation. Herein, the choice to commit a crime was not seen as a result of evil spirits or magic, but rather as a rational choice by the offender. The pain versus pleasure principle was a popular philosophical truism of this era, reasoning that people seek to do what brings them pleasure and to avoid activities that cause pain.

The twentieth century saw a new era of scientific inquiry, and the emergence of the positivist school. Positive theories included biology, psychology, and sociology. Scientific method emphasized that facts about criminal behavior be gathered through observations, surveys, statistics, and experiments. Modern theories reject the premise that humans are divided into criminals and non-criminals, but suggest that biological factors, such as genetics, biochemistry, and brain functioning, might play a part in influencing the path to criminal behavior.

At the end of the 1800s, Sigmund Freud introduced his new psychoanalytic theory. Freud based his theory on the assumption that behavior is controlled by subconscious desires. Although Freud was not a criminologist, his theory has been applied extensively to the study of criminals. Today, many psychoanalytic theories suggest that murder, mass and serial murder, and sexually motivated murders are rooted in psychological conflicts. Additionally, psychological theories of crime causation are commonly used in treatment programs with juvenile offenders, drug offenders, and sex offenders, as part of group therapy sessions as a rehabilitation strategy.

Sociological theorists view social forces, groups, and institutions as the root cause of criminal behavior. Early sociologists of the twentieth century explained social disorder, social disorganization, and the environment as influencing criminal choice. Dr. Edwin Sutherland developed the differential association theory, which became one of the most widely accepted theories of crime causation, based upon social learning theories. In today's contemporary criminal justice system, social control theories support rehabilitation efforts through prison industry and educational programs. Hence, an offender is encouraged by educational achievement that will create more economic opportunities and deter future criminal behavior.

Criminologists continue to develop new theories of crime causation. Modern day researchers evaluate theories from the past, to propose new variables and perspectives to explain deviant behavior. Three theories that became popular in the twentieth century included labeling theory, conflict theory, and feminist criminology. Currently, sociological explanations of crime are the most popular for scholars and the criminal justice system.

Many times crime victimization is not random. Various factors can influence who is victimized and when the victimization might occur. The study of victimization seeks to explain why some people are victims and others are not. The two most prominent explanations as to the cause of victimization are victim-precipitation theories and lifestyle theories. Victim-precipitation examines the role victims play in precipitating their own victimization, whereas lifestyle theories view the environment as a factor affecting the probability of victimization. Several lifestyle theories purport personal victimization as a result of a victim's high-risk behavior patterns and relationships.

CHAPTER OBJECTIVES

1. Describe the development of criminological theories from early theories to contemporary theories.
2. Identify the major principles of classical and neoclassical theories and understand their influences on early American law.
3. Describe the major principles of positivist theories.
4. Compare and contrast theoretical perspectives from the Chicago School of Criminology.
5. Discuss why no one theory can explain crime.
6. Summarize the theories of victimization and their influence on crime prevention policies.

LECTURE OUTLINE

I. Introduction

II. The Development of Criminology Theory

   A. The Development of Criminology Theory

      1. Mass killings have created a crisis throughout the nation
         - While first response is to question nature of the shootings, resounding concerns relate to ways by which several shooters have escaped detection despite histories of psychological disturbances and/or threats of violence
         - How some perceive the crime problem
         - One common perception
         - Explanations reflect medieval times
      2. Criminology
         - Defined
         - Goal of criminology
         - There is also the matter of understanding risk for victimization
         - Early criminological theories
         - Contemporary theories
         - Despite refinement of modern theories, often public opinion is still based upon emotional fears that are often irrational and not based on facts
         - Attempts to answer many important questions
         - Plays an important role in the criminal justice system
         - What theories are used for

3. Understanding crime is best described as search for knowledge and variables regarding causes of criminal behavior

B. Diversity of Explanations of Criminal Behavior
1. Explanations are numerous and diverse
2. Theories may even be contradictory
3. Some theories may appear rather bizarre
4. Some have become more accepted by the criminal justice system than others
   - Theories that are most incorporated
5. People who explore causes of crime are interested in both formal systems for the control of behavior and the informal systems of control
   - Interested in observing how these systems influence behavior and what happens when conflicts arise between these various control systems
6. Theory
   - Defined
   - Can be based on observations or inferences
   - How they are tested
   - Purpose of a theory
   - What they attempt to define and explain

C. Major Theoretical Perspectives
1. Explanations are based on different standards of reliable knowledge
2. Some are merely commonly held beliefs by the public often based on prejudice, stereotyping, and limited data
   - Some of these may prescribe criminal attributes to entire groups of people
   - Others are based on belief in supernatural forces and witchcraft
3. Some beliefs may be based on authority
   - Does not make them accurate or reliable

Teaching Tip: As an introduction to this topic, consider showing the class a picture of a well-known criminal (for example, Al Capone, Jeffrey Dahmer, or Charles Manson). Describe their criminal activities and any background information you can find about them. Discuss how the various theoretical schools would attempt to explain that person’s behavior. For example, the biological theorists might argue that Jeffrey Dahmer was born to be a serial murderer. However, sociological theorists would argue that his environment shaped him. As you proceed through the lesson you can keep referring back to this example.

D. The Path from Early to Modern Theories of Crime Causation
1. Nonscientific theories
   - Defined
   - What early (pre-1700s) theories emphasized
   - Derived from nonscientific methodologies
   - Investigations into these theories

- Principles often based on social and religious morals instead of empirical observations and facts
- Belief regarding cause of deviant and criminal behaviors

2. Modern theories of crime causation
   - Are complex
   - They recognize interaction of many variables as being necessary and sufficient in explaining behavior
   - Based on scientific inquiry
   - Have developed from simple theories with few variables to complex theories built on extensive data and research
3. Various theories of crime causation since 1700s can be divided into three groups based on the primary belief in the cause of the criminality
   - Groups are called schools
   - Each school has central premise for cause of criminal behavior
   - Various theories within that school enhance or modify basic premise explaining criminal behavior
4. Classical School
   - Defined
   - Earliest school of criminological thought
   - Dates from mid-1700s
   - Reason for name
   - Primary premise
5. Positivist School (positivism)
   - Defined
   - Next school of thought to emerge
   - Main premise
   - What crime is attributed to under these theories
   - Determinism defined
   - Stands in stark contrast to classical perspective
   - Biological determinism defined
   - Psychological determinism defined
   - Social determinism defined
   - Began to emerge in early 1800s
6. Chicago School of Criminology
   - Defined
   - Emerged at turn of 20th century
   - Main premise
   - Assumption of theories belonging to this school of thought

- Differ in what each believes to be primary cause of criminal behavior, all attempt to generalize principles that can explain factors that influence offending, victimization, and rehabilitation

III. Classical and Neoclassical Theories

A. Classical and Neoclassical Theories

1. Emerged in mid-1700s
2. Bridged transition from early nonscientific theories to modern scientific theories
3. Abandoned old explanations and assumed there was a logical explanation of human behavior
4. Theorists were first to propose
    - Crime is matter of free choice
    - Criminal should have rights in system
    - Prevention of crime should be based on altering the factors that caused crime
5. Assumption of theories
6. Neoclassical theories
    - Emerged after first classical theories
    - Were modifications of classical theories
    - Neoclassical theories defined
7. Difference between classical and neoclassical theories
8. Two theorists considered founders of classical and neoclassical criminology

B. Cesare Beccaria: Pain-Pleasure Principle

1. Cesare Beccaria (1738–1794)
2. Considered founder of classical criminology
    - Theories of crime marked beginning of new approach to criminological thought that would eventually lead to modern theories
3. Dissatisfied with justice system of his time
    - Italian criminal justice system during 1700s
4. Based his theory on pain-pleasure principle
5. Influenced by Age of Enlightenment (1685–1815)
6. Basis for ideas on cause of criminal behavior
7. Reasoning and assumptions
8. Reason for continued presence of crime in 18th-century Italian society
9. Opposed death penalty
    - Reasoning
10. Argued for swift, certain, and appropriate punishments to deter people from criminal behavior

C. Bentham and Neoclassical Theory

1. Jeremy Bentham (1748–1832)
2. Considered founder of neoclassical criminology

3. Major difference between Beccaria and Bentham
4. Believed in mitigating circumstances
5. Opposed to death penalty
6. Reasoned that people are calculating humans
7. Theory regarding balance of pain and pleasure as means to discourage criminal behavior known as felicitic calculus
    - Felicitic calculus defined
8. Philosophy called utilitarianism
    - Utilitarianism defined
9. Principles his philosophy was based on

D. Classical and Neoclassical Criminology and the Contemporary Criminal Justice System

1. Today, ideas remain popular
2. Contemporary criminal justice system is largely based on these principles
3. Concept that crime is free-will choice is central to punishment
4. Bentham's philosophy became foundation of English jurisprudence system
    - Strongly influenced and are reflected in American jurisprudence
5. These theories tend to center on the characteristics of a crime event

Teaching Tip: After discussing classical thought and explaining that this theory is the foundation for jurisprudence in the United States, consider having the students come up with possible responses by our criminal justice system to control crime based on this theory. You can continue this questioning after each school of thought is taught, such as biological, psychological, and social. This can help the students gain perspective of the purpose of theories.

IV. The Positivist School of Criminology

A. The Positivist School of Criminology

1. 20th century ushered in a new era of scientific inquiry
2. Many of the scientific fields that emerged at turn of 20th century offered innovative theories to explain human behavior
3. Scholars quickly adopted this new knowledge to explain criminal behavior
    - Often validity of these new explanations was tested through the criminal justice system
4. Emphasis common to these new theories
    - Scientific method defined
    - More of a philosophy than a single methodology for testing hypotheses
    - General agreement that methodology used must result in reliable data and others must be able to replicate the methodology
    - Assumption underlying scientific method
    - Neither classical nor neoclassical theories were based on data produced by scientific method
    - What scientific method emphasizes

5. Positivist School
    - Defined
    - Includes most modern theories of criminology
    - Can be divided into three major schools based on emphasis of primary cause of crime
        - Biology, psychology, and sociology
6. Premise that many of the modern positivist theories of crime are based on
7. Scholars and scientists who advocate one of these theories are also known as determinists
    - Determinists defined
8. Implication of the theories

B. The Foundations of Biological Explanations

1. Darwin's *Origin of Species* (1859)
    - Provided important portal for development of new positivist criminological theories
2. One of the common dilemmas in advancement of premodern criminological theories
    - Foundational belief posed great difficulties for any theory asserting that some are not created good, but are bad from birth
3. Early 19th-century biological theories
    - Emphasis
    - Assumption of original cause of criminality
4. Two early studies attempting to apply heredity model to analysis of criminal behavior
    - Study of Ada Jukes family tree by Richard Dugdale (1841–1883)
    - Study of Martin Kallikak's family tree by Henry Goddard (1866–1957)
    - These studies did not use scientific method of research
        - What they did use
    - Conclusions by Goddard
5. Despite defects in scholarship, studies such as these set stage for developments in Positivist School of Criminology

C. Lombroso, Founder of Modern Criminology

1. Cesare Lombroso (1835–1909)
2. Particularly influenced by previous scholars whose writings suggested that criminality was inherited
3. Collected extensive data from confined Italian persons and Italian military personnel
4. Belief regarding criminal behavior
5. Believed criminals could be clearly differentiated from noncriminals on basis of distinctive physical features

6. Concluded that criminals were cases of atavism
   - Atavism defined
7. Two distinct species of humans existed
   - Noncriminal and criminal man
     - Criminal man defined
   - Atavistic stigmata defined
8. Led him to posit that besides “criminal man” or the “born criminal,” there were other types of criminals
   - In some of these, factors other than genetics appeared to be more influential in determining behavior
9. Basic assumption has been discredited by contemporary research
10. Despite rebuff, known as founder of scientific criminology
11. Theories further developed by Raffaele Garofalo (1851–1934) and Enrico Ferri (1856–1929)
    - Theories contained significant deviations from Lombroso, central theme remained the same
    - Ferri was more hopeful that preventive measures could overcome congenital tendencies
    - Garofalo focused more on psychic anomalies and reform of Italy’s judicial system

D. Lombroso and the Contemporary Criminal Justice System

1. Despite being later invalidated, his theory was and continues to be influential in study of criminology and on the system
2. Impact on way prison inmates were treated in 19th and early 20th centuries
3. Impact on rehabilitation and the “medical model”
4. Theory provided little insight into women who commit crime

E. Modern Biological Explanations
1. Premise they reject
2. Posit that organic factors may exert influences leading to criminal behavior
   - Studies and conclusions of research of identical twins by Karl O. Christiansen
3. Arguments by proponents of the biological perspective
4. What modern biocriminologists concede
   - Biocriminology defined
5. Modern biology-based theories identify diverse number of variables
6. When these theories have often emerged
   - XYY chromosome theory of violent behavior
     - Defined
     - What it illustrates and suggests

F. Biological Theories and the Contemporary Criminal Justice System
   1. Have not been integrated into the criminal justice system
   2. Would require extensive reform of system if they were
   3. System based on assumption that criminal behavior is free-will choice
G. The Foundations of Psychological Explanations
   1. Psychoanalytic theory
   2. Introduced by Sigmund Freud at end of 1800s
   3. Underlying assumption of theory
   4. Concept at root of Freud's theory is that human thoughts and actions are controlled by three components of unconscious mind
      - Id defined
      - Ego defined
      - Superego defined
   5. Based on theory that motive for behaviors may not be known to the person
   6. What motivated human behavior
   7. Did not focus on study of criminal behavior
   8. Simplification of application of his theory to criminal behavior
      - What causes conflict
H. Psychological Theories and the Contemporary Criminal Justice System
   1. Other psychological theories have been used or adopted by the juvenile and criminal justice systems
   2. Have been used in the insanity plea
   3. Psychology and psychiatry are foundation of criminal profiling
      - Psychological profiles defined
   4. Are commonly used in rehabilitation
I. The Foundations of Sociological Explanations
   1. Social determinism
      - Defined
      - Not restricted to theories of criminal behavior
      - Theories often based in academic discipline of sociology
   2. Sociology
      - Discipline emerged at beginning of 20th century
      - University of Chicago established on of the first departments in the United States
      - Chicago School of Criminology defined

V. The Chicago School of Criminology
   A. The Chicago School of Criminology
      1. Has within it numerous sociologically based theories
      2. Most are macro-level theories

3. Each emphasizes a different element within society as primary influence(s) on behavior
4. Can be divided into three major categories

B. Social Structure Theories
1. Social Disorganization Theory
    - Defined
    - Origination of theory
    - Premise behind theory
    - Concentric zone model (Burgess model) defined
2. Concentric Zone Theory
    - Premise behind theory
    - Studies by Shaw and McKay
    - Early urban sociologist Robert Park and his students
        - ➢ Study of relationship between urbanization and social isolation based on Durkheim's theory of anomie
        - ➢ Anomie defined
3. Strain Theory
    - Assumptions of theory
    - Four modes of adaptation
        - ➢ Conformity
        - ➢ Innovation
        - ➢ Ritualism
        - ➢ Retreatism
    - What the theory posits
    - What the theory defines
    - Fifth mode of adaptation
        - ➢ Rebellion
    - Self-fulfilling prophecy defined
    - Prediction of the theory
    - Difficult to test by use of scientific method

C. Social Control Theories
1. Social Control Theories
    - Defined
    - Social institutions
    - Assumptions of theory
    - Influence of formal and informal systems of social control
    - What studies focus on and what question they attempt to answer
    - What they emphasize

2. Neutralization Theory
   - Defined
   - Sykes and Matza
   - Assumptions of theory
   - Neutralization techniques
3. Social Bonds Theory
   - Social bond defined
   - Assumptions of theory
   - Four elements of the social bond
   - One of the most frequently tested theories
   - Thesis has been well supported by research
   - Gottfredson and Hirschi's General Theory of Crime (GTC)
     - Primary thesis

D. Social Interactionism Theories
1. Learning Theories
   - Learning theory and concept of socialization were basis for differential association theory
   - Differential association theory defined
   - Proposed by Edwin Sutherland
   - Assumptions of theory
   - Sutherland's explanation of deviance
   - What it can explain due to basis in learning theory
   - What it emphasizes
   - One of the most used theories
   - Proponents of learning theory
   - Shortcomings of learning theories
2. Cultural Deviance (Subculture) Theories
   - Defined
   - Assumptions of theories
   - Impact of deviant subcultures
   - What the theories focus on
   - Focus of early cultural deviance theorists
   - Albert Cohen's reaction formation
     - Reaction formation defined
3. Cultural Diversity as the Cause of Crime
   - Thomas Sellin (1938)
     - Arguments and beliefs

- Proposed two types of cultural conflict: primary and secondary
- Primary conflict defined
- Secondary conflict defined

- Examples in which cultural diversity is considered criminal
- Female genital mutilation (FGM) defined

E. Theoretical Developments from the Sociological Perspective

1. Theoretical Developments from the Sociological Perspective
   - New theories continue to be developed
   - Often based on principles posed by earlier theories
2. Labeling Theory
   - Defined
   - Assumption of theory
   - Arguments by advocates of theory
   - Single best example of belief in labeling theory
3. Conflict Theories
   - Defined
   - Assumptions of theories
   - Have roots in social criticisms of Karl Marx and Friedrich Engels in 19th-century Europe
   - Suggestions by present-day conflict theorists
   - Richard Quinney in 1960s
   - Criticisms of mainstream criminology and the criminal justice system
   - Radical criminologists defined
   - Institutional discrimination defined
4. Critical Race Theory
   - Assumptions of theory
   - Evolution of theory
   - A movement from which both scholars and activists have studied race as a social construct
   - Key tenets of the theory
   - Purpose of CRT
   - When it is utilized
5. Feminist Criminology
   - Defined
   - Assumptions of theory
   - Advocates of theory
   - Liberation Hypothesis defined

F. Chicago School of Criminology and the Contemporary Criminal Justice System

1. Since 1930s, social disorganization theory and especially concentric zone theory have had strong influence on crime-prevention efforts
2. Crime prevention through experimental design (CPTED)
   - Foundations of theory

VI. Challenges to Explaining Crime

A. No single theory can explain crime

B. Not easy to explain crime because of complex nature and many variables that influence criminal behavior

C. Ethical standards of behavior

1. Defined
2. Can complicate experimentation with humans

D. Due to limitations, often difficult for researchers to differentiate between causal variables and correlation

1. Causal variables
   - Defined
   - Often difficult to identify in human research
2. Correlation
   - Defined
   - Shows relationship but does not establish causality

E. Most modern criminologists have abandoned belief that criminals are completely different from noncriminals

F. Sociological explanations at present

VII. The Other Side of Crime: Victimization

A. Victimology

1. Defined
2. Importance of this research
3. National data support observation that crime victimization is not random
4. Theoretical developments in this area closely resemble neoclassical criminology
5. What the theories presume

B. Victim-Precipitation Theories

1. Defined
2. Concept they are based on
3. Assumption of these theories
4. Meaning of victim precipitation
   - Three facets
5. Focus of theories
6. Critiques of theories

C. Lifestyle Theories of Victimization
   1. Defined
   2. Assumptions of these theories
   3. Conditions that must be met for a personal victimization to occur
   4. Lifestyle according to these theories

D. Routine Activities Theory
   1. Focus of this theory
   2. Defined
   3. Assumptions of theory
   4. Most important to explanations for criminal victimization are differential opportunities
   5. Approach is limited to explanation for predatory crime
      - Predatory crime defined
   6. Predatory victimization depends on three variables in social situation
      - Presence of at least one likely offender
      - Presence of at least one suitable target
      - Absence of capable guardians
   7. What theory is unconcerned with
   8. What explanations call attention to

E. Rational Choice Theories of Victimization

   1. Assumptions and belief of theory
   2. Target hardening
      - Defined
      - One way to reduce victimization
      - Examples

VIII. Conclusion: More Questions Than Answers
   A. Search for cause(s) of criminal behavior has not produced definitive answers
   B. Foundational knowledge of fields of criminology, victimology, and criminal justice data is essential to understanding what works and where resources should be invested

IX. Summary

LIST OF CHANGES/TRANSTION GUIDE

- Chapter Introduction, Think About It feature, and Case Study have been updated to reflect current events and issues in criminal justice.
- Chapter timeline has been updated to include current events that have influenced the criminal justice system. This timeline helps students understand the historical development of the criminal justice system and place events in chronological order.
- Graphs, tables, and data have been updated to reflect the most current data available. In some cases, new graphics and figures reflecting more current concerns have been added.
- This chapter now incorporates critical race theory (CRT).

ADDITIONAL ASSIGNMENTS AND CLASS ACTIVITIES

Activity 1: Have students arrange for in-person or online interviews with various representatives of the criminal justice system. Ask students to do briefly explain to the criminal justice professionals who are interviewed about the theories of criminal behavior described in this chapter. Have students ask the professionals which of the theoretical approaches they think is most applicable to the kinds of offenders with whom they have dealt. Find out why these professionals think as they do, and report back to the class.

Activity 2: Have the students locate and tour a disorganized urban area near your community. Have them come to class with some pictures and ready to discuss what factors are present in this area that may serve to produce high crime rates and what ideas they have for reducing crime in this community?

Activity 3: Ask students to observe behaviors of others and write down ones they deem deviant. Ask them if they believe these deviant actions could contribute in any way to future criminal actions.

SUGGESTED ANSWERS TO END-OF-CHAPTER REVIEW QUESTIONS

Learning Objective 1: Describe the development of criminological theories from early theories to contemporary theories.

1. How is a theory tested?

Theories are tested by formulating a hypothesis that allows for the empirical testing of the relationship between variables.

2. What is the difference between classical and neoclassical theories?

Neoclassical theories emerged after the first classical theories and were modifications of classical theories. Neoclassical theories of crime causation are similar to Classical School theories except for the belief that there are mitigating circumstances for criminal acts, such as the age or mental capacity of the offender, and that punishment should fit the crime. Classical theories assumed that all people, including children and adults with mental impairment, made free-will choices to commit crimes and should be held to the same standard of accountability and punishment.

3. Explain how the premise of psychological theories and sociological theories differs.

Psychological theories (like biological theories) do not posit that crime is a result of free will. According to Freudian theory, crime is a symptom of a person's unresolved psychological conflict. This conflict is caused by free-floating feelings of guilt, anxiety, repression, transference, psychosexual conflicts, and libido.

Sociological theories are based on the idea that forces within society—social forces and social groups and institutions—are the causes of criminal behavior reflect a philosophy called social determinism. Social determinism says that relations, social interactions, social expectations, and pressures exerted by peers and institutions—not free will, biology, or psychology—determine criminal behavior.

Learning Objective 2: Identify the major principles of classical and neoclassical theories and understand their influences on early American law.

1. Who were the founders of classical and neoclassical criminology?

Two theorists representing the classical and neoclassical theories are Cesare Beccaria (1738–1794) and Jeremy Bentham (1748–1832), who are considered the founders of classical and neoclassical criminology, respectively.

2. Describe the basic hypothesis of the classical and neoclassical viewpoint.

Neoclassical theories are similar to the Classical School in that the basic foundation is the concept that criminal behavior is a matter of free will and the choice to commit criminal behavior can be deterred by pain and punishment. The major difference between Beccaria's classical theory of criminology and Bentham's neoclassical theory is that Bentham believed that Beccaria's unwavering accountability of all offenders was too harsh. Bentham believed in mitigating circumstances.

3. What was the name of the principle upon which Cesare Beccaria based his theory of classical criminology?

Beccaria based his theory on what he called the pain–pleasure principle.

Learning Objective 3: Describe the major principles of positivist theories.

1. How are psychological theories used in the insanity defense?

The insanity plea asserts that the defendant is not responsible for their behavior due to a disease or defect of the mind that rendered the defendant unable to appreciate the criminality of their actions. (The definition of insanity varies from state to state.) Thus, a common characteristic of a trial in which the defendant has pleaded not guilty by reason of insanity is the testimony of a number of expert witnesses composed of psychologists and psychiatrists attesting whether the defendant had such a disorder. The expert witnesses cannot testify that the defendant is insane, as that is the role of the jury.

2. What was the basis for the XYY chromosome theory of violent behavior?

The typical male individual has an X and Y chromosome in the cells that determine the sex of a person. It was discovered that some male individuals have an extra Y chromosome, and studies of male prison inmates convicted of violent crimes have found a high correlation between conviction for a violent crime and the presence of an extra Y chromosome.

3. What is the sociological perspective for explaining crime?

Sociological theories are based on the idea that forces within society—social forces and social groups and institutions—are the causes of criminal behavior reflect a philosophy called social determinism. Social determinism says that relations, social interactions, social expectations, and pressures exerted by peers and institutions—not free will, biology, or psychology—determine criminal behavior.

4. Why have biological theories not been integrated into the criminal justice system?

If biological theories were to be widely accepted as the cause of criminal behavior, it would require extensive reform of the criminal justice system. The criminal justice system is based on the assumption that criminal behavior is a free-will choice. If criminal behavior is not a free-will choice, it would change the concept of guilt and eliminate the bases for punishment by imprisonment. If criminality were caused by uncontrollable biological factors, it would be cruel and unusual punishment to incarcerate people for that which they had no control over and could not change and imprisonment would not change.

5. Why are educational programs an important part of prison rehabilitation?

Merton's strain theory predicted that the greatest proportion of crime would be found in the lower classes because, Merton believed, members of the lower class have the least opportunity to reach middle-class goals legitimately and believe less in their ability. Based on this premise, many crime-prevention programs have focused on improving the lot of people with low income and developing programs and institutions that would instill confidence and ability in a person's belief regarding their potential success. Programs such as Head Start and Job Corps, which are aimed at providing economic opportunities to people with low income and encouraging educational achievement, are justified by the belief that economic opportunity deters crime. This theory supports prison industry programs and prison education programs that improve the self-esteem of inmates and help prepare them to support themselves through legitimate employment when released from prison.

Learning Objective 4: Compare and contrast theoretical perspectives from the Chicago School of Criminology.

1. What do Chicago School criminologists believe to be the underlying cause of crime in society?

The Chicago School has within it numerous sociologically based theories. Although most of them are macro-level theories, each one emphasizes a different element within society as the primary influence(s) on behavior, such as poverty, social structure, peer interactions, the formation of subcultures or gangs, and stigma.

2. How does strain theory explain deviant outcomes?

Sociologist Robert Merton's strain theory assumes that people seek to fulfill the American dream of economic success. His theory assumes that people are motivated to achieve the comforts and security of a middle-class lifestyle, but that some people find that they cannot achieve this goal through traditional, socially acceptable means. Those people strain to achieve the expectations and roles of the "reference group"—those who have achieved monetary success. Merton's strain theory says that the pursuit of monetary success will exert influences on people that will affect the outcome of a situation or the way a person or group will behave. Merton said that behavior will in part depend on a person's attitude regarding the goal of economic success and their attitude toward the means of achieving the goal. According to Merton, a person's attitude toward the goal and the means of achieving the goal will result in four modes of adaptation: conformity, innovation, ritualism, or retreatism.

3. How is social control theory used in the contemporary criminal justice system?

Merton's strain theory predicted that the greatest proportion of crime would be found in the lower classes because, Merton believed, members of the lower class have the least opportunity to reach middle-class goals legitimately and believe less in their ability. Based on this premise, many crime-prevention programs have focused on improving the lot of the poor and developing programs and institutions that would instill confidence and ability in a person's belief regarding their potential success. Programs such as Head Start and Job Corps, which are aimed at providing economic opportunities to the poor and disadvantaged and encouraging educational achievement, are justified by the belief that economic opportunity deters crime.

1. How does the labeling theory explain juvenile delinquency?

Labeling theory focuses on explaining deviant behavior, especially juvenile delinquency, by examining society's reactions to behaviors that are defined as deviant. Advocates of labeling theory argue that everyone commits crime. It is society's reaction and the internalization of that reaction that create criminals.

2. What assumption is the conflict theory based upon?

Conflict theories are based on the assumption that powerful ruling political and social elites—people, groups, and institutions—exploit the less powerful and use the criminal justice system to their own advantage to maintain their power and privilege. In this view, criminology is the study of crime in relation to society's haves and have-nots.

3. What is the feminist perspective for explaining crime?

Feminist criminology assumes that the underlying cause of criminal behavior by women is the inequality of power between men and women. Advocates such as Freda Adler, Meda Chesney-Lind, Kathleen Daly, and Sally Simpson argue that the inequality of political, economic, and social power and wealth is the root cause of women's criminal behavior.

Learning Objective 5: Discuss why no one theory can explain crime.

1. Explain the key distinction between determining causation and correlation in explanations of crime.

Causal variables directly influence the outcome of relationships. While causal variables can be identified in physical science, often it is difficult to identify causal variables in human research. It is more common in social research to establish correlations rather than causality. Correlation is the state of two variables being associated with each other in that when one increases, the other increases or decreases in a predictable pattern. Correlation shows relationship but does not establish causality.

2. Detail how ethics might play a major part in the study of criminal behavior.

The investigation of the influence of causal variables on criminal behavior is complicated by the ethical and legal constraints concerning experimentation with humans. Experiments with humans, especially experiments in which the participants may suffer physical or psychological harm, are strictly regulated. Ethical standards of behavior , which are enforced through legal sanctions, prohibit experimentation that may harm participants and regulate the degree of deception of participants that researchers may use in an experiment. Researchers cannot manipulate the variables of single family homes, socioeconomic status, and peer pressure to test the various theories of crime causation. Instead, researchers must rely on secondary statistical data, correlations, and other measures without the ability to manipulate the actual variables.

3. What are the three primary areas of study under which most criminological theories are developed?

Biology, psychology, and sociology.

4. Which of the previously identified areas has been currently identified as the most popular type of explanation among scholars, and why might that be the case?

At present, sociological explanations are most popular for use by scholars and the criminal justice system. Many of the rehabilitation, treatment, and prevention programs in the criminal justice system are based on the premises hypothesized by sociological theories. Theory must underlie the various rehabilitation, treatment, and prevention programs because without an underlying theoretical foundation, the various attempts to reduce crime and to rehabilitate offenders are nothing more than guesses.

Learning Objective 6: Summarize the theories of victimization and their influence on crime prevention policies.

1. Detail how victimization rates are not randomly distributed geographically in the United States.

Patterns of victimization show differences for ethnicity, income, gender, time, and age. Furthermore, for the last 30 years, victimization data show a high degree of consistency with respect to where and when victimization occurs and who is victimized.

According to Criminal Victimization, 2014, there is a higher rate of violent victimization in the Midwest (20.6) than in the West (20.3), South (20.2), or Northeast (19.9). In general, there is a higher rate of violent crime for urban areas (22.2) than for suburban areas (19.3) or rural areas (18.3). However, this is not true for all types of crime. According to Crime in the United States, 2014, while the offenses in large cities are generally more numerous than offenses in smaller cities, there are some significant exceptions.

2. Explain how a person could precipitate their own victimization.

Victim-precipitation theories are based on the concept that victims themselves precipitate, contribute to, provoke, or actually cause the outcome of their victimization. These theories assume that some crimes, especially violent crimes, are interactions or transactions between victims and offenders. In this interaction, the victim often influences their own criminal victimization. Victim precipitation means that the victim is not simply an object acted upon by a criminal or is selected at random.

3. Provide an example of a high-risk lifestyle that might play a role in someone being a victim of crime.

According to lifestyle theory, a woman living in public housing and using public transportation to return home from work at night would be more likely to be victimized than a woman living in an upper-class neighborhood who uses her automobile to return home from work in the afternoon.

4. What are the three variables of the routine activities theory?

Predatory victimization depends on the interaction of the following three variables in a social situation:

1. The presence of at least one likely offender
2. The presence of at least one suitable target
3. The absence of capable guardians (who might prevent the crime)

Chapter 4

Criminal Law: Crimes and the Limits of Law

CHAPTER OVERVIEW

Federal criminal laws must be initiated as bills in the Senate or House of Representatives and are enacted or amended by a majority vote of both, unless the president takes no action or vetoes them, in which case a two-thirds majority vote of both the House and Senate is required. The process for state criminal laws is similar, except the governor plays the role of the president. Local criminal laws, which most are misdemeanors or violations, are produced in diverse ways by city councils and county governments.

Our government is restricted in making laws. There are seven common benchmarks established by the U.S. Supreme Court to define the legality of criminal laws: These benchmarks include: (1) principles of legality, (2) ex post facto law, (3) due process, (4) void for vagueness, (5) right to privacy, (6) void for overbreadth, and (7) cruel and unusual punishment. The U.S. Supreme Court has held that if fairly applied, the death penalty is not cruel and unusual punishment.

The elements of a crime that must be present for prosecution are actus reus, in which a person voluntarily committed a criminal act, and mens rea, in which a person committed a crime with the intention to do so. Strict liability crimes are actions that are considered criminal without the need to prove the mens rea. Inchoate offenses known as incomplete crimes are subject to punishment. The three common inchoate offenses are solicitation, conspiracy, and attempt.

There are numerous defenses a person can offer at trial to justify their actions. Defenses to a criminal charge can be either a perfect defense, or an imperfect defense. The most common defenses against criminal charges include: (1) alibi, (2) consent or condoning by the victim, (3) entrapment, frame-up, and outrageous government conduct, (4) immunity or privilege, (5) involuntary actions, (6) mistake or ignorance of fact of law, (7) necessity, (8) self-defense, (9) youth, and (10) the insanity defense.

The laws governing society are numerous, complex, and diverse. Federal, state, and local governments have specific, different, and overlapping criminal codes. Crimes are often classified according to the Model Penal Code. The Model Penal Code is not the law of the federal government or any state government but is a set of guidelines developed in 1962 by the American Law Institute for what are considered the best practices or legal codes. The Model Penal Code classifies crime according to the victim of the crime. Crimes are classified in the following ways: crimes against the state, crimes against persons, crimes against habitation, and crimes against property.

Criminal laws are in a constant state of change as new laws are enacted and old laws are removed from the legal code or declared unconstitutional by the courts. In a sense, criminal laws are suggested behavior, as a criminal law prohibiting a behavior does not guarantee that that behavior will not occur. In many incidences, it can be shown that laws reflect community values by prohibiting behaviors that are contrary to the values of the community and approving of values that conform to community norms. The other view is that laws shape community values. This view argues that laws, even when it is known that the laws are contrary to community values, are essential in changing behavior from what is to what is desired. All societies have laws to regulate behaviors. It is important to examine the laws of a society to ensure they promote public safety but do not sacrifice rights of its citizens.

CHAPTER OBJECTIVES

1. Describe how federal, state, and local criminal laws are created and changed.
2. Describe the limits of law.
3. List the elements of a crime that must be proven by the prosecutor in a criminal case.
4. Identify the various defenses used to answer against changes of criminal misconduct.
5. Explain how crimes are classified and defined according to the Model Penal Code.
6. Debate whether laws reflect community values or shape community values.

LECTURE OUTLINE

I. Introduction

II. The Rule of Law: We the People
   - A. Behavior is regulated by laws
   - B. There are administrative laws, civil laws, and criminal laws
   - C. Prior to founding of United States, most nations were governed by monarchies, dictatorships, or religious leaders
      1. Concept of a democratic government was unfamiliar to nations of 18th century
      2. Source of law in these nations
   - D. After separating from political rule of England, newly formed U.S. government rejected model of government based on either church or king as supreme rulers of the state
   - E. Newly formed government based on principle and superiority of rule of law
      1. What rule of law declares

III. The Making of Law
   - A. The Making of Law
      1. What laws represent
      2. American Law Institute
         - Five reasons for establishment of laws
      3. Specific laws might be passed because they prohibit actions thought to be harmful to society
         - *Mala in* se defined
      4. Other laws might be passed because some believe there is a need to regulate certain actions
         - *Mala prohibita* defined
      5. Distinction between *mala in se* and *mala prohibita* laws
      6. Much debate generated about what laws should be passed and what purposes the laws serve
         - Some are based on morals and values of subset of community
         - Some passed based on public fear
      7. Often disagreement as to whether a law is passed to protect people from harm or to regulate behavior

B. Federal Criminal Laws
   1. Each level of government responsible for crafting laws to govern those within its jurisdiction
   2. Legal codes regulating behavior are complex and numerous
   3. Only crimes defined in U.S. Constitution
      - Treason
      - Sedition
   4. Source for most of the federal criminal laws
   5. Can be created through process involving Congress and the president
      - Process is complex and reflects necessity for compromise among three parties
   6. Written by Congress, but courts play important role
   7. President of United States
      - Can issue executive orders
      - Executive orders defined
      - Power not explicitly expressed in U.S. Constitution
         - ➢ Courts have held they have full force of law
      - Limits of executive orders are not clearly defined
   8. Can be found in international treaties
      - Can result in agreements between nations that prohibit certain behaviors
      - Prohibitions have full force of law

C. State Criminal Laws
   1. Sources of state criminal laws
   2. Each state has right to enact laws deemed appropriate for its citizens by state legislature with approval of governor
      - What autonomy leads to
   3. Most states have similar criminal laws
      - Reasons
   4. State constitutions cannot negate any right guaranteed in the U.S. Constitution
      - Can add to rights not covered
   5. Most codes passed by state governments in manner like federal criminal codes
   6. One of the distinctions between federal criminal laws and state criminal laws is area known as common law
      - Common law defined

D. Local Criminal Laws
   1. Sources of local criminal laws
   2. Nearly all are misdemeanors or some lesser violation
   3. Felony defined
   4. Misdemeanor defined

5. Difference between a misdemeanor and a felony
6. Relatively new classification of prohibited behaviors
    - Examples
    - Usually no imprisonment permitted for these violations
7. Products of city councils and county governments
8. Have limited jurisdiction
9. Often address behaviors that do not arise to level of concern by state
    - Often a complex patchwork of conflicting laws
10. May differ from city to city, resulting in confusion and uncertainty

IV. The Limitations of Law

A. Government is restricted in making of laws

1. Must conform to certain constitutional standards

B. U.S. Supreme Court established seven common benchmarks to assess legality of criminal laws

1. Principle of Legality
    - Defined
    - Has roots in Roman Empire
2. *Ex Post Facto* Laws
    - Meaning of term
    - Related to principle of legality
    - Defined
3. Due Process
    - Two types
    - Substantive due process defined
    - Procedural due process
        - ➢ What it requires and regulates
        - ➢ Rules of evidence defined
        - ➢ Case law precedents play significant role
        - ➢ *Stare decisis* defined
        - ➢ Changing basis on which precedents are judged
4. Void for Vagueness
    - Defined
    - Laws must use wording that clearly specifies what behavior or act in unlawful
5. Right to Privacy
    - Defined
    - Not clearly delineated in U.S. Constitution
    - Constructed right

- Provided for in some state constitutions
- Not an overarching right that permits otherwise harmful or prohibited behaviors

6. Void for Overbreadth
   - Defined
7. Cruel and Unusual Punishment
   - Defined
   - Legal philosophy
   - Death penalty, when properly applied, is not a violation

V. Elements of a Crime

A. Elements of a Crime

1. Factors that carry weight in determining punishment for a crime
2. Punishments specified by law based on principle of proportionality
3. There are various degrees of punishment
4. Elements of a crime
   - Defined
5. Two important elements necessary for all crimes
   - *Actus reus* defined
   - *Mens rea* defined

B. Strict Liability

1. Defined
2. Tend to be minor offenses or serious offenses from which society has deemed the victim deserves additional protection
3. Examples

C. Incomplete Crimes or Inchoate Offenses

1. Incomplete Crimes or Inchoate Offenses
   - One cannot be convicted of a crime for thinking about it
   - Law only punishes people for what they do, not what they think
   - Inchoate offenses defined
   - Subject to punishment
2. Solicitation
   - Defined
   - Person solicited does not have to have *mens rea* or any intent whatsoever of complying with the solicitation
   - Criminal charge against person making the offer, command, or encouragement, not against person to whom offer is made
   - Requires specific criminal intent
   - Is the most removed from the actual completion of the crime
     - ➢ Usually carries the least punishment of the inchoate offenses

3. Conspiracy
    - Defined
    - Requires no *actus reus* other than communication
    - What it requires
    - Any step or steps taken may constitute conspiracy
    - Parties do not have to meet face-to-face
4. Attempt
    - Defined
    - For most crimes that can be committed, there is a corresponding crime of attempt
    - Is the closest act to completion of the crime, therefore carries a greater punishment than other inchoate offenses, but lesser punishment than the completed crime

Teaching Tip: Divide students into three groups. Assign each group one of the three types of inchoate offenses discussed in this section. Have the groups come up with a scenario that fits the type of inchoate crime they were given. Have them present their scenario to the rest of the class for discussion of the requirements of their specific inchoate crime.

5. Renunciation of Criminal Intent
    - Does not absolve one of punishment
    - If person involved in criminal conspiracy changes their mind regarding becoming involved, many states have laws that require specific actions that person must take to avoid criminal liability
        - ➢ Often these criteria require person to report the conspiracy to law enforcement

VI. Criminal Defenses

A. Criminal Defenses
1. A person can offer numerous defenses at trial as noncriminal justification for their actions
2. Two types of defenses
    - Perfect defense
        - ➢ Defined
    - Imperfect defense
        - ➢ Defined

B. Most common defenses
1. Alibi
    - What the defense requires
    - Most common strategy
    - Reliability of alibi witness's testimony may be in question
    - Jury may choose to believe or not believe the testimony

2. Consent of Condoning by the Victim
   - Defined
   - Not a valid defense for some criminal actions
   - When it is a valid defense
3. Entrapment or Outrageous Government Conduct
   - Related to principle that actions must be voluntary
   - Defined
   - An affirmative defense
     - ➢ Defined
   - Different from encouragement
4. Immunity or Privilege
   - Defined
   - Four forms
     - ➢ Diplomatic immunity defined
     - ➢ Legislative immunity defined
     - ➢ Witness immunity defined
     - ➢ Privilege defined
5. Involuntary Actions and Duress
   - Similar defenses
   - Defense of involuntary action defined
     - ➢ When it cannot be used
   - Defense of duress defined
     - ➢ When it cannot be used
6. Mistake of Ignorance of Fact or Law
   - Mistake or ignorance of the law defined
     - ➢ When it may be used
     - ➢ When it may not be used
   - Mistake or ignorance of fact defined
     - ➢ May be a valid defense
   - Should not be confused with factual impossibility
     - ➢ Defined
     - ➢ Example
     - ➢ Not a defense
7. Necessity
   - Defined
   - Sometimes known as the defense of the "lesser of two evils"
   - When it is commonly used

- Does not justify any and all actions
- Actions must be in response to life-threatening situations

8. Self-Defense
   - Defined
   - A complex defense usually associated with murder and physical assault
   - An affirmative defense
     - Basis for lack of criminal intent
   - When courts have recognized self-defense
   - Requirements by most states
   - State laws differ regarding who can initiate confrontation
     - Retreat laws versus stand-your-ground laws
   - Timing is a controversial issue in capital cases
   - Laws of self-defense in protecting one's home vary significantly among states
     - Castle doctrine
   - What most states do not permit
9. Youth
   - Prior to 1899
   - After 1899
   - Some states have removed defense of youth for homicide
   - Other states have lowered age of accountability for certain violent offenses
10. Insanity
    - Defined
    - *M'Naghten* case
      - New standard
      - Became primary requirement
    - Modified in latter half of 20th century

C. Overview of Defenses

1. Defenses can be divided into two categories
   - Alibi defense
   - Affirmative defense
2. Alibi defined
3. Affirmative defense defined
   - Risk this defense carries
   - Can be divided into justifications, excuses, and exemptions
     - What defendant admits and denies