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AN OVERVIEW OF CRIME AND CRIMINOLOGY

IN 1996, Iraqi refugees Majed Al-Timimy, 28, and Latif Al-Husani, 34, married the daughters, aged 13 and 14, of a fellow Iraqi refugee in Lincoln, Nebraska. The marriages took place according to Muslim custom and everything seemed to be going well until one of the girls ran away and the concerned father and her husband reported it to the police. At this point American and Iraqi norms of legality and morality clashed head-on. Under Nebraska law, people under 17 years old cannot marry, so both grooms and the girls' father and mother were arrested and charged with a variety of crimes from child endangerment to statutory rape.

According to an Iraqi woman interviewed by the police (herself married at 12 in Iraq), both girls were excited and happy about the wedding. The Iraqi community was shocked that these men faced up to 50 years in prison for their actions, as would have been earlier generations of Americans who were legally permitted to marry girls of this age. The men were sentenced to 4 to 6 years in prison and paroled in 2000 with conditions that they have no contact with their "wives." Thus, something legally and morally permissible in one culture can be severely punished in another. Were the actions of these men child sex abuse or simply unremarkable marital sex? Which culture is right? Can we really ask such a question? Is Iraqi culture "more right" than American culture given that marrying girls of that age was permissible here too at one time? Most importantly for our purposes, how can criminologists hope to study crime scientifically if what constitutes a crime is relative to time and place?

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Learning Objectives

- 1.1 Define criminology and describe the difference between the disciplines of criminology and criminal justice.
- 1.2 Identify the difficulties attached to defining crime.
- 1.3 Explain the difference between crime and criminality.
- 1.4 Describe the legal process required to "officially" become a criminal.
- 1.5 Discuss how thinking about crime and criminology is time and culture bound.
- 1.6 Examine the relationship between theory and policy in criminology.
- 1.7 Analyze the role of ideology in criminology.
- 1.8 Explain the connection between criminological theory and social policy.

WHAT IS CRIMINOLOGY?

The 19th-century American novelist Nathaniel Hawthorne (2003:1) opens his famous book *The Scarlet Letter* with these words of wisdom: “The founders of a new colony, whatever Utopia of human virtue and happiness they might originally project, have invariably recognized it among their earliest practical necessities to allot a portion of the virgin soil as a cemetery, and another portion as the site of a prison.” Hawthorne is reminding us of two things we cannot avoid—death and human vice—and that we must make provisions for both. Perhaps because criminals reveal humanity’s dark side, endless movies and television shows indicate that people have a fascination with exploring the darker side of human nature (ask your friends if they would rather read a book about the 10 most evil serial killers in history or the 10 holiest saints in history). It is this dark but fascinating side of the human character that criminology explores.

Criminology is an interdisciplinary science that gathers and analyzes data on various aspects of criminal, delinquent, and general antisocial behavior. It is different from the discipline of criminal justice, which is concerned with how the criminal justice system investigates, prosecutes, and controls/supervises individuals who have committed crimes. Criminology examines why those individuals committed crimes that got them ensnared in the criminal justice system in the first place. As with all scientific disciplines, the goal of criminology is to understand its subject matter and to determine how that understanding can benefit society. In pursuit of this understanding, criminologists ask questions such as these:

- Why do crime rates vary from time to time and from culture to culture?
- Why are some individuals more prone to committing crime than others?
- Why do crime rates vary across different ages, genders, and racial/ethnic groups?
- Why are some harmful acts criminalized and not others?
- What can we do to prevent crime?

By a *scientific* study of crime and criminal behavior we mean that criminologists use the scientific method, the greatest invention of humanity, to try to answer the questions they ask rather than just philosophizing about them from their armchairs. The scientific method is a tool for separating truth from error by demanding evidence for any conclusions criminologists arrive at. Evidence is obtained by formulating hypotheses derived from theory that are rigorously tested with data in such a way that others following the same method can replicate the study. By following the scientific method, criminologists hope to build a body of verified knowledge that may help policy makers and police and correctional officials in their battle against crime.

WHAT IS CRIME?

The term *criminal* can and has been applied to many types of behavior, some of which nearly all of us have been guilty of at some time in our lives. We can all think of acts that we feel *ought* to be criminal but are not or acts that should not be criminal but are. The list of things that someone or another at different times and at different places may consider to be crimes is very large, with only a few being defined as criminal by the law in the United States at this time. Despite these difficulties, we need a definition of crime to proceed. The most often quoted definition is that of Paul Tappan (1947:100), who defined crime as “an intentional act in violation of the criminal law committed without defense or excuse, and penalized by the state.” A crime is thus an *act* in violation of a *criminal law* for which a *punishment* is prescribed; the person committing it must have *intended* to do so and must have done so without legally acceptable *defense* or *justification*.

Tappan’s definition is strictly a legal one that reminds us that the state, and only the state, has the power to define an act as criminal. Hypothetically a society could eradicate crime tomorrow simply by canceling all of its criminal statutes. Of course, this would not eliminate the behavior specified by the law as crimes; in fact the behavior would doubtless increase since the behavior could no longer be officially punished. While it is absurd to think that any society would try to solve its crime problem by eliminating its criminal statutes, legislative bodies are continually revising, adding to, and deleting from their criminal statutes.

Criminology: An interdisciplinary science that gathers and analyzes data on crime and criminal behavior.

CRIME AS A MOVING TARGET

Almost every vice is somewhere and at some times a virtue. There are numerous examples of acts defined as crimes in one country being tolerated and even expected behavior in another, as demonstrated in the vignette at the beginning of this chapter. We might congratulate ourselves for protecting young girls from the kind of fate that befell the 13- and 14 year-old girls in the vignette, but in 1885 no state in the United States had an age of consent above 12 (Friedman, 2005). Laws also vary within the same culture from time to time as well as across different cultures. Until the Harrison Narcotics Act of 1914 there were few legal restrictions in the United States on the sale, possession, or use of most drugs such as heroin and cocaine. Following the Harrison Act, many drugs became controlled substances, the drugs' sale and possession became a crime, and a brand-new class of criminals was created overnight.

Crimes pass out of existence also, even acts that had been considered crimes for centuries. Until the United States Supreme Court invalidated sodomy (anal or oral sex) statutes in *Lawrence v. Texas* in 2003, sodomy was legally punishable in many states, even between consenting spouses. Likewise, burning the American flag had serious legal consequences until 1989 when the Supreme Court ruled anti-flag burning statutes unconstitutional in *Texas v. Johnson*. What constitutes a crime, then, can be defined in or out of existence by the courts or by legislators. As long as human societies remain diverse and dynamic, there will always be a moving target of activities with the potential for nomination as crimes, as well as illegal activities nominated for decriminalization.

If what constitutes crime differs across time and place, how can criminologists hope to agree on a scientific explanation for crime and criminal behavior? Science is about making universal statements about stably defined phenomena. Atoms, the gas laws, DNA, the laws of thermodynamics, photosynthesis, and so on are not defined or evaluated differently by scientists around the globe according to local customs or ideological preferences. But what we call "crime" keeps moving around, and because it does some criminologists have declared it impossible to generalize about what is and is not "real" crime.

These criminologists are saying that crime is a socially constructed phenomenon that lacks any "real" objective essence and is defined into existence rather than discovered. Of course, in a trivial sense everything is socially constructed. Nature does not reveal herself to us sorted into ready-labeled packages, so humans must do it for her. *Social construction* means nothing more than humans have perceived a phenomenon, named it, and categorized it according to some classificatory rule that makes note of the similarities and differences among the things being classified. Most classification schemes are not arbitrary; if they were we would not be able to make sense of anything. Categories have empirically meaningful referents and are used to impose order on the diversity of human experience, although arguments exist about just how coherent that order is. That said, it should be noted that some behaviors are nearly universally condemned, such as the unjustified killing of others and the nonconsensual taking of property. Criminal statutes prohibiting these acts are obviously warranted the world over.

CRIME AS A SUBCATEGORY OF SOCIAL HARMS

So, what *can* we say about crime; how *can* we conceive of it in ways that at least most people would agree are logical, consistent, and correspond with their view of reality? When all is said and done, crime is a subcategory of all harmful acts that range from simple things like smoking to very serious things like murder. Some harmful acts such as smoking tobacco and drinking to excess are not considered anyone's business other than the actor's if they take place in private or even in public if the person indulging in those things creates no annoyance to others.

Socially (as opposed to private) harmful acts are acts deemed to be in need of regulation (e.g., health standards, air pollution) but not by the criminal law except under exceptional circumstance. Private wrongs (such as someone renegeing on a contract) are socially harmful but not sufficiently so to require the heavy hand of the criminal law. Such wrongs are regulated by the civil law in which the wronged party (the plaintiff) rather than the state initiates legal action and the defendant does not risk deprivation of his or her liberty if the plaintiff prevails.

Further along the continuum we find a category of harmful acts considered so socially harmful that they come under the scope of the criminal justice system. Even here we are still confronted with the problem of human judgment in determining what goes into this subcategory. But this is



BOX 1.1 MALA IN SE OR MALA PROHIBITA?

The Cannibal and His Willing Victim

We have said that the litmus test for a *mala in se* crime is that no one would want to be a victim of such a crime. You would think that killing, butchering, and eating another human being would certainly pass such a test. But what if the cannibal's dinner was a willing victim and the country in which the cannibal and his victim lived had no law forbidding cannibalism? This strange state of affairs existed in Rotenburg in central Germany in 2001. Germany's own Hannibal Lecter, one Armin Meiwes, had advertised online seeking volunteers for "slaughter and consumption." Among the over 200 replies Meiwes received was an e-mail from Bernd-Jurgen Brandes (a successful software engineer) stating, "I am your meat." Meiwes and Brandes videotaped their agreement, and Meiwes taped the subsequent killing and butchering of Brandes. Brandes stated on the tape that being eaten would be the "fulfillment of my dream."

The prosecution in this case argued for a conviction of murder and "disturbing the peace of the dead," which would

have gotten Meiwes a life sentence. The defense argued that Meiwes had simply assisted Brandes in his suicide, which carried a 5-year sentence. The panel of judges hearing the case agreed that Meiwes could not be convicted of murder and handed Meiwes an 8.5-year prison sentence in January 2004. However, the prosecution appealed the case, and on retrial Meiwes was convicted of murder and sentenced to life imprisonment.

In common law countries such as the United States, Meiwes would have been convicted of murder because one person cannot give another the consent to kill him or her—you can give your consent to many things, but not this. What Meiwes committed was clearly a *mala in se* crime, and Brandes's consent doesn't change that at all. The behavior of both men was obviously bizarre, and just because we find instances in which people do want to be victimized by acts that 99.9% of their fellow humans would find repugnant does not change the inherent badness of those acts.

true all along the line; smoking was once actually considered rather healthy, and air pollution and other unhealthy environmental conditions were simply facts of life about which nothing could be done. Categorization always requires a series of human judgments, but that does not necessarily render the categorizations arbitrary.

The harm caused by criminal activity is financially and emotionally costly. The emotional pain and suffering borne by crime victims is obviously impossible to quantify, but many estimates of the financial harm are available. Most estimates focus on the costs of running the criminal justice system, which includes the salaries and benefits of personnel, and the maintenance costs of buildings (e.g., offices, jails, prisons, stations) and equipment (e.g., vehicles, weapons, uniforms). Added to these costs are the costs associated with each crime (the average cost per incident multiplied by the number of incidents as reported to the police). All these costs combined are estimates of the *direct* costs of crime.

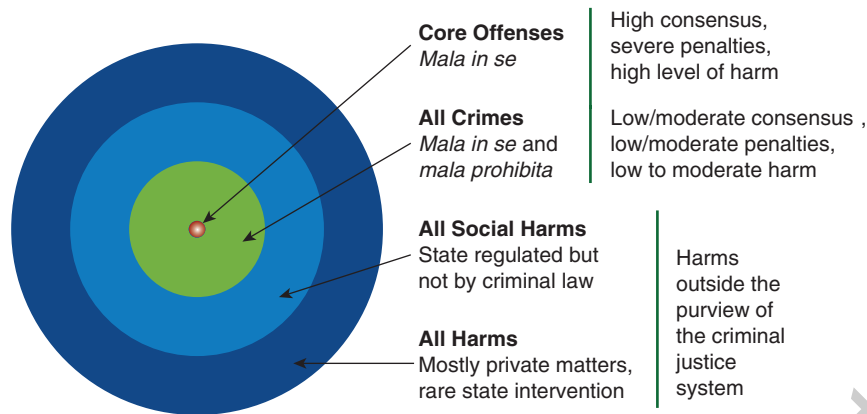
The *indirect* costs of crime must also be considered as part of the burden. These costs include all manner of surveillance and security devices, protective devices (e.g., guns, alarms, security guards) and insurance costs, medical services, and the lost productivity and taxes of incarcerated individuals. From a variety of government sources, McCollister, French, and Fang (2010) estimate that each year crime results in approximately \$15 billion in economic losses to the victims and \$179 billion in government expenditures on police protection, judicial and legal activities, and corrections. The tangible and intangible financial cost per murder is estimated at \$8,982,907 and per rape it is \$240,776. These figures do not reflect the severe psychological and emotional costs to victims and their families that can far exceed any dollar amount.

BEYOND SOCIAL CONSTRUCTION: THE STATIONARY CORE CRIMES

Few people would argue that an act is not arbitrarily categorized or is not seriously harmful if it is universally condemned. That is, if there is a core of offenses defined as wrong at almost all times and in almost all cultures. Some of the strongest evidence in support of the stationary core perspective comes from the International Criminal Police Organization (Interpol), headquartered in Lyon, France. Interpol serves as a repository for crime statistics from each of its 188 member

FIGURE 1.1

Mala in Se and Mala Prohibita Crimes as Subsets of All Harms



nations. Interpol's data show that such acts as murder, assault, rape, and theft are considered serious crimes in every single country (Walsh & Ellis, 2007). Individuals or groups may differ on the ordering of the seriousness of these crimes, but they are still universally condemned. There are societies in which so-called honor killings are culturally accepted, but this does not contradict the contention that murder is inherently wrong. Even in countries in which the practice exists, honor killing is contrary to the law, although it is rarely prosecuted or is treated leniently if it is. Honor killings typically involve families murdering their daughters, mostly because they have "dishonored" the family by engaging in an unsanctioned sexual relationship or because they are romantically involved with someone the family's culture deems undesirable.

Criminologists call these universally condemned crimes **mala in se** ("inherently evil"). Crimes that are time and culture bound are described as **mala prohibita** ("evil because they are prohibited"). But how can we know that an act is inherently bad? The litmus test for determining a mala in se crime is that no one except under the most bizarre of circumstances would want to be victimized by one (see Box 1.1). While millions of people seek to be "victimized" by prostitutes, drug dealers, and bookies, no one wants to be murdered, raped, robbed, or have their property stolen. Being victimized by such actions evokes physiological reactions (e.g., anger, helplessness, sadness, depression, a desire for revenge) in all cultures and would do so even if the acts were not punishable by law or custom. Mala in se crimes engage these emotions not because some legislative body has defined them as wrong but because they hammer at our deepest concerns and offend us at our core. Evolutionary scientists propose that these built-in emotional mechanisms exist because mala in se crimes threatened the survival and reproductive success of our distant ancestors (the ultimate concerns of all sexually reproducing animals) and that they function to strongly motivate people to try to prevent such acts from occurring and punishing them if they do (O'Manique, 2003; Walsh, 2000).

Figure 1.1 illustrates the relationship of core crimes (*mala in se*) to acts that have been arbitrarily defined (*mala prohibita*) as crimes and all harmful acts that may potentially be criminalized. The figure is inspired by John Hagan's (1985) effort to distinguish between "real" crimes and "socially constructed" arbitrary crimes by examining the three highly interrelated concepts of *consensus* (the degree of public agreement on the seriousness of an act), the *severity* of penalties attached to an act, and the level of *harm* attached to an act.

CRIMINALITY

Perhaps we can avoid altogether the problem of defining crimes by studying individuals who commit predatory *harmful* acts, regardless of the legal status of the acts. Criminologists do this when they study criminality. **Criminality** is a clinical or scientific term rather than a legal one and one that can be defined independently of legal definitions of crimes. **Crime** is an intentional act of commission or omission contrary to the law and is a property of society; *criminality* is a property

Mala in se: Universally condemned crimes that are "inherently bad."

Mala prohibita: Crimes that are "bad" simply because they are prohibited.

Criminality: A continuously distributed trait composed of a combination of other continuously distributed traits that signals the willingness to use force, fraud, or guile to deprive others of their lives, limbs, or property for personal gain.

Crime: An intentional act in violation of the criminal law committed without defense or excuse and penalized by the state.

of individuals that signals the willingness to commit crimes and other harmful acts. Criminality is a trait that lies on a continuum ranging from saint to sociopath and is composed of a mixture of other traits such as callousness, low empathy, impulsiveness, and negative emotionality that also vary greatly among people. People can use and abuse others for personal gain regardless of whether the means used have been defined as criminal; it is the propensity to do this that defines criminality independent of the labeling of an act as a crime or of the person being legally defined as a criminal.

Defining criminality as a continuous trait acknowledges that there is no sharp line separating individuals with respect to this trait—it is not a trait that one has or does not have. Just about everyone at some point in life has committed an act or two in violation of the law, perhaps even a *mala in se* act. We all fall somewhere on this continuum. But that doesn't make us all criminals; if it did the term would become virtually synonymous with being human. The point is, we are all situated somewhere on the criminality continuum, just as our heights range from the truly short to the truly tall. Some are so extreme in height that any reasonable person would call them tall. Likewise, a small number of individuals have violated so many criminal statutes over such a long period of time that few would question the appropriateness of calling them criminals. Thus, both height and criminality can be thought of as existing along a continuum, even though the words we use often imply that people's heights and criminal tendencies come in discrete categories (tall/short, criminal/noncriminal). In other words, just as height varies in fine gradations, so too does involvement in crime. Let us not make the mistake of calling everyone who has ever transgressed the law a criminal.

THE LEGAL MAKING OF A CRIMINAL

Regardless of any criminal traits, no one is “officially” a criminal until he or she has been defined as such by the law, which makes it necessary to briefly discuss the process of arriving at that definition. The legal answer to the question “What is a criminal?” is that he or she is someone who has committed a crime and has been judged guilty of having done so. Before the law can properly call a person a criminal, it must go through a series of actions governed by well-defined legal rules guiding the serious business of officially labeling a person a criminal. This section shows the processing of a suspect in the American criminal justice system from arrest to trial and beyond, illustrated in Figure 1.2.

WHAT CONSTITUTES A CRIME?

Corpus delicti is a Latin term meaning “body of the crime” and refers to the elements of an act that must be present to legally define it as a crime. All crimes have their own specific *elements*, which are the essential constituent parts that define the act as criminal. In addition to their specific elements, all crimes share a set of general elements or principles underlying and supporting the specific elements. Five principles must be satisfied before a person is “officially” labeled a criminal, but in actuality it is only necessary for the state to prove *actus reus* and *mens rea* to satisfy *corpus delicti*. The other principles are typically automatically proven in the course of proving *actus reus* and *mens rea*.

Actus reus means “guilty act” and refers to the principle that a person must commit some forbidden act or neglect some mandatory act before he or she can be subjected to criminal sanctions. In effect, this principle of law means that people cannot be criminally prosecuted for thinking something or being something, only for *doing* something. This prevents governments from passing laws criminalizing statuses and systems of thought they don't like. For instance, although drunken *behavior* may be a punishable crime, *being* an alcoholic cannot be punished because “being” something is a status, not an act.

Mens rea means “guilty mind” and refers to whether the suspect had a wrongful purpose in mind when carrying out the *actus reus*. For instance, although receiving stolen property is a criminal offense, if you were to buy a stolen television set from an acquaintance without knowing it had been stolen, you would have lacked *mens rea* and would not be subject to prosecution. If you were to be prosecuted the state would have to prove that you knew the television was stolen. Negligence, recklessness, and carelessness that results in harmful consequences, even though not intended, *does not* excuse such behavior from criminal prosecution under *mens rea*. Conditions

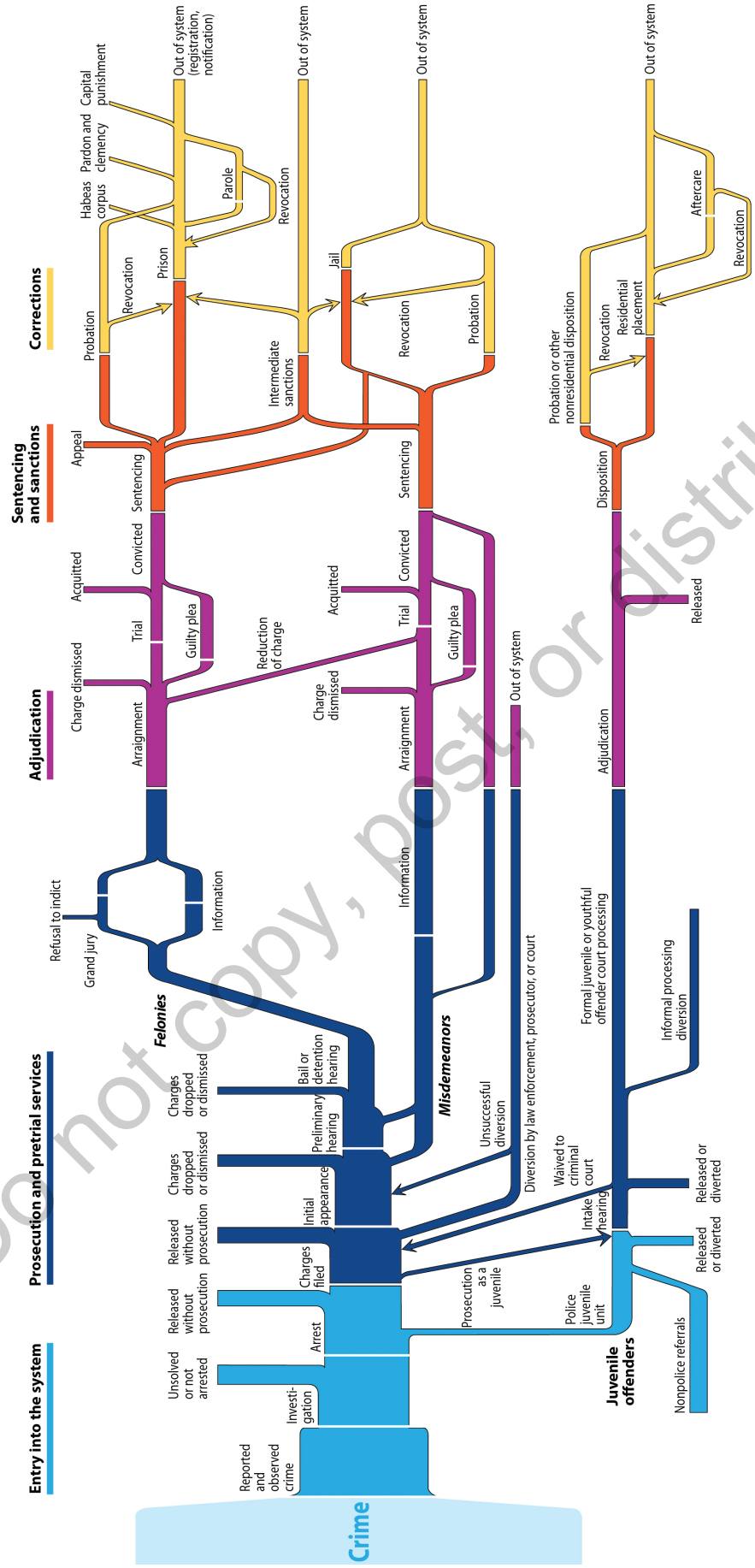
Corpus delicti: Refers to the five elements of criminal liability that must be proven beyond a reasonable doubt in order to convict a person of a crime.

Actus reus: Literally *guilty act*, it refers to the principle that a person must commit some forbidden act or neglect some mandatory act before he or she can be subjected to criminal sanctions.

Mens rea: “Guilty mind.” Criminal liability does not attach based on actions alone; there must also be criminal intent.

FIGURE 1.2

Sequence of Events Leading to a Person Being Labeled a Criminal



Note: This gives a simplified view of cashflow through the criminal justice system. Procedures vary among jurisdictions. The weight of the lines are not intended to show actual size of caseloads. Source: Bureau of Justice Statistics (2010). What is the sequence of events in the criminal justice system?

that may preclude prosecution under this principle are self-defense, defense of others, youthfulness (a person under 7 years of age cannot be held responsible), insanity (although being found insane does not preclude confinement), and extreme duress or coercion.

Concurrence means that the act (*actus reus*) and the mental state (*mens rea*) concur in the sense that the criminal intention actuates the criminal act. For instance, if John sets out with his tools to burglarize Mary's apartment and takes her TV, he has fused the guilty mind with the wrongful act and has therefore committed burglary. However, assume John and Mary are friends who habitually visit each other's apartment unannounced. One day John decides to visit Mary, finds her not at home, but walks in and suddenly decides that he could sell Mary's TV for drug money. Although the loss to Mary is the same in both scenarios, in the latter instance John cannot be charged with burglary because he did not enter her apartment "by force or fraud," the crucial element needed to satisfy such a charge. In this case, the concurrence of guilty mind and wrongful act occurred after lawful entry, so he is only charged with theft, a less serious crime.

Causation refers to the necessity to establish a causal link between the criminal act and the harm suffered. This causal link must be proximate, not ultimate. Suppose Tony wounds Frank in a knife fight. Being macho, Frank attends to the wound himself. Three weeks later, the wound becomes severely infected and results in his death. Can Tony be charged with murder? Although the wounding led to Frank's death (the ultimate cause), Frank's disregard for the seriousness of his injury was the most proximate cause of his death. The question the law asks in cases like this is, "What would any reasonable person do?" This is known as the objective reasonableness standard. Most people would agree that the reasonable person would have sought medical treatment. This being the case, Tony cannot be charged with homicide; the most he could be charged with is aggravated assault.

Harm refers to the negative impact a crime has either to the victim or to the general values of the community. Although the harm caused by the criminal act is often obvious, the harm caused by many so-called victimless crimes is often less obvious, although some such crimes can cause more social harm in the long run than many crimes with obvious victims. The conundrum of prohibiting "victimless" crimes such as smoking pot or purchasing a prostitute becomes apparent when comparing the harms associated with these offenses to the harms caused by legal activities such as drinking alcohol or duping people out of their money in multilevel marketing schemes.

Concurrence: The legal principle stating that the act (*actus reus*) and the mental state (*mens rea*) concur in the sense that the criminal intention actuates the criminal act.

Causation: A legal principle stating that there must be an established proximate causal link between the criminal act and the harm suffered.

Harm: The legal principle stating that a crime must have a negative impact on either the victim or the general values of the community to be a crime.

Arrest: The act of being legally detained to answer criminal charges based on an arrest warrant or a law enforcement officer's probable cause to believe the person arrested has committed a felony crime.

AN EXCURSION THROUGH THE AMERICAN CRIMINAL JUSTICE SYSTEM

The best way to explain the process of becoming a legal criminal is to follow the processing of felony cases from arrest to trial and beyond. There are many points at which the arrested person may be shunted off the criminal justice conveyor belt via the discretionary decisions of a variety of criminal justice officials. This process varies in some specifics from state to state, but the principles underlying the specifics are uniform. Presented here are the stages and procedures that are most common among our 50 states' court systems.

Arrest. A felony suspect first enters the criminal justice system by **arrest**. When a person has been legally detained to answer criminal charges, he or she has been arrested. Some arrests are made based on an *arrest warrant*, an official document signed by a judge based on evidence presented by law enforcement indicating that the person named in the warrant has probably committed a crime. The warrant authorizes the police to make an arrest, although the great majority of arrests are initiated by the police without a warrant. A police officer making a warrantless arrest is held to the same legal constraints involved in making application for a warrant. To make a legal felony arrest the officer must have *probable cause*. Probable cause means that the officer must possess a set of facts that would lead a reasonable person to conclude that the arrested person had committed a crime. Although a person can be stopped based on an officer's suspicion and frisked for a weapon, he or she cannot be arrested based on suspicion alone. It is only after an arrest that the Fifth Amendment right against self-incrimination comes into play.

Preliminary Arraignment. After arrest and booking into the county jail, the suspect must be presented in court for the preliminary arraignment before a magistrate or judge at the earliest opportunity.

The preliminary arraignment has two purposes: (1) to advise suspects of their constitutional rights and of the charges against them and (2) to set bail. The suspect may be released on monetary bail on his or her “own recognizance.” If bail is denied it is usually because of the gravity of the crime, the risk the suspect poses to the community, or the risk that the suspect might flee the court’s jurisdiction. There is no constitutional right to bail. The Eighth Amendment only states that “excessive bail shall not be required.” The traditional assumption has been that bail is only designed to assure the suspect’s appearance at the next court hearing and that “excessive” means the amount set should be within the suspect’s means.

Preliminary Hearing. The preliminary hearing is a proceeding before a magistrate or judge in which three major matters must be decided: (1) whether a crime has actually been committed, (2) whether there are reasonable grounds to believe the person before the bench committed it, and (3) whether the crime was committed in the jurisdiction of the court. These matters determine if the suspect’s arrest and detention is legal. The onus of proving the legality of the suspect’s arrest and detention is on the prosecutor, who must establish probable cause and present the court with evidence pertinent to the suspect’s probable guilt. This is usually a relatively easy matter for the prosecutor since defense attorneys rarely cross-examine witnesses or introduce their own evidence at this point, their primary use of the preliminary hearing being only to discover the strength of the prosecutor’s case.

The Grand Jury. If the prosecutor is successful, the suspect is bound over to a higher court for further processing. Prior to the suspect’s next court appearance, prosecutors in some states must seek an indictment (a document formally charging the suspect with a specific crime or crimes) from a grand jury. The **grand jury**, so called to distinguish it from the “petit” or trial jury, is nominally an investigatory body and a buffer between the awesome power of the state and its citizens, but some see it as an historical anachronism that serves only prosecutorial purposes. The grand jury is composed of citizens chosen from voter or automobile registration lists and numbers anywhere from seven to 23 members.

Arraignment. Armed with an indictment (or an *information* in states not requiring grand jury proceedings), the prosecutor files the case against the accused in felony court (variably called a district, superior, or common pleas court), which sets a date for **arraignment**. The arraignment proceeding is the first time defendants have the opportunity to respond to the charges against them. After the charges are read to the defendant, he or she must then enter a formal response to them, known as a plea. The plea alternatives are guilty, not guilty, or no contest. A guilty plea is usually the result of a plea bargain agreement concluded before the arraignment. About 90% of all felony cases in the United States are settled by plea bargains in which the state extends some benefit to defendants, such as reduced charges, in exchange for their cooperation. By pleading guilty, defendants give up their right to be proven guilty “beyond a reasonable doubt,” their right against self-incrimination, and the right to appeal.

A not-guilty plea results in a date being set for trial; a guilty or no contest plea results in a date being set for sentencing.

The Trial. A trial by a jury of one’s peers is a Sixth Amendment right and is an examination of the facts of a case by a judge or a jury for the purpose of reaching a judgment. The trial is an adversarial process pitting the prosecutor against the defense attorney, with each side trying to “vanquish” the other. There is no sense that each side is interested in seeking truth or justice in this totally partisan process. It is the task of the judge to ensure that both sides play by the rules. The prosecution’s job is a little more difficult than the defense’s since it must “prove beyond a reasonable doubt” that the accused is indeed guilty. Except in states that allow for nonunanimous jury decisions, the defense need only plant the seed of reasonable doubt in the mind of one stubborn juror to upset the prosecution’s case. However, the processes of our adversarial system are stacked



Photo 1.1

A police officer takes a suspect into custody. A felony suspect enters the criminal justice system by arrest. ©iStockphoto.com/IPGGutenbergUKLtd

Arraignment: A court proceeding in which the defendant answers to the charges against him or her by pleading guilty, not guilty, or no contest (nolo contendere).

Grand jury: An investigatory jury composed of seven to 23 citizens before which the prosecutor presents evidence that sufficient grounds exist to try the suspect for a crime. If the prosecutor is successful, he or she obtains an indictment from the grand jury listing the charges a person is accused of.

in the prosecutor's favor given that defense attorneys are commonly overworked and underprepared to adequately represent their clients. There have been cases where defense attorneys have shown up to court drunk or have even fallen asleep during trial.

Having heard the facts of the case, and having been instructed by the judge on the principles of law pertaining to it, the jury is charged with reaching a verdict. The jury's verdict may be guilty or not guilty, or if it cannot reach a verdict (a "hung" jury), the judge may declare a mistrial. A hung jury results in either dismissal of the charges by the prosecutor or in a retrial. If the verdict is guilty, in most cases the judge will delay sentencing to allow time for a presentence investigation report to be prepared. At the point of conviction (or entering a plea of guilty) the person officially becomes a criminal.

Probation. Presentence investigation reports (PSI) are prepared by probation officers and contain a variety of information about the crime and the offender's background (e.g., criminal record, education and work history, marital status, substance abuse, attitude). Based on this information, the probation officer offers a sentencing recommendation. The most important factors influencing these recommendations are crime seriousness and the defendant's criminal history. A judge may place the offender on probation, the most common sentence in the United States today. A probation sentence is a suspended commitment to prison, and if at any time during their probationary period offenders do not abide by the imposed probation conditions (consisting of a variety of general and offender-specific conditions), they may face revocation of probation and the imposition of the original prison sentence. Probation officers supervise and monitor offenders' behavior and assure that all conditions of probation are adhered to. Probation officers thus function as both social workers and law enforcement officers, sometimes conflicting roles that officers may find difficult to reconcile.

Incarceration. If the sentence imposed for a felony conviction is some form of incarceration, the judge has the option of sentencing the offender to a state penitentiary, a county jail, or a county work release program. The latter two options are almost invariably imposed as supplements to probation orders.

Parole. Parole is a conditional release from prison granted to inmates prior to the completion of their sentences. An inmate is granted parole by an administrative body called a parole board, which decides for or against parole based on such factors as inmate behavior while incarcerated and the urgency of the need for cell space. Once released on parole, parole officers, whose job is almost identical to that of probation officers, supervise parolees. In many states, probation and parole officers are one and the same. The primary difference between probation and parole is that probationers are under the supervision of the courts and parolees are under the supervision of the state Department of Corrections. Revocation of probation is a judicial function; revocation of parole is an executive administrative function.



Photo 1.2

Many people turn to divine explanations for events and behaviors ranging from natural disasters, to criminality, to the outcome of the Super Bowl. ©iStockphoto.com/gpointstudio

A SHORT HISTORY OF CRIMINOLOGY

THE SUPERNATURAL ERA

Criminology is a young discipline, although humans have probably been theorizing about crime and its causes ever since they first made rules and observed others breaking them. What and how people thought about crime and criminals (as well as all other things) in the past was strongly influenced by the social and intellectual currents of their time. This is no less true of what and how modern criminologists think about crime and criminals. In prescientific days, explanations for bad behavior were often of a religious or spiritual nature. Disastrous natural events such as famines and floods were seen as divine punishment for some transgression, and criminals were considered to be possessed by evil spirits. The

standard of innocence for an accused person was the survival of some sort of ordeal, such as being bound hand and feet and thrown into a river. If the accused survived the ordeal (which few, if any, ever did), he or she was considered under God's protection and therefore innocent. At other times, survival was viewed as a sign of evil (the devil's protection), and the person was executed (Drapkin, 1989). It may seem as though this type of thinking no longer applies in modern times, but that is not necessarily the case. Spiritualism is common among indigenous tribes and lesser-developed nations. Divine explanations for worldly events and human behaviors are still seen within contemporary America. For example, famed televangelist Pat Robertson blamed Hurricane Katrina that devastated New Orleans on the issue of legalized abortion. Along similar lines, a 2013 report by the Public Religion Research Institute found that 27% of people surveyed believed that God plays a role in the outcome of the Super Bowl. It would therefore be misguided to assume that the belief in spiritual explanations for crime and victimization are no longer prevalent in modern society.

THE RENAISSANCE

The Renaissance was a period lasting approximately between 1450 and 1600 that saw a change in thinking away from the pure God-centered supernaturalism of the Middle Ages to more human-centered naturalism. *Renaissance* literally means "rebirth" and refers to the rediscovery of the thinking traditions of the ancient Greeks. The sciences and arts were becoming important, the printing press was invented, and Christopher Columbus "discovered" America during this period. In short, the Renaissance began to mold human thinking away from the absolute authority of received opinion and toward a way that would eventually lead to the modern scientific method. Many during this period believed that the human character and personality are transparent in physical appearance. Such folk wisdom was systematized by an Italian physician named Giambattista della Porta, who developed a theory of human personality called physiognomy in 1558. Porta claimed that the study of physical appearance, particularly of the face, could reveal much about a person's personality and character. Thieves, for instance, were said to have large lips and sharp vision.

THE ENLIGHTENMENT

Another major thrust toward the emergence of the modern world was the Enlightenment, a period approximately between 1650 and 1800 where scientific and rational thought bloomed. It might be said that the Renaissance provided a key to the human mind and the Enlightenment opened the door. Whereas the Renaissance is associated with advances in art, literature, music, and philosophy, the Enlightenment is associated with advances in mathematics, science, reason, and the dignity and worth of the individual as exemplified by a concern for human rights. This concern led to reforms in criminal justice systems throughout Europe, a process given a major push by Cesare Beccaria's work *On Crime and Punishment* that ushered in the so-called classical school. The classical school emphasized human rationality and free will in its explanations for criminal behavior. Harvard psychologist Steven Pinker (2018) argues that enlightenment values are the core cause of the progress in human flourishing we experience today. Humanity is far less violent now than it was historically; poverty is decreasing rapidly worldwide; and we live longer, healthier, and happier lives because of enlightened thinking.

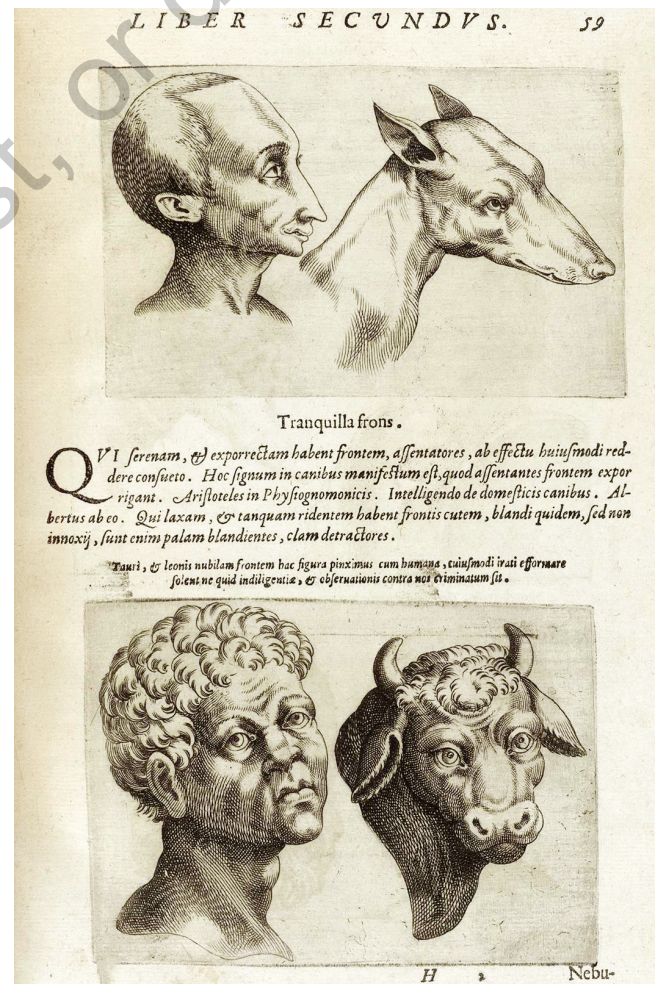


Photo 1.3

One of Giambattista della Porta's illustrations. Physiognomists were fascinated by the apparent similarities of some people's faces with animals. U.S. National Library of Medicine

THE INDUSTRIAL REVOLUTION AND THE AGE OF SCIENCE

Modern criminology began to take shape in the 19th century with the increasing belief that science could provide answers for everything. This period saw the harnessing of the forces of nature to build and operate the great machines that drove the Industrial Revolution and the strides made in biology by Charles Darwin's work on evolution. Criminology saw the beginning of the so-called *positivist school* during this period where positivist scholars attempted to explain human behavior scientifically in the vein of chemists and physicists using science to explain the physical world. Theories of character, such as phrenology, abounded. The basic idea behind phrenology was that cognitive and personality functions are localized in the brain and that the parts regulating the most dominant functions were bigger than parts regulating the less dominant ones. Criminals were said to have large bumps on parts of the skull thought to regulate craftiness, brutishness, or moral insensibility and small bumps in such "localities" as intelligence, honor, and piety. The biggest impact during this period, however, was made by Cesare Lombroso's theory of atavism, or the born criminal. Criminologists from this point on were obsessed with measuring, sorting, and sifting all kinds of data about criminal behavior. The main stumbling block to criminological advancement during this period was the inadequacy of its research. The intricacies of scientifically valid research design and measurement were not appreciated, and statistical techniques were truly primitive by today's standards. In short, early positivist criminologists of the day were ahead of their time, and the appropriate scientific tools had yet to be developed. The early classical and positivist thinkers are discussed at length in Chapter 4.

THE PROGRESSIVE ERA

The so-called Progressive Era (about 1890 to 1920) ushered in new social ideologies and new ways of thinking about crime. It was an era of liberal efforts to bring about social reform as unions, women, and other disadvantaged groups of people struggled for recognition. Criminology largely turned away from what was disparaged as "biological determinism," which implied that nothing could be done to reform criminals, to cultural or social determinism. If behavior is caused by what people experience in their environments, it was thought that all we had to do to change their behavior was to change their environment. It was during this period that sociology became the disciplinary home of criminology. Criminology became less interested in why individuals commit crime from biological or psychological points of view to a concern with aggregate-level data (e.g., social structures, neighborhoods, subcultures, poverty); that is, where is crime most prevalent and among what groups? It was during this period that the so-called structural theories of crime (discussed in Chapter 6), such as the Chicago school of social ecology, were formulated. Anomie/strain theory was another structural/cultural theory that emerged somewhat later (in 1938). This theory was doubtless influenced strongly by the American experience of the Great Depression and of the exclusion of African Americans from many areas of American society.

The 1950s through the early 1970s saw considerable dissatisfaction with the strong structural approach, which many viewed as proceeding as if individuals were almost irrelevant to explaining criminal behavior. Criminological theory moved toward integrating psychology and sociology during this period and strongly emphasized the importance of socialization. Control theories were highly popular at this time, as was labeling theory; these are addressed in Chapter 7.

THE CRITICAL PERIOD

Because the latter part of this period was a time of great civil unrest in the United States (the anti-Vietnam War, civil rights, women's, and gay rights movements), it also saw the emergence of several theories, such as conflict theory, highly critical of American society. These theories extended to earlier works of Marxist criminologists, who tended to believe that the only real cause of crime was capitalism. These theories provided little new in terms of our understanding of "street" criminal behavior, but they did spark an interest in white-collar crime and how laws were made by the powerful and applied against the powerless. These theories are addressed in Chapter 8. Perhaps in response to these theories, and perhaps because of a new conservative mood in the United States, theories with the classical taste for free will and rationality embedded in them reemerged in the 1980s. These were rational choice and routine activities theories, discussed in Chapter 5.

THE MODERN PERIOD

The late 1990s and early 2000s witnessed a resurgence of biosocial theories. These theories view behavior as the result of biological factors interacting with the past and present environments. Biosocial theories have been on the periphery of criminology since its beginning but have been hampered by perceptions of it as driven by an illiberal agenda and by the inability to “get inside” the mysteries of hereditary and the workings of the brain. The truly spectacular advances in the observational techniques (e.g., brain scan methods, \$10 cheek swabs to test DNA) in genetics and neuroscience over the last three decades have made these things less mysterious, and social scientists are increasingly realizing there is nothing illiberal about recognizing the biological basis of human nature. During the past decade, biosocial research into the causes of crime has expanded exponentially, and the findings derived from such research have contributed immensely to our understanding of the causes of and solutions to crime.

Lilly, Cullen, and Ball (2007) note that the most dramatic developments in science come most often from new observational techniques rather than new developments in theory. No science advances without the technology at its disposal to plumb its depths. Many chemists in the late 19th century refused to accept the existence of atoms, but chemistry advanced by leaps and bounds when the discipline as a whole finally accepted the atomic theory of matter (we are even able to see atoms with a scanning tunneling microscope, invented in 1981). Criminology is in a similar position today to that of chemists 150 years ago. The concepts, methods, and measuring devices available to us today may do for the progress of criminology what physics did for chemistry, what chemistry did for biology, and what biology is doing for psychology. Exceptionally ambitious longitudinal studies carried out over decades in concert with medical and biological scientists, such as the Dunedin Multidisciplinary Health and Development Study (Moffitt, 1993), the National Longitudinal Study of Adolescent Health (Udry, 2003), and the National Youth Survey (Menard, Mihalic, & Huizinga, 2001) are able to gather a wealth of genetic, neurological, and physiological data as well as psychological and sociological data. Paus (2010) discusses four evolving long-term studies that are brain imaging 400 to 2,000 subjects at a time and collecting large volumes of behavioral and cognitive data (e.g., socioeconomic status, maternal smoking and drinking, stressful life events, antisocial behavior, IQ, personality profiles). Three of these four studies also collect DNA data. Integrating these hard data into criminology will no more rob it of its autonomy than physics robbed chemistry or chemistry robbed biology. For those who agree with this assessment, this is an exciting time to study criminology!



Photo 1.4

Functional magnetic resonance imaging (fMRI) machines can tell us a lot about the functioning of the brain and how that functioning is related to behavior. ©iStockphoto.com/Sidekick

THE ROLE OF THEORY IN CRIMINOLOGY

When an FBI agent asked the Depression-era bank robber Willie Sutton why he robbed banks, Sutton replied: “Because that’s where the money is” (Sutton & Linn, 1976:120). In his witty way, Sutton was offering a theory explaining bank robbery: If we put a certain kind of personality and learning together with opportunity and coveted resources, we get bank robbery. This is what theory making is all about: trying to grasp how all the known factors related to (or correlated with) a phenomenon such as crime are linked together in noncoincidental ways to produce an effect. In short, theory opens the black box of causality.

Just as medical scientists want to find out what causes disease, criminologists are interested in finding out factors that cause criminal behavior. Just as there are risk factors related to becoming ill, a variety of risk factors may lead to criminal behavior. The first step in a long chain leading to the detection of causes is to discover correlates related to the phenomenon of interest. To discover if two things (we call them factors or variables) are co-related, we have to determine if they vary together, that is, if one of the variables changes (goes up or down) when the other variable changes.

Take gender, the most thoroughly documented correlate of criminal behavior ever identified. Literally thousands of studies throughout the world, some European studies going back



RESEARCH SNIPPET

Criminology's Performance Review

Criminologists are in the business of explaining criminal behavior. This begs the question: How well do criminologists explain crime? Noted scholars David Weisburd and Alex Piquero sought to answer this question. Weisburd and Piquero (2008) examined all empirical tests of the various criminological theories published in *Criminology* (the discipline's top journal) between 1968 and 2005. They estimated the explanatory power of criminological theories by assessing how much criminal behavior they can account for. The study found that, overall,

extant criminological theory accounted for only a small portion of the criminal behavior observed, leaving as much as 80% of criminality unaccounted for or unexplained. The study also found that individual-level theories perform more poorly than macro-level theories and that theories have not become better at explaining or predicting crime over the decades. These findings suggest that criminologists still have a lot of work to do and need to think outside the box of traditional theorizing to address the large portion of unexplained criminal behavior.

five or six centuries, consistently report strong gender differences in criminal behavior, and the more serious the crime the greater the difference (Ellis & Walsh, 2000). In other words, as we move from one category of the gender variable (female to male), the prevalence and incidence of crime rises dramatically. However, establishing *why* gender is such a strong correlate of crime is the real challenge. Of course, variables can vary together coincidentally rather than causally. When we consistently find correlations between criminal behavior and some other factor it is tempting to assume that something causal is going on, but a correlation *suggests* causation; it does not establish it. Resisting the tendency to jump to causal conclusions from correlations is the first lesson of statistics. Establishing *causal* connections between and among correlates is the business of theory.

WHAT IS THEORY?

A **theory** is a set of logically interconnected propositions explaining how observed facts within a domain of interest are related and from which a number of hypotheses can be derived and tested. Theories should provide logical explanations of an area of interest by fitting the discovered facts into a coherent pattern. Not only should they be capable of making sense of relevant empirical facts so far discovered, they should provide practical guidance for researchers looking for yet undiscovered facts. The best example of such a theory is one you have all seen on the walls of classrooms across the nation in the form of the periodic table. This powerful icon of science rests on the atomic theory of matter. Chemists knew about the properties of many of the elements displayed on these charts for centuries, but their relationship was not known until the chemist Dmitri Mendeleev placed them into a logical order in 1869. Mendeleev arranged the known elements at the time (63) in order of their atomic number, which is the number of protons in the core of the element, increasing from top to bottom and left to right, starting with hydrogen. Mendeleev also noticed that some elements had similar characteristics to others and grouped these in columns and found that they fit into regular intervals (periods) of eight, hence the name periodic table.

In addition to looking backward to fit current facts into a harmonious pattern, theories must also be forward looking, telling researchers where they might look to fill in the gaps in our knowledge. Mendeleev had the foresight to leave gaps in his table that indicated to chemists that there had to be other elements that fit the properties of others in its group. Chemists have done so, and the table has been adjusted to fit the additional 55 elements that have since been discovered or synthesized in labs. Thus, good scientific theories are always open to adjustment as new facts are discovered. Of course, we don't have anything in criminological theory as neat and precise as the periodic table, nor will we ever. If we could fit humans into the kind of tidy categories found in the periodic table we would be little more than automatons. The discussion is meant only to illustrate the ideal of scientific theorizing.

Theory: A set of logically interconnected propositions explaining how phenomena are related and from which a number of hypotheses can be derived and tested.

What is more, the word *theory* tends to have a different meaning for scientists than for members of the general public. In the public discourse generally, the word *theory* is commonly used to mean “guess” or “hunch.” In science, this is absolutely not the case. When uninformed people say things such as, “Darwin’s theory of evolution is just a theory” they imply that Darwin’s brilliant and elegant theory is nothing more than a guess, which it is not. Platitudes such as this show the scientific ignorance of those who mutter them. Students of criminology, or any science for that matter, should know how scientists use the word *theory* and that it is not just a guess or hunch, but that it is so much more meaningful. After all, Newton’s theory of gravity isn’t “just a theory,” and you don’t see people jumping off 20-story buildings without falling to their death.

Looking to fill the gaps in our knowledge takes the form of a series of statements that can be logically deduced from the theory called **hypotheses**, which are statements about relationships between and among factors we expect to find based on the logic of our theories. Theories provide the raw material (the ideas) for generating hypotheses, and hypotheses support or fail to support theories by exposing them to empirical (based on experiment and observation) testing. Criminological theories are devised to try to explain how a number of different correlates may actually be causally related to criminal behavior rather than simply associated with it.

When we talk of causes we do not mean that when *X* is present *Y* will occur in a completely prescribed way. Rather, we mean that when *X* is present *Y* has a certain *probability* of occurring and perhaps only then if *X* is present along with factors *A*, *B*, and *C*. Criminologists have never uncovered a necessary cause (a factor that *must* be present for criminal behavior to occur and in the absence of which criminal behavior has never occurred) or a sufficient cause (a factor able to produce criminal behavior without being augmented by some other factor).

We all use theory every day to fit diverse facts together. A detective confronted with a number of facts about a mysterious murder must fit them together, even though their meaning and relatedness to one another is ambiguous and perhaps even contradictory. Using years of experience, training, and good common sense the detective constructs a theory linking those facts together so that they begin to make some sense, to begin to tell their story. An initial theory derived from the available facts then guides the detective in the search for additional facts in a series of “if this is true, then this should be true” statements (this is what scientists call hypotheses). There may be many false starts as our detective misinterprets some facts, fails to uncover others, and considers some to be relevant when they are not. Good detectives, like good scientists, will adjust their theory as new facts warrant; poor detectives and poor scientists will stand by their favored theory by not looking for more facts or by ignoring, downplaying, or hiding contrary facts that come to their attention.

WHAT IS A GOOD THEORY?

The physical and natural sciences enjoy a great deal of agreement about what constitutes the core body of knowledge within their disciplines and thus have few competing theories, especially at the most general levels. Within criminology, and the social/behavioral sciences in general, there is little agreement about the nature of the phenomena we study, and so we suffer an embarrassment of theoretical riches (see Table 1.1). Criminology is a science, however, in that it attempts to develop general principles about phenomena derived from empirical observations, but even it is fraught with theoretical squabbles. Given the number of criminological theories, students may be forgiven for asking which one is true. Scientists never use the term *truth* in scientific discourse; rather, they tend to ask which theory is most useful. Within criminology, there is no one true or right theory where all competing theories are untrue or wrong. All theories have a kernel of truth to them, but not all theories are created equal. There are more useful theories and less useful theories, especially in terms of explaining certain crimes rather than explaining crime generally. The value of any theory, however, is based on its empirical merit. The following criteria for judging the merits of a theory are from Ellis, Hartley, and Walsh (2010:298–300).

1. *Predictive accuracy.* A theory must not only be backward looking in the sense that it harmoniously fits known facts together, it must also be forward looking, telling researchers where they should find new facts. That is, a theory has merit and is useful to the extent that it accurately predicts what is later observed; it has generated a large number of research hypotheses that support it. This is the most important criterion.

Hypotheses: Statements about relationships between and among factors we expect to find based on the logic of our theories.

2. *Predictive scope.* This refers to the scope or range of the theory and thus the scope or range of the hypotheses that can be derived from it. That is, how much of the empirical world falls under the explanatory umbrella of Theory A compared to Theory B. As the predictive scope of a theory widens, it tends to get more complicated.
3. *Simplicity.* If two competing theories are essentially equal in terms of the first two criteria, then the less complicated one is considered more “elegant.”
4. *Falsifiability.* A theory is never proven true, but it must have the quality of being falsifiable or disprovable. If a theory is formulated in such a way that no amount of evidence could possibly falsify it, then the theory is of little use.

HOW TO THINK ABOUT THEORIES

You will be a lot less concerned about the numerous theories in criminology if you realize that different theories deal with different levels of analysis. A **level of analysis** is that segment of the phenomenon of interest that is measured and analyzed. We can ask about causes of crime at the levels of whole societies, subcultures, neighborhoods, families, or individuals. If the question asks about crime rates in societies (such as Japan versus the United States), the answer must address sociocultural differences among different societies or in the same society at different times. Conversely, if crime rates are found to be related to the degree of industrialization or racial/ethnic diversity in societies, this tells us nothing about why some people or groups in an industrialized and racially heterogeneous society commit crimes and other people and groups in the same society do not. To answer questions about individuals and groups we need theories about individuals and groups. Generally speaking, questions of cause and effect must be answered at the same level of analysis at which they were posed; thus, different theories are required at different levels. This is not to say, however, that we do not have theories that attempt to span multiple levels of analysis.

To span different levels of analysis we have to understand how factors included in different levels interact (how each is both affected by and affects the other). Crime rates can change drastically from time to time without any corresponding change in the gene pool or personalities of the people in the population. Because causes can only be sought among factors that vary, changing sociocultural environments must be the only causes of changing crime rates. What environmental changes do, however, is raise or lower individual thresholds for engaging in crime, and some people have lower thresholds than others. People with weak criminal propensities (or high prosocial propensities) require high levels of environmental instigation to commit crimes, but some individuals engage in criminal behavior in the most benign of environments. Whether an individual crosses the threshold to commit criminal acts depends on where his or her personal thresholds are set interacting with where environmental thresholds are set. At this level, then, we need to have a firm grasp both on individual characteristics and how they interact with a variety of environmental conditions.

In sum, there is no grand unified theory in criminology that adequately explains all criminal behavior at multiple levels of analysis. Instead, a theory may be plucked from the current criminological repertoire that is most useful in accomplishing a certain task. To use a metaphor, it is better to approach theorizing with a handful of grapes rather than a single grapefruit. The grapefruit is the nonexistent grand unified theory of criminology whereas each grape in the handful represents one of the many theories discussed in the following chapters. Students should learn how to pick a theoretical grape that is most useful in asking a certain research question or explaining certain antisocial phenomena.

Level of analysis: That segment of the phenomenon of interest that is measured and analyzed (e.g., individuals, families, neighborhoods, states).

Ideology: A way of looking at the world, a general emotional picture of “how things should be” that forms, shapes, and colors our concepts of the phenomena we study.

IDEOLOGY IN CRIMINOLOGICAL THEORY

As well as criminological theorizing being linked to the social and intellectual climate of the times, it is also strongly linked to ideology. **Ideology** is a way of looking at the world, a general emotional picture of “how things should be.” It is often so strongly held that it narrows the mind and inflames the passions, leading to a selective interpretation and understanding of evidence rather than an objective and rational evaluation of it. Ideology forms, shapes, and colors our concepts of crime and its causes in ways that lead to a tendency to accept or reject new evidence according to how well or poorly it fits our ideology.

TABLE 1.1

Theories Favored by Criminologists Cross-Tabulated by Self-Reported Political Ideology

Theory Favored*	Political Ideology				
	Conservative	Moderate	Liberal	Radical	Total
Social learning (2,6)	1	22	22	5	50
Life course/developmental (n/a,11)	3	8	28	3	42
Social control (1,1)	0	14	27	1	42
Social disorganization (7,14)	0	11	26	3	40
Self-control (n/a,2)	3	6	15	0	24
Biosocial (n/a,12)	5	5	11	0	21
Rational choice	2	7	11	1	21
Conflict (n/a,4)	0	2	8	6	16
Critical (10,18)	0	0	8	8	16
Differential association (4,3)	1	4	10	1	16
Age-graded developmental	1	5	7	0	13
Strain (n/a,8)	0	3	9	0	12
Dual-pathway developmental (n/a,5)	1	0	10	0	11
Routine activities (n/a,9)	1	2	8	0	11
General strain	0	2	4	1	7
Institutional anomie	0	1	5	0	6
Interactional	0	1	5	0	6
Opportunity (5,15)	1	2	2	0	5
Ecological (n/a,23)	1	1	2	0	4
Labeling (6,17)	0	1	2	1	4
Psychological	0	1	3	0	4
Classical (n/a,20)	0	3	0	0	3
Feminist (n/a,10)	0	0	2	1	3
Anomie (9,6)	0	1	1	0	2
TOTAL	20	102	226	31	379

$X^2 = 134.6, p < 0.001$

*Numbers in parentheses represent ranking of theories in the Ellis and Hoffman (1990) and Walsh and Ellis (2004) surveys. Theories without ranking or designated n/a (not applicable) were not represented in those surveys.

Source: Cooper, Walsh, & Ellis (2010).

A criminological theory is at least partly shaped by ideology, and those who feel drawn to a particular theory owe a great deal of their attraction to it to the fact that they share the theory's vision (Cullen, 2005). This observation reminds us of the Indian parable of the six blind men feeling different parts of an elephant. Each man describes the elephant according to the part of its anatomy he felt, but each fails to appreciate the descriptions of the others who felt different parts. The men fall into dispute and depart in anger, each convinced of the utter stupidity of the others. The point is that ideology often leads criminologists to "feel" only parts of the criminological elephant and then to confuse the parts with the whole, even questioning the intelligence and motives (e.g., having some kind of political agenda) of others who have examined different parts of the criminological elephant. Criminology is, however, slowly moving toward the realization that criminal behavior must be examined at all levels from neurons to neighborhoods if it is ever to come to terms with the whole.

According to economist and philosopher Thomas Sowell (1987), two contrasting visions have shaped thoughts about human nature throughout history, and these visions are in constant conflict with each other. The first of these visions is the **constrained vision**, so called because believers in this vision view human activities as constrained by an innate human nature that is self-centered and largely unalterable. The **unconstrained vision** denies an innate human nature, viewing it as formed anew in each different culture. The unconstrained vision also believes that human nature is perfectible, a view scoffed at by those who profess the constrained vision. A major difference between the two visions is that the constrained vision says, "this is how the world *is*," and the unconstrained vision says, "this is how the world *should be*." For instance, unconstrained visionaries might ask what causes crime or poverty, but constrained visionaries would ask the opposite questions—what causes a well-ordered society and wealth? Note that this implies that unconstrained visionaries believe that crime and poverty are deviations from the norm and need to be explained. Constrained visionaries see crime and poverty as historically normal and inevitable (albeit, regrettable) and believe that what has to be understood are the conditions that prevent them. The major fault line in criminology lies in these visions. Theories broadly classified as social learning theories see crime as caused, and theories broadly classified as social control theories see crime as an inevitable unless steps are taken to prevent it.

The evidence that ideology is linked to what theories criminologists favor is strong. Cooper, Walsh, and Ellis (2010) surveyed 379 criminologists and asked them which theory best explained serious criminal behavior. As you see from Table 1.1, 24 theories were represented. Obviously they cannot all "best explain serious criminal behavior," so something other than evidence led criminologists to their choices, and the best predictor was their self-reported ideology, divided into conservative, moderate, liberal, and radical. The " $X^2 = 134.6, p < 0.001$ " notation means that such a result could be found by chance in less than one time in 1,000 similar samplings. We can thus be quite confident that the finding can be generalized beyond the sample to other criminologists, especially since this study repeated a previous study of a different group of criminologists with the same results (Walsh & Ellis, 2004). When reading this

Constrained vision: One of the two so-called ideological visions of the world. The constrained vision views human activities as constrained by an innate human nature that is self-centered and largely unalterable.

Unconstrained vision: One of the two so-called ideological visions of the world. The unconstrained vision denies an innate human nature, viewing it as formed anew in each culture.



Critical Thinking

The legal drinking age in America is 21 years. It is illegal for people under the age of 21 to drink alcohol. However, this is a very common offense, especially on college campuses. Underage drinking is obviously a mala prohibita crime, but the penalty for underage drinking can be quite steep and burdensome for the underage starving student. However, no such penalty is incurred by the student of legal drinking age. In fact,

drinking is a widely participated and even celebrated pastime. Does something significant, if not magical, occur in students' brains the moment they turn 21 that makes them responsible enough to drink? Is the drinking age arbitrary? What is the legal drinking age in other countries? Are there legitimate reasons for having the legal drinking age be 21? What should the legal drinking age be, and what penalties should violators face?

text try to understand where the originators, supporters, and detractors of any particular theory being discussed are “coming from” ideologically as well as theoretically.

CONNECTING CRIMINOLOGICAL THEORY AND SOCIAL POLICY

Theories of crime imply that changing the conditions the theory holds responsible for causing crime can reduce it and even prevent it. In that sense, policy is theory in action. We say *imply* because few theorists are explicit about the public policy implications of their work. Scientists are primarily concerned with gaining knowledge for its own sake; they are only secondarily concerned with how useful that knowledge may be to practitioners and policy makers. Conversely, policy makers are less concerned with hypothesized “causes” of a problem and more concerned with what can be done about the problem that is politically, practically, and financially feasible.

Policy is simply a decided course of action designed to solve a selected problem from among alternative courses of action. Solving a social problem means attempting to reduce the level of the problem currently experienced or to enact strategies that try to prevent it from occurring in the first place. Social science findings can and have been used to help policy makers determine which course of action to follow to “do something” about the crime problem, but policy makers must consider many other concerns that go beyond maintaining consistency with social science theory and data. The question of “what to do about crime” involves political and financial considerations, the urgency of other problems competing for scarce financial resources (e.g., schools, highways, environmental protection, public housing, national defense), and a host of other major and minor considerations deemed important by various segments of the population.

Policy choices are, at bottom, value choices, and as such only ideologically palatable policy recommendations are likely to be implemented. Given all of these extra theoretical considerations, it would be unfair to base our judgment of a theory’s power solely by its impact on public policy. Even if some aspects of policy are theory based, unless all recommendations of the theory are fully implemented, the success or failure of the policy cannot be considered evidence of theoretical failure any more than a baker can blame a recipe for a lousy cake if he or she neglects to include all the ingredients it calls for.

Connecting problems with solutions is a tricky business in all areas of government policy making, but nowhere is it more difficult than in the area of criminal justice. No single strategy can be expected to produce significant results, and a strategy may sometimes make matters worse. For example, President Johnson’s “war on poverty” was supposed to have a significant impact on the crime problem by attacking what informed opinion of the time considered its “root cause.” Programs and policies developed to reduce poverty currently involve 126 federal

Policy: A course of action designed to solve some problem and selected by appropriate authorities from among alternative courses of action.

CRIMINOLOGY IN POP CULTURE

Buyer Beware

Popular culture often misleads the public and dupes people into believing things that are not true or at least not entirely accurate. This is especially the case regarding crime and justice. Crime TV shows like *Blue Bloods*, *Brooklyn Nine-Nine*, or *CSI*; podcasts like *Serial*; and crime movies are typically not accurate reflections of reality. Even “true crime” shows like *Making a Murderer* are not reflections of

reality because they are heavily edited and scripted to add drama and suspense. Also, important pieces of information are often left out of the script and superfluous tidbits are put in. That said, these programs are incredibly popular and can warp our perceptions of crime and justice. Consumers of crime-related media should be aware of this and simply enjoy the entertainment value of such programming.

programs (in addition to state programs) that have spent almost \$15 trillion over the past 40 years (Tanner, 2012). However, reducing poverty had no effect on reducing crime; in fact, crime rose to record levels as poverty fell during the latter period of the 20th century (Walsh & Ellis, 2007). Another high-profile example of failed policy is the Volstead Act of 1919 that prohibited the manufacture and sale of alcohol in the United States. Although based on a true premise (alcohol is a major factor in facilitating violent crime), it failed because it ushered in a wild period of crime as gangs fought over control of the illegal alcohol market. Similarly, the current war on drugs has had similar negative consequences. Policies attempting to control human behavior often have effects that are unanticipated by policy makers or by the theories that may have driven their policies.

Nevertheless, every theory has policy implications deducible from its primary assumptions and propositions. The deep and lasting effects of the classical theories on legal systems around the world has long been noted, but the broad generalities about human nature contained in those theories offer little specific advice on ways to change criminals or to reduce their numbers. Although we caution against using the performance of a theory's public policy recommendations as a major criterion to evaluate its power, the fact remains that a good theory *should* offer useful practical recommendations, and we discuss a theory's policy implications going forward.

Summary

- Criminology is the scientific study of crime and criminals. It is an interdisciplinary/multidisciplinary study, although criminology has yet to integrate these disciplines in any comprehensive way.
- The definition of crime is problematic because acts that are defined as criminal vary across time and culture. Many criminologists believe that because crimes are defined into existence we cannot determine what real crimes and criminals are. However, a stationary core of crimes are universally condemned and always have been. These are predatory crimes that cause serious harm and are defined as *mala in se*, or “inherently bad,” crimes, as opposed to *mala prohibita*—“bad because they are forbidden” crimes.
- A person is not “officially” a criminal until such time as he or she has been found guilty beyond a reasonable doubt of having committed a crime. To prove that he or she did, the state has to prove *corpus delicti* (“the body of the crime”), which essentially means that he or she committed a criminal act (*actus reus*) with full awareness that the act was wrong (*mens rea*—guilty mind). Other basic principles—concurrency, harm, and causation—are proven in the process of proving *corpus delicti*.
- The history of criminology shows that the cultural and intellectual climate of the time strongly influences how scholars think about and study crime and criminality. The Renaissance brought more secular thinking, the Enlightenment more humane and rational thinking, the Industrial Revolution more scientific thinking, and the Progressive Era a reform-oriented criminology reminiscent of the classical school.
- Advances in any science are also constrained by the tools available to test theories. The ever-improving concepts, methods, and techniques available from modern genetics, neuroscience, and other biological sciences should add immeasurably to criminology's knowledge base in the near future.
- Theory is the “bread and butter” of any science, including criminology. Many contending theories seek to explain crime and criminality. Although we do not observe such theoretical disagreement in the more established sciences, the social/behavioral sciences are young, and human behavior is extremely difficult to study.
- When judging among the various theories we have to keep certain things in mind, including the predictive accuracy, scope, simplicity, and falsifiability. We must also remember that crime and criminality can be discussed at many levels (society-wide, subcultural, family, or individual) and that a theory that does a good job of predicting crime at one level may do a poor job at another level.
- Theories can also be offered at different levels of analysis—whole societies, subcultures, neighborhoods, families, and individuals. They may focus on the

evolutionary history of the species, the individual's subjective appraisal of a situation, or any other temporal level in between. A full account of an individual's behavior may have to take all these levels into consideration because any behavior arises from an individual's propensities interacting with the current environmental situation as that individual perceives it. This is why we approach criminology from social, psychosocial, and biosocial perspectives.

- Ideology plays a role in the development of criminological theories. The main ideological dividing line in criminology is between constrained visionaries (primarily conservatives who tend to favor

explanations of behavior that focus on the individual) and unconstrained visionaries (mostly liberals who tend to favor structural or cultural explanations).

- All theories have explicit or implicit recommendations for policy since they posit causes of crime or criminality. Removing those alleged causes should reduce crime if the theory is correct, but the complex nature of crime and criminality make policy decisions based on them risky indeed. Policy makers must consider many other issues demanding scarce resources, so the policy content of a theory should never be used to pass judgment on the usefulness of theory for criminologists.

Exercises and Discussion Questions

1. Which of the following 11 acts do you consider mala in se crimes, mala prohibita crimes, or no crime at all? Defend your choices.
1. drug possession. 2. vandalism. 3. drunk driving. 4. collaborating with the enemy. 5. sale of alcohol to minors. 6. fraud. 7. spouse abuse. 8. adult male having consensual sex with underage person. 9. prostitution. 10. homosexual behavior. 11. pornography.
2. Why are new observational techniques such as DNA testing and brain scans useful to criminologists?
3. Discuss the relationships between theories, facts, and hypotheses.
4. Why is it important to consider ideology when evaluating criminologists' work? Is it possible for them to divorce their ideology from their work?
5. Large-scale policies aimed at reducing crime (think of Prohibition and the war on poverty) rarely have the desired effect. Can you think of any good reasons why this is so?
6. Go to <https://www.lsus.edu/offices-and-services/community-outreach/the-journal-of-ideology> for the online journal *The Journal of Ideology*. Click on Archives and find and read "Ideology: Criminology's Achilles' Heel." What does this article say about the "conflict of visions" in criminology?

Useful Websites

Critical criminology. www.critcrim.org.

Learning theories of crime. http://criminology.wikia.com/wiki/Social_Learning_Theory.

Links to criminological theory. <http://criminal-justice.iresearchnet.com/criminology/theories/>.

Chapter Terms

Actus reus 6
Arraignment 9
Arrest 8
Causation 8

Concurrence 8
Constrained vision 18
Corpus delicti 6
Crime 5

Criminality 5
Criminology 2
Grand jury 9
Harm 8
Hypotheses 15
Ideology 16
Level of analysis 16

Mala in se 5
Mala prohibita 5
Mens rea 6
Policy 19
Theory 14
Unconstrained vision 18

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Theory in Action

Theory in Action 1.1: Law Enforcement

Theory in Action 1.2: Probation and Taking Responsibility

Theory in Action 1.3: Probation