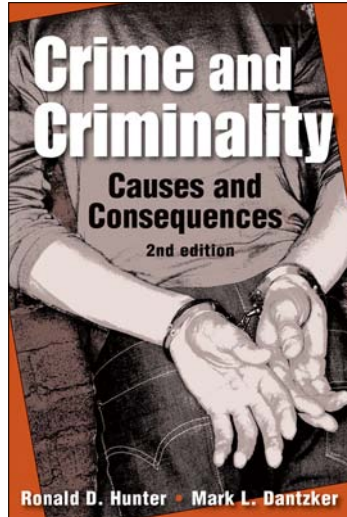EXCERPTED FROM

Crime and Criminality:
Causes and Consequences

SECOND EDITION

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LYNNE RIENNER PUBLISHERS

Contents

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The Nature of
Crime and Justice

Despite our being frequently told not to discuss them, the most interesting topics in the world are **sex**,* **religion**, **politics**, and crime. The most interesting stories often include all four. The purpose of this text is to explore crime and criminality. However, before we narrow our emphasis, we need to discuss how crime and criminality relate to the myriad other important issues within our lives (of which sex, religion, and politics happen to belong). In other words, to study crime and its derivatives (criminality, **criminology**, criminal justice, crime science) we must first study **human nature**.

On Being Human

Being human is complicated; that is why we have so many disciplines that try to explain human behavior. We will examine many of those explanations in subsequent chapters. Regardless of the approach that one takes to the study of human behavior, there are commonalities found within all. Humans have a need for acceptance. By this we mean that we need to feel that other people like us and welcome our association. Even diehard loners often need a "people fix" in which they feel a connection with others. We also need to feel that there is hope for the future. Even those who are fatalistic want to believe that at some point life will become easier for them and/or their loved ones. We have a need for peace. Even though many of us seem to create, if not even welcome, turmoil, we frequently need for things to calm down. While most would probably deny it, we also have a need for understanding. In fact, in this effort,

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* Key terms that are defined in the Glossary appear in **boldface** the first time they are used in the book.

we often tend to reveal too much about ourselves to those who are not inter-ested. More frequently, we feel the need to share our views with those who would prefer not to know what we think.

Our needs are often focused in two central wants that we as humans have. The first is self-worth. *No matter how vile or contemptible individuals may be in the eyes of others or how charismatic and successful they may be, it is a person's image of him- or herself that matters the most*. Whether it is conscious or subconscious, most of our activities are geared to promoting our own self-image. This need can lead people to be obsessed with work, wealth, possessions, piety, enhanced social status, or other means of impressing others along with ourselves.

The second vital need is that of **justice**. At the time that this edition was being finalized, a charismatic pastor was ruffling feathers within traditional Christianity with his controversial views on heaven and hell. In an interview on *Good Morning America,* the Reverend Rob Bell stated that a crucial element within his "love wins" philosophy was that "the core of human existence is a longing for justice" (Bell, 2011). While most of us don't agree on what justice is, we believe that it is vital to us, our loved ones, and our society. That is why we wrote this primer. We hope that is why you are reading it.

Catalysts and Impediments to Justice

As we mentioned above, how people see the world is shaped by how they view themselves. *These two perspectives, **worldview** and self-image, provide the means by which we evaluate all other aspects of life, particularly crime and justice*. The following are what we consider to be the primary influences upon our self-image (or to use a term from a later chapter, our **identity**).

The impact of family. An old adage is that you can choose your friends, but you can't choose your family. The love and nurture provided within most families are the foundation most of us rely on during difficult times. They are the ones upon whom we may depend even though we may not at times deserve their support. Unfortunately, as many of you who are reading this are well aware, family can also be the bane of our existence. Neglect and abuse of children, battering of spouses, and mistreatment of elders occur too frequently within our communities.

The impacts of family, both in influencing criminal behaviors and in thwarting them, will be discussed within a number of the theories presented in the following chapters.

The impact of religion. We all believe in something; it may be in a supreme being, it may be in a system of living, it may be in our own perceived majesty, but we all practice some form of religion. Havilland (2002, p. 364) defines

religion as "organized beliefs in the supernatural that rationalize rituals aimed at interpreting and controlling aspects of the universe otherwise beyond human control." For our purposes, we will adopt a definition consistent with that of the US Supreme Court in *Torcaso v. Watkins* (1961). In that decision, Justice Hugo Black commented in a footnote, "Among religions in this country which do not teach what would generally be considered a belief in the existence of God are Buddhism, Taoism, Ethical Culture, **Secular Humanism**, and others." The term *secular humanism* became prominent soon afterward.

Our definition is as follows: "Religion is a system of beliefs that we hold sacred and that form the basis of rituals and expectations that we live by and that we encourage others to live by." Using this perspective, we are able to classify secular humanism as third among the largest religions of the world (see Table 1.1). We do this not as a criticism of its philosophies—most of my secular humanist friends do not like it being called a religion—but in recognition of its influence in all aspects of American life we are doing so.

Table 1.1　Major Religions of the World (ranked by number of adherents)

Christianity	2.1 billion
Islam	1.5 billion
Secular/nonreligious/agnostic/atheist	1.1 billion
Hinduism	900 million
Chinese traditional religion	394 million
Buddhism	376 million
Primal-indigenous	300 million
African traditional and diasporic	100 million
Sikhism	23 million
Juche	19 million
Spiritism	15 million
Judaism	14 million
Baha'i	7 million
Jainism	4.2 million
Shinto	4 million
Cao Dai	4 million
Zoroastrianism	2.6 million
Tenrikyo	2 million
Neopaganism	1 million
Unitarian-Universalism	.8 million
Rastafarianism	.6 million
Scientology	.5 million

Source: http://www.adherents.com/Religions_By_Adherents.html (retrieved March 15, 2011).

No matter your personal religious (or nonreligious) views, the impact of religion is essential for the student of criminal justice and criminology to understand because of its importance within the lives of so many people and its influence on the making and enforcement of laws around the world. This is particularly relevant due to the ongoing aftermath of the 9/11 attacks on the Twin Towers and the Pentagon and the unrest within the Muslim world due to **Radical Islam** (see the Reality Check at the end of the chapter).

One of the interesting aspects of reviewing religions is that the ethical and moral frameworks are so similar. **Caring** for others, working for common good, sharing, and promoting justice are common tenets. Unfortunately, all religions (including **atheism**) also suffer from the adverse effects of hypocrisy and intolerance on the part of some devotees.

The greatest impacts of religion within contemporary US society have been the support of mainstream Protestants, Catholics, and Jews for civil and **human rights**; the opposition of Christian Fundamentalists to abortion, as well as their support for harsher penalties (including the death penalty) for criminal offenders; and the threat of terrorism from radical Islam both here and abroad.

The impact of gender. Does crime discriminate? According to **crime statistics**, males are the dominant criminal perpetrators. For example, in 2009, 74.7 percent of all the persons arrested, 81.2 percent arrested for violent crimes, and 62.6 percent arrested for property crimes were male (Federal Bureau of Investigation [FBI], 2010a, Table 42). Males were arrested most often for drug abuse violations and driving under the influence, while females were most often arrested for larceny-theft.

Despite the fact that males dominate criminal behavior, statistics indicate that the percentage of female arrests continues to increase. Females now account for 25.3 percent of all arrests. They have increased to 18.8 percent of arrests for violent crimes and 37.4 percent of arrests for property crimes (Federal Bureau of Investigation, 2010a). Based on these statistics, it can be said that crime does not discriminate but instead has welcomed females with open arms. Of course, the concern is why female crime rates have increased. While no one definitive answer has yet been identified, one could argue that the increase in female involvement in occupations historically dominated by males, in combination with the population numbers (women comprise 51–53 percent of the overall population in the United States), would influence the growing number of females arrested. Furthermore, equal rights and equal application of the law may have some influence. Regardless of the reason, the reality is that females are becoming more criminal.

The impact of race and ethnicity. One of the greatest misnomers in criminal justice is that minorities are arrested more than whites. In 2009, 69.1 percent

of all individuals arrested were white and 28.3 percent were African American (Federal Bureau of Investigation, 2010a, Table 43). This statistic alone would indicate that minorities are not arrested more than whites. However, this statistic is misleading in that minority group members tend to be arrested disproportionately to their population base. That is, African Americans make up less than 20 percent of the population, yet nearly 30 percent of those arrested are African Americans. This disproportion has created a great debate in criminal justice over racial equality. The question of whether race influences the commission of crime or merely the prosecution of it has yet to be properly addressed.

We wish to note that the above paragraph is a bit misleading because the **Uniform Crime Reports** cite White, Black, American Indian or Alaskan Native, and Asian or Pacific Islander. Hispanics and members of other ethnic groups (including Arab Americans) are classified within White or Black. Since Hispanics/Latinos are now the largest ethnic minority in the United States, this is an oversight that needs correcting.

The impact of age. With respect to age, according to 2009 data, 43.5 percent of all those arrested in the United States were under the age of twenty-five. Of those arrested for violent crimes, 44.7 percent were under the age of twenty-five. Because 3.8 percent of those arrested were under fifteen, one could suggest that criminality is greatest among individuals ages fifteen to twenty-four (Federal Bureau of Investigation, 2010a, Table 38). Perhaps immaturity prevents this group from accepting the responsibility of being in a society that requires certain rules to be followed regardless of how doing so might hamper reaching one's goals. More likely it is being young, vigorous, and wishing to assert independence. In addition, responsibility is easily connected with the idea of free will, which one might argue younger people have more opportunity to exercise. However, it should be noted that misbehavior is not limited to the young. Our group of "Baby Boomers," aka the "Me Generation," has a well-deserved reputation for being self-centered that is irksome to both prior and later generations (Jayson, 2011).

Another issue in considering age and criminality is the increasing number of elderly offenders who are being tried and sentenced within the criminal justice system. The problems of dealing with elderly offenders in both community and institutional corrections will be of increasing concern within the coming years.

The impact of education. While higher education does not stop people from committing crimes (as demonstrated by the numbers of doctors, lawyers, judges, politicians, and professors who have been arrested), it does correspond with lesser involvement in street crimes. It also matches up with increased involvement in corporate and political crimes. The key factor in the relation-

ship between education and crime is opportunity. Those with higher education have better opportunities for social and economic advancement, thus not having to engage in street-level crimes. However, their loftier positions create more opportunities for crimes such as embezzlement, fraud, and other types of white-collar crime. These opportunities (or the lack thereof) will be discussed within several theories in the following chapters.

The impact of social class. Among all the variables one could claim have an influence on criminality, one of the more difficult to quantify is social class. Most commonly, society has been viewed as three-tiered in terms of class: upper, middle, and lower. Each tier can then itself be divided into an upper, middle, and lower. These tiers have long been determined by economic status, which in the United States is usually defined by yearly income. Pundits, politicians, and political activists often claim that crime results from poverty, which is associated with the lower class. However, depending upon one's political ideology, class interpretations can be used to blame the poor and label them as inherently criminal or to excuse their behaviors as the result of social injustice. We investigate these views in detail within later chapters. Suffice it to say at this point that there are more than enough examples of crime among the upper and middle classes to counter this claim. In truth, criminality is found among all levels of society; it is just that many refuse to acknowledge that factors other than poverty and class conflict can contribute to crime.

The impact of ecological/geographical differences. Examining national crime data reveals that crime rates in rural and suburban areas tend to be lower than crime in large urban areas. This difference might suggest that crime is influenced by those factors found more often in urban areas, such as overcrowding, poverty, social inequality, drug use, racial conflict, and economic instability. Crime rates are also often higher in the western and southern parts of the country and during the summer, suggesting that warmer climates have some influence on criminal behavior (Doerner and Lab, 2012).

Regional differences may also be reflected in cultural issues. Massive immigration from Europe, the westward migration of white settlers, the taking of lands occupied by Native Americans and Mexicans, slavery, and the other conflicts between the industrial North and the agrarian South that led to civil war all had lasting impacts on the **culture** and traditions within the different regions of the country. As seen in Figure 1.1, these differences are seen in the nature and extent of crimes within separate regions as well as in their dissimilar responses to crime. They may also be seen in incarceration rates. For example, the national average is one out of thirty-one adults under some type of correctional supervision, while in the state of Georgia, the rate for those under correctional supervision is one out of thirteen adults (Melton, 2011).

Figure 1.1   Regional Crime Rates, 2009

	Violent and Property Crime per 1,000,000 Inhabitants
Northeast	
Property crime	2,123.2
Violent crime	358.3
Midwest	
Property crime	2,901.4
Violent crime	385.8
South	
Property crime	3,607.4
Violent crime	494.3
West	
Property crime	2,962.5
Violent crime	422.4

Source: Federal Bureau of Investigation, 2010a, table 3.

The impact of culture. In the previous sections, we have discussed geography, religion, ethnicity, family, gender, education, and social class as factors that influence criminality. All of these factors may be seen at play within the category of culture. They may support one another or they may counteract one another in regard to criminality. For example, a person may live in abject poverty with little chance of obtaining the educational or vocational skills necessary to obtain a decent job. But if that individual has strong family support and deep religious beliefs, she/he may not be susceptible to criminal behavior. Conversely, as seen by the antics of many of today's celebrities, people with money, status, and acclaim may engage in criminal activity because they have come to believe that they are entitled to do so.

Cultural aspects may be seen in the lifestyles of diverse groups: religious austerity of the Amish, tribal societies of Native Americans, patriotism of military personnel, self-reliance of rural dwellers, street lives of the homeless, and opulence among the affluent. Interestingly, cultural factors may result in diametric opposites within various groups. **Xenophobes** tend to fear and/or oppose people and cultures that are foreign to them. This can result in bias and discrimination against anyone whom they consider to be different and/or inferior. To the contrary, **xenophiles** tend to favor things that are foreign or different, often to the point of being antagonistic toward others within their own cultural group. This view can lead to bias and discrimination against their own

kind in order to demonstrate their "tolerance and superiority" (Hunter and Barker, 2012).

The impact of science. In Chapter 3 we will discuss the scientific method and how important it is to the study of criminology. However, the context of this discussion is the impact science has had on the everyday lives of citizens as well as the conflicts that it has created. The advancements that have been made in the physical sciences (astronomy, chemistry, physics, earth science, and environmental science), the life sciences (biology and medicine), the formal sciences (computer science, mathematics, statistics, systems science), the social sciences (anthropology, economics, linguistics, psychology, geography, philosophy, political science, and sociology), as well as the applied sciences (agronomy, architecture, education, health sciences, management, military science, and spatial science) have dramatically influenced humans and the world we live in.

The impacts of science have not been pain-free. Many advances, such as the development of nuclear energy and the use of fossil fuels, pose serious risks to our physical environment. Likewise, the challenges created by the sciences, particularly **Darwin's theory of evolution**, continue to cause turmoil within our social environment. Debates about science versus religion (particularly evolution versus creationism) can be especially nasty. Historically, scientific explanations of human evolution have been shunned by many religions. Currently, physical scientists who express faith in a supreme being are frequently ostracized and denigrated by their peers (Lovan, 2011; Merali, 2011).

The impact of technology. The advances in science have led to the development of many marvelous inventions that have made our lives easier, although waiting in traffic behind someone who is texting instead of paying attention to the traffic signals, one may feel differently. Technology has given us cell phones, satellite navigation devices, laptop computers, Internet access, and complex security systems. The benefits in communication, transportation, medicine, and crime prevention have enabled us to have lifestyles only imagined by previous generations.

We travel with ease to other parts of the world; we have instantaneous communications anywhere on the globe; we have access to advanced medical care; and we have sophisticated capabilities for preventing and solving crimes. Unfortunately, technological advances come at a price. Cybercrimes, invasions of privacy, identity theft, and easy dissemination of child pornography are but a few of the crimes that have resulted from technological advances.

The impact of globalization. A rather ubiquitous bumper sticker reads, "Think globally. Act locally." That is an apt message for today's society. The world is a much smaller place than it was when the authors were undergradu-

ates studying criminology. Thanks to the previously mentioned advances in science and technology, as well as media coverage, today references to community are as likely to mean the world community as our local community. As an example, in the Atlanta metropolitan area there are many thousands who are employed by more than 300 foreign-owned companies. One need only look around one's home to witness the impacts of international trade. We may witness positive events as they occur thousands of miles away from our location (as this was being written, millions around the world were watching the marriage of the UK's Prince William to Kate Middleton). Conversely, we may also witness the negative (the efforts by various leaders to suppress democratic uprisings across North Africa).

Unfortunately, advances in communication and transportation have also advanced the abilities of individuals and organizations to engage in transnational crime. Human trafficking organizations that enslave young women from less affluent nations and force them into prostitution are found within our metropolitan areas. Drug networks span the globe. Environmental crimes, cyber crimes, crimes against children, public corruption, weapons smuggling, and other organized crimes easily transcend national borders. And, as we are too aware, no community is safe from the threat of international terrorism.

The impact of media. The mass media have tremendous influence on our lives. The news media keep us informed of current events in politics, world affairs, economic issues, fashion trends, natural disasters, wars, terrorism, and crime. Nothing of consequence fails to be noted by local news outlets. Those activities and occurrences of more significance are immediately shared with national and international news organizations. While readership has declined substantially during recent years, newspapers such as *USA Today,* the *New York Times,* and the *Washington Post* are read by hundreds of thousands of people. They are supplemented by myriad newsmagazines such as *Time* and *Newsweek*. Telecasts by network television stations can be viewed during the traditional news hours as well as on cable stations such as CNN and Fox News that offer 24/7 coverage of national and international happenings. In addition to the electronic media's traditional coverage, we can now access news that we are personally interested in at times of our own choosing through the Internet.

Of greater importance to younger viewers are the numerous offerings provided on network, cable, and pay-for-view television. These are augmented by video rentals and theater presentations. For better or worse, the entertainment media shape how we look at ourselves and others, what we buy, what we think we need, and how we think we are supposed to act (Hunter and Barker, 2011). Unfortunately, celebrities like Lindsay Lohan and Paris Hilton are not the role models that we would wish our children and grandchildren to emulate.

The impact of politics. In Chapter 14, we will discuss the impacts of ideology and politics on the administration of justice. In this section, we touch on how political the criminal justice system is, how public policies are based upon political ideologies, as well as how political dissent may be manifest through criminal activities.

County sheriffs are elected in partisan elections. In some cities police chiefs are elected, although the majority are appointed by elected officials. At the state level, police commissioners, highway patrol directors, and the heads of investigative agencies are usually appointed by the governor, with many states requiring approval by the legislature. As a result, at both the local and state levels, those who receive such appointments are politically connected. The story is similar at the federal levels where US Marshals are appointed by the president and confirmed by the Senate. Likewise, the heads of other federal law enforcement agencies, such as the FBI director, are also appointed by the president.

Prosecutors are perhaps the most political of the actors within the criminal justice system. Local prosecutors, usually called district attorneys, are elected within partisan elections. Solicitors are usually appointed by city officials to serve as prosecutors in their courts of limited jurisdiction. At the state level, attorneys general are top elected officials who usually rank second in power and prestige behind the governor. Federal district attorneys are appointed by the president and confirmed by the Senate.

Judges at local and state levels are selected in a variety of processes ranging from partisan elections, nonpartisan elections, and merit selection to direct appointments by public officials. Federal district judges, appellate court judges, and Supreme Court justices are appointed for life by the president and require Senate approval. As with law enforcement administrators and prosecutors, those judges who are not directly elected must have political connections in order to be appointed and confirmed at their respective levels.

Politics is not limited to criminal justice practitioners. Protests of unpopular government policies, challenges to laws, and the manners in which they are enforced may be limited to peaceful demonstrations, or they may result in mob actions and riots that result in violence and the destruction of property. They may also lead to violent dissent by individuals and/or organized terrorism aimed at forcing change.

The impact of law. There are two phrases that are often heard regarding the impact of **law** within the United States. One is that we are a nation that is "governed by the rule of law." This refers to the checks and balances within our federalist system of government and the protections offered by our national and state constitutions. Indeed, our rights to due process, fair and equitable treatment, protection from procedural violations, as well as recourse for illegal actions by those in authority are cornerstones of our legal system.

The second phrase, that we in the United States have "too much legality and too little justice," is also accurate. This refers to the difficulties that the working class and lower middle class (who do not qualify as indigents) have in affording legal representation in criminal matters. It is even more applicable in civil matters. The poor may have excellent representation or mediocre representation depending upon their location. The affluent can afford to hire quality attorneys to protect their interests. This is a disparity that will exist until such time as legal services are provided for the working and lower class as well as the poor.

The impact of morality. When the issue of **morality** comes up, people usually become suspicious. This is due to a couple of factors. The first is that those who like to proclaim their own virtue usually have very little to talk about. Indeed, a common strategy of politicians and conmen (no, they are not necessarily the same!) is to stress their honesty and integrity. An old-time county commissioner once informed one of the authors that "the key to being a good politician is caring. Once you learn how to fake that, you've got it made!"

Another adage regarding **ethics** and moral standards says "You can't legislate morality!" Our response is "Of course you can; they are called laws." Violations may result in civil suits or even criminal prosecutions. As our society becomes more complex and congested, there will be an increase in those matters once thought to be personal that become public concerns. Sexual harassment and unethical business dealings are two such issues that exemplify these changes.

Morality is also worthy of discussion in that how an individual views right and wrong serves as the template for determining proper behavior. Pollack (2012) presents several **ethical systems** that are commonly followed. *Ethical formalism* is based upon the view that proper behavior is not based upon outcome but upon the goodwill of the actor. ***Utilitarianism*** is the concept that one should strive to achieve the greatest good for the greatest number of people. *Ethics of virtue* is basically living by the *golden rule*. The *ethics of caring* focuses on meeting the needs of others. The most difficult ethical system to promote is unfortunately one that is followed by many people, including some criminologists that we know. That system is *egoism,* in which practitioners feel that, if it is beneficial for them, it is moral.

The impact of self-image. We conclude this section by returning to the assertion that we made at the beginning of the chapter: that is, how we perceive justice is influenced by our personal identity. That identity or *self-image* is based upon a convoluted mixture of the influences that we have just discussed. This **self-view** determines our *philosophy of life,* the mechanism by which we judge ourselves and others. In essence, this shapes not only our self-image (our self-

respect, as well as our respect for others), but our view of the world (including what we think is just).

The Meaning of Justice

How one defines justice is largely determined by how one views society. Each of these perspectives sees society and its laws in a different light. Furthermore, within these perspectives there are numerous disagreements on what constitutes crime and how society should respond to it. Indeed, criminologists are not immune from these disagreements: "Although science generally strives to be 'value free' criminology is heavily influenced by ideology. Liberal (left) criminologists tend to associate with the positive school of crime and focus on social causes of crime. Conservative (right) criminologists lean toward the classical school of crime and tend to focus on **deterrence**" (Vito and Holmes, 2007, p. 27).

Justice Defined

Hunter and Barker (2011, p. 7) define justice as *the fair and equitable application of the rule of law by agents of social control regardless of the socio-economic status of the individuals concerned*. While they admit that this is a rather idyllic view, they argue that it is what a free society should strive for. They then state that to accomplish justice there are six components the administration of justice must contain. These components are:

1. Compliance with the rule of law (codified legal standards must exist and must be followed);
2. Equity (law enforcement must be applied in an equal manner to everyone subject to it);
3. Fairness (the laws, as well as their application, must be fair and not single out groups or individuals for arbitrary treatment);
4. Accessibility (there must be allowances for those individuals who do not have financial recourse to receive competent legal advice and support);
5. Effectiveness (the system must work for common citizens in actuality as well as on paper); and
6. Oversight (there must be remedies for failures or misapplications of justice to be corrected) (Hunter and Barker, 2011, pp. 7–8).

Types of Justice

There are several types of justice in addition to criminal justice. Using the criteria established by the lead author in *Police-Community Relations and the Administration of Justice,* they are as follows:

Social justice. Social justice is seen by its proponents as not just emphasizing equity and fairness in the application of jurisprudence but in regulating how a society's resources are allocated. Social justice seeks to see that people are treated both fairly and "morally" within all areas of society. Social justice may either be distributive or commutative.

Distributive justice. Distributive justice seeks to distribute rewards and punishments so needs are considered, but merit is rewarded. The United States' system of *welfare capitalism* is based upon distributive justice. Protections exist to ensure that the tenets of civil and human rights are provided but individual successes or failures are allowed.

Commutative justice. Commutative justice places a greater emphasis upon need rather than individual merit. Proponents of this perspective argue that biases due to class, ethnicity, gender or other distinctions make capitalist society inherently unfair. Therefore, greater efforts by government in the redistribution of wealth and enhancement of life for minorities and the lower class must be implemented to address social inequities.

Civil justice. Civil justice is the legal system that regulates the relationships between individuals. Redress for harm from another's actions is not by criminal prosecution but by seeking legal intervention to regain that which was lost due to another's improper actions and/or to prevent further harm. Due to the complexities and costs of successful litigation, it is in the areas of civil law that the poor and the middle classes are more likely to experience inequitable treatment.

Restorative justice. Yet another type of justice that may or may not involve the criminal justice system is the practice of restorative justice. Instead of seeking to punish based upon criminal sanctions or impose legal compensation, restorative justice seeks to avoid formal adjudication by using arbitration to resolve conflicts. Restorative justice may take place in lieu of civil litigation and it may also be used as an alternative to criminal prosecution.

Criminal justice. Criminal justice is the system that the readers of this text are interested in. As we have noted above, it is not truly separate from the other systems of justice and actually interacts with them. Please note that the *criminal justice system is concerned not only with the enforcement of laws, but with the protection of legal rights as well*. To ensure that laws are not arbitrarily imposed, the criminal justice system relies upon procedural law as well as substantive law. *Substantive law* defines behaviors (and in some cases, failures to act) that are deemed to be unlawful and establishes sanctions for their commission (or omission). *Procedural law* regulates how substantive law may be applied. The famous *exclusionary rule* is one mechanism by which American courts ensure that a defendant's due process rights are protected. (Hunter and Barker, 2011, pp. 8–9)

The Mission of a Criminal Justice System

The mission of a criminal justice system is "to apply the rule of law as a means of providing social stability" (Hunter and Barker, 2011, p. 10). In achieving its overall mission the criminal justice system must balance the rights of individuals with the rights of society. We have presented typologies on types of

crimes and criminals. We will conclude this chapter by discussing the different types of rationales for our criminal justice system.

Rule of Law

The rule of law is the means by which a government protects society from crime and protects those accused of criminal behaviors from miscarriages of justice. Due process and crime control must be balanced in order to accomplish the following tasks on behalf of society and its citizens.

Vengeance/Retribution

People have a large capacity for forgiveness; however, we also have an innate need to seek retribution on behalf of ourselves and our loved ones against those who have harmed us. In order to keep citizens from "taking the law into their own hands," agents of social control must exact vengeance on behalf of those who have been harmed. This does not have to be specific in every case, but there must be a viable demonstration of governmental willingness to do so.

Atonement

As advocates for convicted felons who have returned to society may rightly attest, the stigma of conviction and incarceration is difficult to overcome. However, since tribal times, a basis of punishment has been that once offenders atone (pay their "debt to society"), they are allowed to reenter society.

Deterrence/Prevention

The fundamental premise of the classical system of justice is that the imposition of punishment deters further crime from occurring. **Specific deterrence** is the concept that by being punished an offender will decide that his criminal behavior was not worth the harm that he incurred. **General deterrence** is the concept that by seeing the offender punished for her criminal activity, others contemplating similar crimes will be dissuaded from doing so.

Treatment

Like deterrence, the outcomes of treatment are often disappointing. The premise of treatment is that offenders will be rehabilitated so that they may reenter society and live productive lives. Despite debate about the appropriateness and/or adequacy of various treatments, fundamental fairness requires that treatment remain an important component of our correctional system.

Incapacitation

When the term ***incapacitation*** is used, the most common application is that of **incarceration**. Proponents of incapacitation argue that while offenders may return to crime later, they are prevented from doing so while under correctional control. Critics argue that they may be impeded from committing crimes against the general public, but they usually return to society embittered and with less chance for success than prior to their confinement (*The Economist,* 2010). Others simply note the decline of crime rates as imprisonment of serious offenders has increased (Tremoglie, 2011; von Drehle, 2010; Zax, 2010).

Reparations

A more humane means of applying the rule of law is to focus on victims rather than on the offenders' debt to society. Instead of punishment based upon the harm that they committed, offenders are ordered to make reparations to the victims of their crimes. This restorative technique is seen as benefiting victims, offenders, and the community.

Social Stability

In providing for the rule of law, the criminal justice system also provides for social stability. Hunter and Barker define social stability as "the maintenance of order and the continuation of equitable social control by government" (2011, p. 11).

Maintenance of Order

Maintenance of order includes all those activities for which government exists. These include holding elections, collecting taxes, enforcing zoning regulations, garbage collection, public utilities, crowd control at public events, traffic enforcement, and emergency services.

Equitable Social Control

Addressing social inequities is one of the more controversial aspects of government. While we should be grudging in our tolerance of government intrusion, we must also acknowledge that these actions are necessary to allow "life, liberty, and property" for all. Progressive taxation, compulsory education, mandatory minimum wages, protection of minority rights, and health-care reform are examples of controversial government "intrusions" that are now seen as vital to public stability.

Symbolic Reassurance

Our last requirement for social stability is a concept that we introduced in the first edition of this book. **Symbolic reassurance** is covered in detail within Chapter 14. Basically, it is the view that the criminal justice system not only provides guidelines for society to follow, it also punishes evildoers to affirm law-abiding citizens' belief in the system. Universal conformity is not attained through threats of prosecution, but by reassuring law-abiding citizens that the system of justice is working. Taken to an extreme, this concept implies that as long as the public perceives that "something is being done," the public will, for the most part, remain supportive.

Reality Check: Religious Wars

The connection between religion and violence is long. Every religious movement in the world has been attacked by members of other religions who either felt threatened or saw opportunities to advance their causes. If one views a list of wars involving the three largest monotheistic religions during the past 2,000 years, one will see that Christians, Muslims, and Jews have been at war with others or themselves since their inception. During tribal times, Jews conquered or drove out non-Jewish peoples from the lands they occupied. Following the spread of Christianity, other religions, including Judaism, were suppressed by Christian adherents. After the establishment of Islam, followers conquered lands belonging to Christians, Jews, Hindus, as well as other religions.

At the end of the eleventh century, several efforts were made by European Crusaders to retake the Holy Land. During this same period, Jews in Europe were persecuted and massacred by Christians. During and after the Crusades, Christians began fighting among themselves as Protestants and Catholics each sought to impose their views upon others. Similarly, different sects of Muslims (Sunnis and Shiites) began sparring over who were the proper followers of the Prophet Mohammed.

Atheists take delight in pointing out "the many wars caused by religion." In actuality, religion was often the scapegoat used to justify wars to gain lands, conquer indigenous peoples, achieve political supremacy, and/or impose trade agreements. Perhaps one of the most blatant examples is England breaking away from the Catholic Church in 1534 and the dissolution of the monasteries from 1536 to 1541. The driving force behind these events was Henry VIII's determination to have a male heir and his desire to acquire the massive wealth contained within the monasteries of England, Wales, and Ireland.

Identify a conflict that may be considered a "holy war." Then examine the actual motives of the participants to determine whether religion was the cause of the war or an excuse for it.

Summary

We began this chapter by emphasizing how crime and criminality relate to the myriad of other important issues within our lives. To study crime and its derivatives (criminality, criminology, criminal justice, and crime science), we must first study human nature. Regardless of the approach that one takes to the study of human behavior, there are commonalities found within all: for example, the idea that humans have a need for acceptance.

We discussed two central wants that we as humans have. The first is self-worth. Whether consciously or subconsciously, most of our activities are geared to promoting our own self-image. The second vital need is that of justice. We cited the Reverend Rob Bell's statement, "The core of human existence is a longing for justice."

How individuals see the world is shaped by how they view themselves. These two perspectives, worldview and self-image, provide the means by which we evaluate all other aspects of life, particularly crime and justice. We then presented catalysts and impediments to justice. These include family, religion, gender, race and ethnicity, age, education, social class, ecological/geographical differences, culture, science, technology, globalization, media, politics, law, morality, and self-image. The various types of justice were then discussed. These include social justice, distributive justice, commutative justice, civil justice, restorative justice, and criminal justice.

The mission of a criminal justice system is "to apply the rule of law as a means of providing social stability." In achieving its overall mission, the criminal justice system must balance the rights of individuals with the rights of society. The rationales for our criminal justice system are rule of law, vengeance/retribution, atonement, deterrence/prevention, treatment, incapacitation, reparations, social stability, maintenance of order, equitable social control, and symbolic reassurance.

Discussion Questions

1. Discuss the central wants that human beings have. Explain why you agree or disagree as to whether these are indeed central wants.
2. Select the catalyst that you think has the most influence on human behavior. Select the catalyst that you think has the least influence.
3. Discuss the relationship between war and religion. Is it as strong as it appears to be?
4. Describe the other types of justice that complement criminal justice.
5. Identify the rationales for our criminal justice system.