1 AN INTRODUCTION TO CRIME AND THE CRIMINAL JUSTICE SYSTEM
LEARNING OBJECTIVES

After finishing this chapter, you should be able to:

1.1 Identify the paths on which a crime may be handled in the criminal justice system.

1.2 Summarize why consensus for an exact definition of crime is difficult and why crime definitions may change over time.

1.3 Review the five perspectives of the criminal justice system.

1.4 Critique how the consensus and conflict models help and hinder public policy.

1.5 Identify key elements in the relationship between crime and the media.

1.6 Distinguish how the fear of crime and actual risk of being victimized are often misinterpreted by the public.

1.7 Differentiate between criminal justice and criminology.

INTRODUCTION: MAKING OUR WAY THROUGH THE CRIMINAL JUSTICE SYSTEM

The criminal justice system comprises institutions, policies, and practices with the goal of maintaining social control and deterring crime through sanctions and rehabilitation. The criminal justice system is explored in a great number of books. Many of these books present the cold hard facts in chapters that make it difficult for students to really understand the system and its ties to ethics, policy, and our everyday lives. Many students have firsthand experience with the criminal justice system. At a minimum, most have been exposed to elements of the criminal justice system (not all accurate) through the media. Perhaps you were convicted of driving while intoxicated or received a speeding ticket. Or perhaps a family member was incarcerated or served a community corrections sentence. Maybe you have had experience as a victim. Perhaps your credit card numbers were stolen and used to make purchases online. Or your bank account was hacked and your life’s savings taken. Perhaps your car was stolen or your home was burglarized. Many people grieve over the homicide of a family member or friend. As unpleasant as any of these scenarios are, they all provide a glimpse into the complexities of the huge industrial nature of the criminal justice system.
Students in criminology, criminal justice, and sociology courses often comment that textbooks appear unconnected to the real world. In general, those who become involved in the criminal justice system through peripheral or direct contact will assure others that the processes and procedures are different from the material and stories frequently portrayed in books and the media.

Crime and the criminal justice system commonly are sensationalized in the books we read, the television shows we watch, and the gruesome headline news stories we see daily. The real stories in the criminal justice system can be complex, and each case touches individuals in far-reaching ways. The goal of this book is to demonstrate how the system works in reality and familiarize you with the complicated path from first contact with it—whether as victims or offenders—to exiting the system (for those who do exit). To demonstrate how this happens, we introduce four real people and describe their actual experiences with the criminal justice system throughout the book. None wanted to be involved with the system, but for years, and even decades, their lives have been intertwined and entangled with law enforcement, courts, and corrections. For some, if not each one, involvement with the system will continue until their deaths. The true stories related to their cases and experiences are used to enhance and inform the contextual material presented in each chapter. This chapter introduces Jennifer Schuett, Chris Farias, Joshua Paul Benjamin, and Danny Madrid.

**Jennifer Schuett: A Case of Attempted Murder and Rape**

On August 10, 1990, 8-year-old Jennifer was abducted from her bedroom at 2:30 a.m. The offender, a complete stranger, covered her mouth, assuring her that she was safe because he was a police officer. He told her this while running down the sidewalk with her in his arms. He placed Jennifer in his car and sped away from the apartment complex where she lived with her mother. The man later stopped the car and brutally raped Jennifer. In an effort to remove the only witness to his heinous crime, he slashed her throat from ear to ear and left her in a vacant lot, thinking she was dead.1

The Jennifer Schuett case reminds us that crime generally involves victims. Too often, accounts of crime fail to acknowledge the individuals harmed in incidents. Historically, work in criminology and criminal justice overlooked victims, rendering them little more than witnesses at a trial (if a trial occurred). In some cases, when a victim was acknowledged, he or she was blamed for part of or the entire incident.2 The past several decades have witnessed an emphasis on the role of the victim in the criminal justice system. Victims now have increased resources and assistance to help in recovery, and policy and research efforts provide greater understanding of victimization. We follow Jennifer and her forced introduction to the criminal justice system throughout this text.

**Chris Farias: A Case of Driving Under the Influence**

Chris Farias grew up in an Italian family on the East Coast in which large gatherings of relatives were frequent.3 The adults in Chris’s family celebrated get-togethers and

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1. The description of Jennifer Schuett’s case is based on true events and has been altered to protect the identity of the victim.
2. The account of Jennifer Schuett’s case is based on true events and has been altered to protect the identity of the victim.
holidays with copious amounts of wine. The children in the family grew accustomed to celebrating with alcohol. While his parents taught the children to respect alcohol, their actual perceptions and experiences were quite different. As Chris and his siblings matured, they recognized that their father’s alcohol consumption was a lifestyle rather than a celebratory event. Chris’s dad was an alcoholic. Concerned about his drinking problem, the family attended Al-Anon meetings and engaged in various interventions to convince their father to quit drinking. Sadly, none of these attempts were successful. Chris’s father was forced into a treatment program after seven DUIs. His rehabilitation was somewhat successful, and he had no further tangles with the law, although he started drinking again during the last 10 years of his life.

Chris spent the first half of his life trying desperately not to be like his father. He went to college and obtained a degree in teaching, and he spent almost a decade in the classroom. Chris, like his dad, had an innate desire to build and repair things. Eventually, he quit teaching and opened a construction company. Chris also consumed alcohol and drank to the point of impairment. In time, Chris recognized that along with alcohol abuse, his personality was like his father’s: defiant, addictive, and careless. Over the years, Chris was arrested multiple times for driving under the influence. In the following chapters, we follow the consequences of Chris’s decisions, his entanglement with the criminal justice system, and how it has affected his personal life, finances, and business.

Joshua Paul Benjamin: A Case of Sexual Assault

Joshua Paul Benjamin was a happy boy living with his parents and sister in a Midwestern city. He liked building intricate towers of blocks and speeding around the house on his plastic push motorcycle. Like many little boys, he was bright, curious, and active. Though Joshua was high energy, he was also caring and patient, and loved to cuddle with his mother.

Tragedy struck when Joshua was only 3 years old and the front door to his home was left unlocked. Joshua discovered this unlocked door and rushed outside, eager to visit a friend who lived across the street. He never arrived. As Joshua darted out from between two parked vehicles on the street, an oncoming car hit him. The accident happened so quickly that the driver never had time to hit the brakes.

Joshua was rushed to the hospital in critical condition, where doctors informed his parents that he would either die or have brain damage as a result of his injuries. After about 10 days, Joshua emerged from a coma unable to communicate, with a paralyzed left side. At home following discharge, Joshua dragged himself through the house on the floor. His life changed dramatically after charges of sexual assault against a child emerged, and the ensuing events, as described in later chapters, resulted in his lifetime involvement in the criminal justice system.
Danny Madrid: A Case of a Gang Member and Attempted Murder

As a young boy growing up in a predominantly Latino and Black neighborhood in South Los Angeles, Danny Madrid dreamed of one day becoming an astronaut. Danny’s dreams as a small child faded when he became involved with a gang at the age of 13. He was asked to join the gang by the older boys in the neighborhood, and because he had known their younger siblings since early childhood, life on the streets with these boys seemed natural. With his new peer group, Danny engaged in graffiti, drug crimes, and other street-level crimes in the Los Angeles area. Not surprisingly given these offenses, Danny’s clashes with law enforcement increased substantially. In addition, violent conflicts with rival gangs were common. Although he already affiliated with his gang, Danny was assaulted or “packed” by a group of rival gang members. In retaliation, he and a friend got in a car with a gun to seek revenge against the rivals. That day in 1990, Danny’s life took a turn for the worse.

What is the Criminal Justice System?

Laws that define crime represent a small portion of the legal field and create a large web of entanglements. Society needs a way to deal with individuals who violate these laws and those who are victims of crime, hence the development of the criminal justice system. The criminal justice system comprises three primary components: law enforcement, courts, and corrections. Law enforcement is charged with investigating crime and apprehending individuals alleged to have committed crimes. Courts are responsible for interpreting and applying the law in these cases. The correctional component protects society from criminals through housing, monitoring, and other community-based programs. In some instances, corrections involves incarceration in jails or prisons, while in other cases it consists of supervision in the community, parole, or probation. In the most extreme cases, it means putting an offender to death. The death penalty is a controversial issue and is addressed more fully when we discuss courts and sentencing later in the text. Part of the debate over capital cases focuses on issues of retribution and the chance of executing an innocent person. Another important aspect of the criminal justice system—one that has received improved and much deserved attention in recent years—is the victim. Increased emphasis on incorporating victims into the system and paying attention to their needs and wishes is more apparent in law enforcement, courts, and corrections today.

Size of the System

The criminal justice system is enormous and costly even in light of reductions in violent and property crimes since the early 1990s. Through 2007, annual growth in the system was dramatic (it has declined slightly since). Why is the criminal justice system in the United States so large and costly? The system is large because an enormous proportion of the juvenile and adult population is under the control of the criminal justice system. By the end of 2014 in the United States more than 6.8 million individuals (6,851,000) were being supervised in the adult correctional system, which includes incarceration in local jails, prisons, or on parole or probation. This corresponds to 1 in every 36 adults, or 2.8% of all adults, being under some form of criminal justice supervision at the end of 2014. The majority of these adults were being supervised in the community (3,864,100 on probation, and 856,900 on parole). An additional 2.2 million adults were incarcerated at the end of 2014 (i.e., 2,224,400 in total, with 744,600 in local jails and 1,561,500 in prisons). The prison and jail populations are so enormous that some describe the United States as “addicted to incarceration.”
Gender, Race, and Hispanic Origin in the System

The adult imprisonment rate differs greatly by the offender’s gender, race, and Hispanic origin. At the end of 2014, men were imprisoned at a rate of 890 per 100,000, which is almost 14 times greater than the 65 per 100,000 rate characterizing women (see Figure 1.1).\(^8\) Black non-Hispanic men were imprisoned at a rate of 2,724 per 100,000, which is almost 6 times the rate of 465 per 100,000 that characterizes white non-Hispanic men.\(^9\) At the close of 2014, differences in the imprisonment rate were apparent for women by race and Hispanic origin as well. Black non-Hispanic women were imprisoned at a rate of 109 per 100,000, while their white non-Hispanic and Hispanic counterparts were imprisoned at about half that rate: 53 per 100,000 and 64 per 100,000, respectively.\(^10\)

Not all of the differences in imprisonment rates are based solely on variation in criminal behavior. Research indicates that some personal characteristics are associated with a greater likelihood of harsher punishment.\(^11\) In other words, a white woman and a black man committing the same criminal act may be treated differently in the system. The white woman may never be arrested, while the black man may find himself incarcerated. This lack of equity in justice is reflected in the quotation by Judge Sturgess found at the beginning of this chapter: “Justice is open to everyone in the same way as the Ritz Hotel.” In other words, powerful citizens who are wealthy and in the majority may receive lenient treatment, while the poor and minorities are
treated harshly. Given the serious consequences of being incarcerated, this inequity is important to recognize.

Differences in the likelihood of being sanctioned in the community or incarcerated also are associated with characteristics of the victim. One example is capital punishment. In theory, we reserve capital punishment for our most extreme criminals. Is this the reality? A look at statistics demonstrates that fewer than 2% of murderers were given death sentences. What accounts for why such a small percentage of offenders were sentenced to death when 98% of murderers were not? Some research points to specific factors associated with a greater likelihood of getting the death penalty. These aspects include murders committed with torture, grave risk of death to others, being a black offender, and committing a murder with another felony. Furthermore, research shows that a black defendant who kills a nonblack victim has the highest likelihood of being sentenced to death compared with black-on-black, nonblack-on-nonblack, and nonblack-on-black homicide. These findings hold true even when other characteristics, such as torture, risk to others, and additional felonies, are taken into account.

The Cost of the Criminal Justice System

The enormous size of the criminal justice system, particularly in corrections, stems partly from the public’s desire for longer and harsher sentences. Policymakers who wanted to be “tough on crime” and gain favor with voters implemented legislation such as three-strikes, habitual offending, and mandatory sentencing laws. The result was a massive expansion of the criminal justice population, a large number of people working in the system, and an equally dramatic increase in the cost of the system. In 2013, Ted Gest noted that the U.S. criminal justice employed 2.4 million people at an annual cost of $212 billion. To put this in perspective, each person in the United States, regardless of age, paid $670 in 2013 to support the criminal justice system. Costs differ by location. The cost of state incarceration (a part of the overall criminal justice system), for example, varies greatly. Henrichson and Delaney estimated that the 2010 total taxpayer cost of state prisons in Arizona was $1,002,553,000, while in Colorado it was $606,208,000. In contrast, California taxpayers paid $7,932,388,000 in 2010, while those in Texas footed a bill of $3,306,358,000. Even

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**Figure 1.1** Year-End 2014 Imprisonment Rates by Race, Hispanic Origin, and Gender of Offender

How does incarcerating such a large number of our citizens benefit our society? How does it harm it? “Other” includes American Indians and Alaska Natives; Asians, Native Hawaiians, and other Pacific Islanders; and persons of two or more races.

when considering only state incarceration, the criminal justice system is expensive for taxpayers.

In some locales, scarce economic resources as well as massive overcrowding have highlighted the need to consider options other than incarceration. Since 2009, California had been under a federal court order to reduce overcrowding in the system. The 2009 court order was finally met in early 2015 after the implementation of Proposition 47, which lowered the penalties for many crimes such as forging checks, stealing vehicles, and possessing small amounts of illegal drugs. Overall, the California prison population has decreased by 45% since 2006.

This change reflects a backing away from previously enacted “get-tough” on crime policies. Politicians throughout the nation are increasingly fans of releasing nonviolent prisoners or using punishment that incorporates more parole and probation versus incarceration in order to save money. Yet public safety continues to be an important concern, and policymakers are vying for public approval. Consequently, legislation in the United States continues to lean toward harsh punishment, despite the financial costs.

HOW DOES THE CRIMINAL JUSTICE SYSTEM WORK?

The criminal justice system is large, varied, and complex, encompassing many systems and services found among governments at the local, state, and federal levels. For this reason, no single description or illustration can accurately describe the criminal justice system, as no single component acts in isolation. The entire system requires that particular steps be taken to offer citizens due process and minimize undue governmental intervention. Figure 1.2, developed by the Department of Justice’s Bureau of Justice Statistics, illustrates the most common steps found in the criminal justice system. While this depiction offers the most common pathways, in reality each section of the criminal justice system overlaps and functions with feedback from others. Conventional wisdom suggests that police officers, for example, arrest a suspect following an investigation. Then they present the suspect and information from the investigation to the prosecutor for consideration of charges. In reality, law enforcement officers may or may not arrest a suspect based on input from a district attorney during the investigation. Some research indicates, for example, that arrest for rape and sexual assault is more likely if the prosecutor feels that the case can be won at trial, based on whether there is evidence that the offender committed the crime. This results in instances in which weak evidence that a rape occurred can be associated with an alleged offender’s evading arrest and remaining free to reoffend.

A Road Map

The criminal justice system process begins when a crime becomes known to law enforcement. In many instances, crimes fail to come to the attention of law enforcement. In 2014, for example, only about 46% of violent crimes and 37% of property crimes were reported to the police. In other words, more than half of all violent and property crimes are never reported to law enforcement. Furthermore, there is great variation in the degree of reporting by type of crime. About 61% of robbery is reported, while only about 29% of property theft becomes known to law enforcement. Motor vehicle theft is the most likely of street crimes to be reported; about 83% of these crimes are brought to the attention of law enforcement.14

Once alerted, law enforcement agents investigate whether a crime has occurred. If a determination is made that a crime occurred, attempts to identify and apprehend the offender(s) are
The criminal justice system is complex. Does it need to be? How would you design a system that is fair and takes into account the victim, offender, and community?


**nolle prosequi**: Latin for “be unwilling to pursue,” this is commonly used by a prosecutor to willingly terminate legal proceedings before trial or before a verdict. The statement is often construed as an admission that the charges cannot be proven.

**No bill**: A decision made by a grand jury that indicates that insufficient evidence is present to proceed with the case.

**nolo contendere**: A plea made by a defendant in which he or she neither admits nor disputes guilt. It is commonly referred to as a “no-contest” plea.

made. Evidence gathered from the investigation is presented to a prosecutor, who, using his or her discretion, determines whether formal charges will be filed. If no charges are filed, the accused is released from his or her involvement in the system. If charges are filed, the prosecutor may proceed toward plea bargaining or trial, or may decide to drop charges in an act known as *nolle prosequi*.

Once charged, the accused appears before a judge or magistrate in person or via video and is informed of the charges against him or her. Several other things may happen at this point depending on the jurisdiction and elements of the crime. First, the determination of guilt and punishment may be dispensed. Or the defendant may be assigned a public defender if the charges are serious enough and the accused lacks sufficient resources to retain an attorney independently. Also, the judge or magistrate may determine if bail is warranted.

In some jurisdictions a grand jury may be convened to investigate and issue an indictment or no bill. *No bill* indicates that insufficient evidence is present to proceed with the case, and the accused is released if he or she is in jail.

The next step is generally an arraignment. At the arraignment the charges are read, the defendant is informed of his or her rights, and the defendant enters a plea—whether it be guilty, not guilty, or *nolo contendere* (i.e., accepting penalty without admitting guilt). The judge may or may not accept the plea, and the defendant may or may not be sentenced immediately. Some defendants opt for trial by jury, while others request trial by judge.
At trial, the prosecution and defense present evidence and question witnesses, while the judge rules on legal issues. At the conclusion of the trial, a conviction or acquittal on the charges is levied. Following this verdict, the sentence is imposed either immediately or in a second hearing by the judge or, in capital cases, the jury. Some defendants may appeal the case on the basis of procedural or constitutional errors—not on the basis of an alleged “wrong” outcome.

Punishment differs greatly. Those sentenced to a year or less incarceration generally spend that time in a jail. Those sentenced to longer stays are usually sent to a prison. The length of the punishment is more often indeterminate (i.e., not based on a fixed number of years) than determinate (i.e., based on a fixed number of years). That is, in most cases, the judge sentences the offender to an indeterminate sentence in the form of a range of years to be served (e.g., 3 to 15 years). Often, parole boards determine when the convicted individual is released following any mandatory time in prison. Parole boards also set conditions of the release. Violation of parole conditions may mean that the offender is returned to prison to complete his or her sentence.

In some cases, those accused avoid jail and/or prison. These individuals may be sentenced to house arrest, boot camps, intensive supervision, drug treatment, and/or electronic monitoring. Especially in cases like these, the development and use of continually improving technology play a greater role.
The Victim

Missing from this classic road map of the criminal justice system is the victim. Victim interaction with the criminal justice system takes many forms, making it difficult to identify one clear path. Victims have numerous things to attend to, some of which are outside the scope of the criminal justice system. They may need medical care, emotional and/or psychological support, and/or assistance with insurance agencies. One action they or others around them may take is to alert the police about the crime. If the police become involved, then the victim becomes a crucial “witness” to the crime. Victims will be questioned, often repeatedly, about the crime. They may feel that they are losing control as the machinations of the criminal justice system churn ahead regardless of their desires or input. Victims report great variation in playing a role or being informed about the investigation and criminal justice proceedings. Increasingly, victims are paired with advocates. Victim advocates, also referred to as victim service providers, victim/witness coordinators, or victim/witness specialists, are trained professionals who support crime victims throughout the process. Working to support victims, advocates provide information about available options. These resources may help educate victims about criminal justice system proceedings and offer options for needed emotional, psychological, or financial support available. Advocates educate victims about their rights and in some cases attend court proceedings with the victims. If you or someone you know becomes a victim of a crime, become informed about your rights and consider seeking out a victim advocate to assist in navigating the process.¹⁵

CRIME AND THE IMPORTANCE OF PERSONAL LIBERTIES

Crime affects the lives of everyone. For some people, this means being a victim of violence, having property stolen, having a home burglarized, or losing money to unscrupulous businesses or identity thieves. For other individuals, it means losing a family member to homicide or watching a loved one suffer devastating personal and property losses because of the criminal acts of others. Or for some it may mean being deprived of personal liberties as a consequence of criminal conduct. For all of us, crime means funding a massive and growing criminal justice system with taxpayer money and dealing with the aftermath of large proportions of our population being confined or monitored by the correctional system. With more money flowing into the criminal justice system, fewer resources are available for other social institutions, such as community centers, prevention programs, and education. These consequences are felt by students who are forced to pay higher tuition or forgo an education altogether.

The consequences of crime also affect us all in terms of personal liberties. A strong relationship exists between increased criminalization of behavior and greater loss of personal freedoms. On one hand, in order to ensure the greatest good for the greatest number (also referred to as utilitarianism), legislation is required to prohibit certain behaviors. Constitutional freedoms, on the other hand, ensure certain inalienable rights. Legal controversies over the rights afforded by the U.S. Constitution are common and often depend on whether a strict interpretation of the language is applied. In contrast, some legal experts believe that changes in contemporary society require a broader interpretation.
Judicial activism is said to occur when decisions are influenced by personal or political underpinnings. Balancing personal freedoms and public safety concerns can present difficult policy challenges.

Some commentators and scholars argue the 2001 USA PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism), signed into law by President George W. Bush, is one example of how citizens are losing personal freedoms. The September 11, 2001, terrorist attacks in New York, Virginia, and Pennsylvania, arguably the greatest contemporary tragedy to occur on U.S. soil, changed domestic and foreign policies and law enforcement in ways that have affected the entire populace. The USA PATRIOT Act, among other things, reduced restrictions on intelligence collection and broadened discretion in detaining and deporting immigrants suspected of terrorist activities. In May 2011, President Barack Obama signed a 4-year extension of the provisions for roving wiretaps, searches of business records, and surveillance of individuals with no connection to a particular terrorist group. Opponents of the act argue that the provisions overextend the powers of the Federal Bureau of Investigation (FBI) and allow monitoring of telephone calls, emails, and financial records without the added safeguard of a search warrant.

Contemporary evidence and the information revealed by Edward Snowden, a former Central Intelligence Agency and National Security Agency (NSA) employee, supports the notion that records of individual U.S. citizens are being collected. Many portions of the PATRIOT Act that lacked congressional approval expired in 2015. During the same year, the USA Freedom Act was passed, which halted the NSA from gathering a massive amount of phone data. Instead, the USA Freedom Act allows phone companies to retain phone data that can be accessed by the NSA once federal court permission is obtained.

**WHAT IS CRIME?**

Sometimes the most difficult questions to answer are the simplest ones. For example: What is crime? The most commonly accepted answer is that crime is the breaking of a law for which the criminal justice or some other governing authority prescribes punishment. Crimes are defined differently across geographic regions such as localities, states, and nations. Additionally, what constitutes a crime may be contingent on the characteristics of the person committing the act or the person being victimized. For instance, some acts by minors are illegal (i.e., status offenses), whereas the same actions by adults are legal. Definitions of crime are not static; they change over time. Certain actions once illegal are now legal, and new restrictions on behavior may have been unthinkable years ago.

**Street Crimes**

When asked to identify a crime, most people will respond by listing offenses regularly portrayed in the media: murder, rape, or robbery. But these responses represent an incomplete set of crimes. These acts are commonly referred to as street crimes. Street crimes are considered those that are relatively common and serious, involving a victim and an offender who come together in space and time. This includes crimes such as homicide, rape, sexual assault, robbery, and physical assault. Some people view street or violent crimes as those involving a stranger who commits a crime. Although this happens, a large proportion of violent crime occurs between people known to each other. In 2010, for example, 40% of male and 64% of female victims of nonfatal violence reported that they knew the offender. People generally perceive violent or street crimes as involving deadly weapons such as firearms, knives, or clubs. In reality, most street crime does not involve weapons (see Figure 1.3). The public frequently views street crimes with great fear, believing that offenses will inevitably lead to injury or even death. In reality, street crime is relatively unlikely to lead to injury or death, though it can and does happen.

**Property Crimes**

The public also is familiar with property crime, which includes motor vehicle theft, burglary, and property theft. Regardless of the year considered, property crimes are far more
Estimates of nonfatal firearm victimization rates per 1,000 people are relatively stable year to year. What may account for the general stability in rates?

Source: Adapted from Table 2 in Criminal Victimization 2014. Jennifer L. Truman & Lynn Langton. September 2015. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

Do you find it surprising that there are far fewer violent crimes than property crimes in the United States? What may influence people to believe that violent crime is so much more common?


common than violent street crimes, much to the surprise of those who are influenced by media accounts of unlawful incidents (see Figure 1.4). A consistent finding is that motor vehicle theft is the least common form of property crime and property theft is the most common form of property crime in the United States. Additional information on property crime is presented in Chapter 2.
Victimless Crimes

Some crimes historically referred to as victimless crimes involve illegal behavior that does not (in theory) directly affect another individual. Commonly cited examples of victimless crimes include prostitution, drug use, and gambling. While some people indicate that there are no victims of these crimes, others disagree. For example, drug use may increase rates of burglary as users attempt to gain more resources to continue their habit. Prostitution may increase violence because these women and men are frequently assaulted as a result of their status. Prostitution also may be directly responsible for the trafficking of minors, as meeting the demand of clients (criminal offenders) requires the control of younger and younger people forced into the sex trade. Gambling may lead to financial ruin, requiring families to be supported through governmental programs. Are these really victimless crimes?

White-Collar Crimes

As noted, when people think about criminals and the criminal justice system, they tend to focus on street or property crimes and how law enforcement, courts, and corrections
handle them. Rarely do people envision white-collar crimes, which affect far more people than street or property crime. Edwin Sutherland, in his presidential address to the American Sociological Society, first recognized white-collar crime as a serious problem in 1939.20 (The name of this organization was later changed to the American Sociological Association to avoid the embarrassing acronym.) Sutherland described white-collar crime as a “crime committed by a person of respectability and high social status in the course of his occupation.”21 White-collar crime is ill defined, but generally conceived of as lying, cheating, and stealing by occupational, corporate, and government professionals using a wide range of frauds. While there is no consensus, the following are often considered white-collar crimes:

- bribery
- securities fraud
- Ponzi schemes
- mortgage fraud
- misuse of pension funds
- bank fraud
- unsafe products
- violations of public trust
- medical fraud
- insider trading
- price fixing
- toxic dumping
- fiduciary fraud
- religious fraud

White-collar crimes are not victimless crimes. A single fraud or scam can destroy a corporation, bankrupt families through lost savings and pensions, lead to home foreclosures, introduce toxic elements in the environment, and ultimately cost investors and taxpayers billions of dollars. Though rarely thought of, and often given brief mention in criminal justice texts, white-collar crime affects more people than street and property crime combined. David Friedrichs, a distinguished scholar, noted that losses from white-collar crime might be as high as $250 billion annually, compared with the estimated $4 billion annually attributed to losses involving robbery and burglary.22 Major corporate scandals like the collapse of Enron have focused more attention on white-collar criminals. Enron CEO Kenneth Lay was indicted on 11 counts of securities fraud and other charges and later found guilty of 10 of those. Lay was sentenced to just over 24 years in prison (but died before he began serving his sentence). Xuyen Thi-Kim Nguyen, another white-collar criminal, was convicted of one count of conspiracy, two counts of mail fraud, and seven counts of wire fraud in conjunction with mortgage fraud. She disappeared in 2005 before sentencing. She is currently a fugitive and is wanted by the FBI.23

Much of the debate over the definition of white-collar crime exemplifies the slippery slope of distinguishing what should be regarded as criminal. An academic argument between Sutherland and Paul Tappan developed into an important basis for thinking about the crime label.24 Sutherland questioned the legal definition of criminal behavior. He believed that the conviction of a criminal act was an unnecessary condition for determining whether a person committed an offense.25 Tappan argued, however, that sociological constructs such as antisocial behavior, conduct norms, and deviance fail to differentiate criminal versus noncriminal. In other words, in a much more legalistic approach, Tappan believed that only people convicted of crimes with specific penalties could be considered criminals. While their argument may appear to be a matter of semantics, what constitutes white-collar crime continues to vary, and unethical behavior today may later be labeled as criminal.26

Cybercrime

A relatively new and rapidly growing type of crime is cybercrime. Broadly, cybercrime is illegal activity
committed using a computer or computer networks as the primary method of commission. Examples of cybercrime include the following:

- network intrusions
- dissemination of computer viruses, malicious code, botnets, and various email scams such as phishing
- denial-of-service attacks
- identity theft
- stalking

This list of cybercrimes reveals a controversy as to whether the offenses represent unique and different types of crime. Consider that decades ago, several of these crimes (e.g., network intrusions, dissemination of malicious code, viruses, botnets, phishing, denial-of-service attacks) were nonexistent, given lesser technology that was available. Overall, these crimes fail to neatly fit in a typology of violent and property crime. Yet it appears that some cybercrime refers to a different method used to commit violent crimes (e.g., bullying, stalking), property crimes (e.g., identity theft), and white-collar crimes (e.g., securities fraud). Clearly, there is some overlap, as even the FBI releases statistics on what it refers to as “white-collar cybercrime.” Additional overlap is found between cybercrime and terrorism because some incidents of the latter are being committed using computers. In time, greater clarity defining the boundaries of cybercrime will emerge.

**Terrorism**

Terrorism is a crime that receives a great deal of attention in the public and in academic studies. Though a variety of definitions of terrorism are used by different agencies and groups, in recent years, it generally includes these characteristics:

- It is committed by subnational or extremist clandestine groups that may or may not include groups in the United States.
- It is premeditated.
- Targets are noncombatants.
- Acts have the purpose of influencing an audience.
- Acts tend to be cross-national (international vs. domestic terrorism).
- Acts generally seek political, social, or economic change.

Though public awareness has increased since the 9/11 attacks, terrorism has a long history in the United States. A relatively recent act of domestic terrorism was the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City. Several domestic terrorists were responsible for this deadly bombing. The two most widely known were Timothy McVeigh and Terry Nichols. Lesser known were accomplices Michael and Lori Fortier. Michael Fortier was McVeigh’s army roommate. All of these individuals were sympathizers of the American Militia Movement and self-proclaimed survivalists. They were especially incensed because they believed that the government was infringing on their right to bear arms. In addition, these individuals were enraged about past government actions at Ruby Ridge and Waco.

McVeigh was responsible for actually detonating the ammonium nitrate fertilizer–based bomb at the Murrah Federal Building. He parked a van, which hid the 4,800-pound bomb, in a loading zone and detonated it using a 5-minute and a 2-minute fuse. Nichols built the bomb. The Fortiers were considered accomplices given their knowledge of the attack as well as their assistance in the planning. As a result of these actions culminating in the blast on April 19, 1995, 680 people were injured and 168 people lost their lives. Nineteen of those killed were under age 6, as a day care center operated in the building.

McVeigh was tried and found guilty on 11 counts of murder and conspiracy. He was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001. Nichols also was found guilty and ultimately sentenced to 161 consecutive life terms without the possibility of parole. Michael Fortier was sentenced to death and executed on June 11, 2001.
Crime Definitions Change Over Time

Crime is not new. Where there have been people, there has been crime. What has remained constant is the notion that crimes can be either *mala in se* or *mala prohibita*.

**Mala in se** refers to behavior that is immoral and inherently wrong by nature. *Mala prohibita* describes behavior that is prohibited by law. Until recently, marijuana use was considered illegal as a result of *mala prohibita*. What constitutes *mala prohibita* has changed over time. In some cases, previously illegal behavior has become decriminalized, while in other instances, what had been ordinary behavior is now illegal. As of mid-2016, four states (Washington, Colorado, Oregon, and Alaska) and the District of Columbia had legalized the possession of small amounts of marijuana for personal consumption, though the drug remains illegal under federal law.

**Decriminalization**—the reduction or abolition of penalties associated with behaviors—we have fewer criminals. Through decriminalization, the notion that crimes can be either *mala in se* or *mala prohibita* has changed over time. In some cases, previously illegal behavior has become decriminalized, while in other instances, what had been ordinary behavior is now illegal. As of mid-2016, four states (Washington, Colorado, Oregon, and Alaska) and the District of Columbia had legalized the possession of small amounts of marijuana for personal consumption, though the drug remains illegal under federal law.

**Justifiable Homicide**

While *justifiable homicide*—the lawful and intentional taking of another’s life—has always been legal, what constitutes justifiable homicide has changed over time. For an act to be defined as justifiable homicide, there must be evidence that the suspected offender (e.g., a burglar) presented an imminent threat to the life or well-being of another. This threat includes murder, manslaughter, armed robbery, and rape. Law enforcement officers or citizens killing in self-defense or to defend another are charged with much less. Through decriminalization, the reduction or abolition of penalties associated with behaviors—we have fewer offenders. Decriminalization examples include justifiable homicide and adultery.

**Castle Doctrine**

A legal doctrine that states that homeowners are no longer required to retreat if threatened by intruders. In some states, it extends beyond homes.

tried and sentenced to 12 years in prison and a $75,000 fine. In 2008, after serving 10 years, Fortier was released and entered the Witness Protection Program, in which he was given a new identity. Lori Fortier was given immunity, and as a result, she was never tried or convicted.

International terrorism continues to receive increased attention as the number of terrorist organizations and attacks increase. Terrorism goes beyond all geographic boundaries and ethnicities. The most prominent group is the Islamic State of Iraq and the Levant (also known as ISIS or ISIL), which is responsible for many recent bombings and murders worldwide. In June 2016, for example, nearly 40,000 Fallujah citizens were trapped when ISIS militants surrounded the Iraqi city with snipers and cut off food supplies. Additionally, four people were arrested in Germany after one member of a sleeper cell revealed their plot to bomb German metro stations. And three Minnesota men were found guilty of plotting to join ISIS. These three incidents are only a small fraction of the threats and actions of ISIS in just one month.

The Alfred P. Murrah Federal Building, Oklahoma City, shortly after a domestic terrorist bombing in 1995. How did this act of terrorism differ from 9/11? What explanations account for the government’s failure to respond to this act of terror in the same way it did following 9/11? What would you have done after the Oklahoma City bombing to minimize the possibility of future terrorist acts?
including deadly force, against intruders, if they or other individuals are threatened. There is some variation in how expansively the Castle Doctrine applies. In some states, such as Texas and Florida, it applies to one's home or business, one's motor vehicle, public places, and any other location a person has a right to be. In Colorado, an offender must enter a “dwelling” in order for a claim of justifiable homicide to be made.

Adultery

Another example of decriminalization of behavior is adultery. Historically, adultery was criminal behavior defined as sex between a married woman and a person other than her spouse. The basis for this distinction focused on paternity. That is, this law sought to prevent a husband from supporting or leaving an inheritance to another man's child or children because of his wife's adulterous behavior.

Over time most states have decriminalized adultery; however, definitions of adultery and the associated punishment vary by state. Currently, in New York, adultery occurs when two people engage in sexual activities and at least one of the members of the pair has a living spouse. In Minnesota, adultery occurs when a married woman has sex with a man who is not her husband. In this scenario both the man, whether married or not, and the woman have committed adultery. In Michigan, adultery is a felony punishable with jail or some other intermediate sanction. In contrast, adultery results in a $10 fine in Maryland. In the U.S. military, adultery is an offense for which one can be court-martialed. The prosecution of adultery, while uncommon, still occurs in the military.

Driving Under the Influence

While marijuana and adultery are examples of decriminalization, in other instances behavior has become increasingly criminalized. By expanding what is considered criminal behavior, we have increased the number of offenders and the number of persons under control of the criminal justice system. One example of increased criminalization applies to driving under the influence. Consider, for example, people who drink alcohol or take drugs and then get behind the wheel of a vehicle or on a motorcycle, and drive. At times, this behavior results in terrible and deadly accidents. While it has been prohibited to drive drunk in some places for more than a century, convictions were rare. New York was the first state to implement a drunken driving law, in 1910; however, there was no specific definition of what constituted driving while intoxicated. In general, the accepted limit was 0.15% blood alcohol content (BAC). This means that a person with a BAC of 0.15% has 15 grams of alcohol in 10 liters of blood. Drunk drivers rarely received jail or prison time, and victims received no restitution or justice. The offenders would merely go home and try to deal with their “problem” in a private and personal way. This approach to drunk driving changed in the late 1970s and is now associated with serious penalties.

Leading this change was Candace Lightner, the founding president of Mothers Against Drunk Driving (MADD). In 1980, Lightner's 13-year-old daughter Cari was hit from behind by a drunk driver as she walked to a church carnival in her neighborhood. The driver, who had momentarily blacked out because of too much alcohol, regained consciousness after killing Cari and drove off, leaving her badly mutilated body in the street. The man was a repeat offender who was out on bail following a separate hit-and-run drunk driving incident only 2 days before he killed Cari. Cari's death represented his fifth offense in 4 years. Four days after Cari's death, Lightner started MADD when she discovered that the offender who had been apprehended would not receive any jail or prison time for killing Cari.

Since then, there has been a flurry of changes to the laws related to drunk driving and punishment. Currently, all states have clearly defined BAC levels that result in criminal charges and penalties, though the laws and punishment vary by state. In most states, the legal BAC limit is 0.08%. In some states a separate offense (driving while ability impaired, 0.05% BAC) may also be charged.
The first time Chris Farias was pulled over driving while intoxicated, he took a plea bargain that lowered his drunk driving charge to public intoxication. A few years later, he was pulled over again for DUI. This arrest resulted in a substantial monetary fine and some time in jail. Unfortunately, Chris’s defiant personality interfered with any change in his behavior. He continued drinking and driving. Two years after his second DUI incident, Chris attended a tailgating party in preparation for the fun of drinking during a college football game. After the game he was unable to get a cab because of the crowds (and the large number of intoxicated people using cabs), and he made the poor decision to ride his motorcycle home, thinking that if he took the back roads he could avoid the police. To this day, he is angry at his decision because his home was mere blocks away—he could have easily walked. An officer noticed a man riding a motorcycle extraordinarily slowly on a cold night and pulled Chris over. Once again, he was arrested. What Chris failed to realize was that the change in drunk driving laws where he lived meant that even his first offense was to be treated as a DUI. With this third DUI, he confronted much more severe consequences with harsher punishment. Chris faced the risk of losing everything—his construction business, girlfriend, friends, home, and driver’s license—because of the zero-tolerance policy now connected with DUI laws.

Rape

Rape is another example of a crime that has seen an expansion in its definition over time. While rape has always been a crime and considered *mala in se*, how it has been legally defined has changed. For example, originally, the FBI defined rape as the “carnal knowledge of a female forcibly and against her will.” In 2011, the FBI definition was changed to broaden the behaviors that are considered rape: “penetration, no matter how slight, of the vagina or anus with a body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.” This change included boys and men as victims as well as behavior beyond the penetration of a vagina by a penis. In 2013, the FBI removed the word *forcibly* from this definition to further reflect contemporary understanding of this violence. Rape does not necessarily involve force, but it does involve a lack of consent, such as when a person is unconscious. A recent highly publicized example is that of rapist Brock Turner. Turner, a student at Stanford University, was caught in the act, and ultimately convicted of three felony charges: assault with intent to rape an intoxicated woman, sexually penetrating an intoxicated person with a foreign object, and sexually penetrating an unconscious person with a foreign object. Turner’s victim was unconscious during the attack, as it happened behind a trash container outside of the Kappa Alpha fraternity house on campus.

Additional changes in laws included those that recognize that rape can occur between married partners. Prior to 1975, rape by definition could not occur between marital partners. Currently, all states have marital rape laws, although it took almost 20 years to recognize the seriousness of rape between a husband and wife. (Some people argue that it is still not taken seriously.) South Dakota was the first state to make marital rape a crime. In 1993, North Carolina became the last.

There are countless instances of behaviors that have become increasingly criminalized or decriminalized. These changes reflect transformations in our understandings of behaviors and shifts in societal norms. In the past, rape was considered a crime of sex and lust. As such, marital rape seemed impossible. Today researchers and others recognize rape as a violent crime of power and control. Thus, statutes were changed to reflect this greater understanding, and...
rape shield laws were enacted to protect the privacy of victims. Rape shield laws restrict a defendant’s ability to cross-examine a rape victim about past sexual behavior and prohibit the revealing of the identity of a rape victim. In some states, protections are even broader.

Before these statutes were enacted, rape victims’ prior behaviors were used as evidence to mitigate the crime, which had a chilling effect on the willingness of victims to go forward. In the case of Jennifer Schuett, one would think that she would not have had to worry about being accused of luring her attacker given her age and the rape shield laws. It seems unthinkable that anyone would accuse a child of such a thing. Yet it happens. Consider the case of an 11-year-old Cleveland, Texas, girl who was gang-raped by 18 men in 2010. The defendant’s attorney publicly portrayed the young victim as a “seductive man-luring spider.” Changes in these laws are one step in the right direction to convey that rape is a crime of violence and that victims are not responsible for their victimization. Like the perpetrator in the Schuett case, evidence points toward rape being an act of power and control by the perpetrator.

THE CRIMINAL JUSTICE SYSTEM: PURPOSE AND PERSPECTIVES

People often are surprised by the lack of agreement related to the purpose of the criminal justice system. Some individuals believe its purpose is to control and punish offenders and to protect society. Others view rehabilitation as the purpose of the system. And yet others believe the purpose of this massive system is to ensure that all accused are treated fairly and/or to restore justice. This section identifies the major perspectives on the purpose of the criminal justice system. While each is presented as a distinct perspective, they are not necessarily mutually exclusive.

Crime Control

A popular view is that the role of the criminal justice system is to prevent crime by shrewdly and harshly punishing offenders. This viewpoint, referred to as the crime control perspective, finds that when punishment is weak or avoided, offenders do not fear apprehension and continue to commit crimes. As a result, the public is left unprotected and crime increases. This model holds that all offenders—violent or not—are greedy, impulsive, and/or thrill-seeking...
individuals. Offenders choose to commit the crime and must be punished. In order for a system operating under this perspective to function properly, effective law enforcement, long sentences, and strict mandatory punishment (especially the use of prison time) are required. This expensive and punitive perspective of the criminal justice system is currently in vogue and has resulted in part in the enormous growth of individuals under the supervision of the criminal justice system. This growth occurred until recently despite documented declines in violent and property offending that started in the early to mid-1990s.

Research indicates that, while popular, in practice the crime control model is not effective, efficient, or economically sound. About two thirds of all offenders commit additional crimes even after being punished. Recidivism rates this high indicate a level of ineffectiveness in terms of deterring future criminal behavior. Furthermore, the implementation of longer and tougher sentences coupled with high rates of recidivism often results in families being torn apart. Children are raised in an environment of less (or no) supervision, and spouses left behind must frequently turn to public assistance (i.e., your tax dollars) to survive. This approach has fueled an increase in prison construction at great financial and social expense. Also, more law enforcement officers and criminal justice workers are being hired, resulting in further increased costs.

Rehabilitation

Another perspective holds that the purpose of the criminal justice system is to rehabilitate offenders. This rehabilitative perspective asserts that the role of the criminal justice system is to care for and treat people who cannot take care of themselves. The rehabilitative perspective is based on the notion that offending is the result of blocked opportunities such as employment (and no money), inadequate education, lack of transportation, and poor adult role models. In essence, those who commit crime are victims of social inequality. Many people believe that when individuals are provided with the opportunity to achieve and support themselves through legitimate means, they will do so and avoid the consequences of committing crime. This perspective is based on the underlying belief that people commit crime because it is their only option.

Based on this concept, the role of the criminal justice system is to provide individuals with the means to improve their lives through education, training, and social skills. With these necessary tools, individuals can support themselves in legitimate ways once released. The rehabilitative perspective also comes with a large price tag. Offender education and rehabilitation are costly. Some experts, however, argue that the price in terms of money and damage by offending is even greater if we allow those least able to survive to continue their deviant and offending ways. Society can pay now in terms of offering skills, or pay later in terms of incarceration.

Due Process

The due process perspective focuses on the criminal justice system’s purpose of ensuring that all people accused of crimes are treated fairly and equally. The basis of the due process perspective is found in the U.S. Constitution. Specifically, the Fifth and Fourteenth Amendments speak to each citizen’s right to due process in the administration of justice. The due process clauses exist to protect citizens accused of crimes from capricious detainment and denial of freedom, inequitable use of capital punishment, and/or the taking of property by the government as a result of a criminal or civil proceeding. Everyone accused of a crime should be treated equitably by law enforcement, the courts, and corrections. This perspective means that
detainment should be fairly distributed, every person should receive fair hearings and trials, engaged and competent attorneys should represent the accused, and sentencing (if appropriate) should be evenhanded. The due process perspective holds that the criminal justice system should not allow inequitable treatment based on any characteristics, including the accused person’s race, ethnicity, age, income, or religious preference.

A system that operates contrary to the principles of due process is the antithesis of the U.S. Constitution and what our criminal justice system stands for. Unfortunately, as discussed throughout this text, there are myriad examples in which the criminal justice system has failed to uphold its due process purpose. Arrest, incarceration, and the death penalty are not equitably distributed. Documented cases indicate that competent legal representation and judicial behavior are not evenhandedly dispersed throughout the system.

**Restorative Justice**

The restorative justice perspective finds that the appropriate role of the criminal justice system is to repair the harm caused by criminal behavior. This perspective holds that the criminal justice system should not operate through punishment, but rather through cooperation among victims, offenders, and members of the community. Together, some or all of these actors share with one another how the crime affected them and reach consensus on a satisfactory method of resolution (Figure 1.5). Whereas other perspectives tend to focus on punishing the offender and satisfying legal principles, this approach focuses on the victims of crime. Victims are able to share in detail with offenders (if appropriate) how their crimes harmed them. The community is involved because local citizens (versus the state) are considered victims as well. Offenders are expected to take responsibility for their actions and to “pay” for them through agreed-upon means. The outcome may include paying restitution, repairing damaged property, and/or serving the community. Though not widely implemented in the United States, research finds that restorative justice results in the highest rate of victim satisfaction and offender accountability.

**Figure 1.5 Restorative Justice Approaches**

Restorative justice approaches actively engage the victim in the process. Other approaches are not as victim-centric. Should dealing with the offender involve the victim? Why or why not?

Source: Center for Restorative Youth Justice.

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*restorative justice perspective:* This perspective indicates that the appropriate role of the criminal justice system is to restore justice as best as possible through repairing the harm caused by criminal behavior.
Chris Farias’s most recent DUI was dealt with through a restorative justice approach. He was allowed to undergo special treatment, provided with counseling (at personal financial cost), and closely monitored in a work-release program. This perspective rests on the assumption that addressing his addiction and behavior is a better approach than merely punishing his drinking and driving.

**Nonintervention**

In contrast to the other perspectives, which identify what the criminal justice system should do, the nonintervention perspective argues for noninterference. Proponents contend that the appropriate role of the criminal justice system is to be as minimally intrusive as possible. Any intrusion by the criminal justice system is harmful because it stigmatizes an individual as an “offender.” Some people believe that the stigma from criminal justice system interaction results in a self-fulfilling prophecy whereby offenders view themselves as failures or delinquent and, as a result, find navigating the noncriminal world more and more difficult. Newly minted offenders, for example, are less able to find work given their records and often are unable to establish and maintain healthy relationships. Taken together, these increased difficulties enhance the chances of recidivism. This perspective advocates for the decriminalization and legalization of nonserious, victimless crimes such as public drunkenness, vagrancy, and possession and use of marijuana. Noninterventionists argue for the release of all nonviolent offenders from the correctional system as well as the release from oversight of others (e.g., parole, probation).

**CRIMINAL JUSTICE AND PUBLIC POLICY**

The beginning of the chapter noted how everyone is affected by the criminal justice system through public policy. The criminal justice system is our method of social control and reflects both a consensus model and a conflict model. Social control represents the methods used to ensure conformity and compliance among its members. The government and laws typically accomplish formal social control. Informal social control may be instilled, for example, through peer pressure to act a certain way. A closely related concept is the idea of a social contract. This perspective developed from the work of early philosophers who believed that organized societies are created by an agreement that is mutually beneficial to the whole. The social contract gives power to the government or state to provide protection and ensure well-being among citizens.

**Consensus Model**

A consensus model, which supports the idea of a social contract, originated from the work of John Locke and is based on the view that everyone in the criminal justice system works in unison to achieve justice. The consensus model operates on the notion that there is general agreement about what behaviors are harmful to the majority of the public and that these behaviors are deemed criminal. This model recognizes that criminal law then serves a social control function designed to protect citizens and maximize peace.

**Conflict Model**

A conflict model is based on the notions of division and disparity among members of society and the struggles for power that this causes. The conflict model has roots in the ideology espoused by Karl Marx and focuses on the power struggle between the haves and have-nots—or, stated differently, those with and without power. According to the conflict model, those with power define what is criminal and, in doing so, exert control over the powerless. By exerting this power, those in powerful positions are able to maintain their dominance and privilege over the less fortunate. Given the relationship between race, ethnicity, and gender and power in the United States, it is not surprising that evidence exists pointing to the use of the criminal justice system to control persons of color and women. In this chapter, and those that follow, you will encounter evidence of both the consensus and conflict models at all levels of the system.

The importance of crime and public policy is essential to our understanding of all components of the criminal justice system. Public concerns about gun violence, gangs, human
trafficking, and other high-profile crimes increase pressure on lawmakers to respond. Legislative efforts seeking harsher punishments are common and create political common ground. No political party or potential candidate can be against tougher laws for reducing crime and violence. Social scientists and empirical research provide the evidence for many of the decisions driving our lawmakers. Joan Petersilia and James Q. Wilson, pioneers in crime and public policy, warn of avoiding two mistakes in approaching policy. First, we still are identifying the problems and searching for solutions. This lack of knowledge creates a need for action. Second, researchers can inform policy, and abdicating responsibility to law enforcement, judges, and politicians is a mistake. Their position emphasizes collaboration. The interaction among criminologists, practitioners, and lawmakers to solve crime problems is discussed throughout the following chapters.

**CRIME AND THE MEDIA**

The criminal justice system and media such as newspapers, blogs, the Internet, television shows, movies, and books are engaged in a troubled relationship that almost everyone is exposed to. Separating the two is impossible. The media are dominated by stories of crime and victimization, and while there is nothing inherently wrong with the media being preoccupied with these things, much of what is conveyed to the public projects inaccuracies about crime, victimization, and the criminal justice system. This situation is troubling because most people gain their understanding about crime, victimization, and the criminal justice system from the media. From these stories the public identifies what it feels are important criminal justice–related issues. These issues come to the attention of policymakers, who in turn enact legislation that influences our lives. Unfortunately, this process means that some critical (but unsexy) criminal justice issues are ignored while other rare or unimportant issues gain a great deal of resources and attention. The implementation of memorial criminal justice policies often reflects this process. These policies are named for persons who were victims of crime. This book covers many of these memorial policies, including Megan's Law and Amber Alerts. Other policies well known to the public are those in memory of Adam Walsh and Polly Klaas. While no one can argue that the crimes against these individuals were not tragic, whether these memorial policies improve the criminal justice system is debatable.

**Framing**

Crime is portrayed in the media through framing. Framing means that criminal justice and crime stories are packaged into tidy presentations that make sharing the information easy. Frames simplify criminal events and make processing, labeling, and understanding crimes easier for the audience. Unfortunately, frames fail to allow the expression of important variation and nuances in the crimes. It is vital to recognize that frames are tied to the criminal justice policies (also oversimplified) designed to address the problem. Sasson offers five common crime-and-justice frames found widely in the media in the United States:

- faulty criminal justice system
- blocked opportunities
- social breakdown
- racist system
- violent media

The faulty criminal justice system frame indicates that crime occurs because of a dearth of law and order in the country. Presentations using this frame indicate that crimes are committed because criminals feel they can get away with them. This frame contends that criminal sanctions are a joke and that criminals are rarely held accountable. This frame depicts prisons as having
revolving doors and blames bleeding-heart liberals for the chaos in which we all live. Because the problem is clearly framed as a lack of adequate sanctions, the policies required to address crime are clear: Enact sanctions that are swift, certain, and severe. Offenders must be punished brutally, and the crime problem will be solved.

A second common crime frame found in the media is the **blocked opportunities frame**. This perspective suggests that crime results from a lack of legal opportunities among offenders. Offenders live in poverty and are uneducated, unemployed, and discriminated against. Therefore, those living in these conditions are left with no other option but to commit crimes. Given this tidy explanation for the presence of crime, the solution is simple and clear: Enact policies that lift people out of poverty, educate them, offer them skills to enhance employability, and end discrimination. Given the right opportunities, offenders will not commit crime.

The **social breakdown frame** presents crime as the obvious result of a breakdown in family and community. Alleged evidence of this collapse includes high divorce rates, cohabitation of unmarried people, out-of-wedlock births, same-sex marriage, and other nonconventional family units. This frame also contends that the availability of welfare has further enabled families and the community to disintegrate. This clear framing of the issue identifies the policies needed to correct crime: Enact policies that promote family and community values, and end handouts.

The fourth common crime frame found in the media is the **racist system frame**. This perspective holds that the problem is not crime, but rather the criminal justice system. In this frame, law enforcement, courts, and corrections are depicted as racist agents of oppression. The criminal justice system, then, is used as a means to oppress people of color. Given this simple problem, the solution is clear: Enact policies that ameliorate racial injustices, and include the banding together of people of color to gain the justice that they deserve.

And finally, the **violent media frame** depicts crime as a direct result of the violent media that bombard us in television, movies, video games, and music. This frame holds that this constant display of violence leads to a lack of respect for human life and increased violence in the nation. To remedy this situation, the required policy is clear: Enact policies that would regulate widespread violent imagery available to the masses.

### Infotainment

An unfortunate offspring of the relationship between media and crime is infotainment. **Infotainment** is the marketing of a highly edited and distorted combination of entertainment and information purported to be truthful and comprehensive. Infotainment leads the viewing public to feel that they are being educated with facts and information about crime and the criminal justice system in the United States. In reality, the public is receiving a highly edited and narrow view of the topic. There are endless examples of false beliefs held by the public that is commonly portrayed in the media:

- Women are more likely to be victims of violence than men.
- Murder is one of the most frequent types of violence committed.
- Children are at higher risk of being violently victimized at school than away from school.
Most crime committed in the United States is violent in nature.
Offenders are crazed monsters.
Most violence is committed by armed offenders.
Strangers commit most crimes.
Only guilty people confess to crimes.
Most violent crimes result in injuries to the victims.
Blacks are more likely to violently victimize whites than other blacks.
Most individuals accused of crimes go to trial.

All of these statements are false. Yet most believe them to be accurate, and as a result many people live in unwarranted fear of becoming victims of crime. This misinformation also misleads the public into believing they know what an offender really looks or acts like. This misinformation can be dangerous or deadly if it leads some to fail to understand who may actually be a threat to them. Sadly, these commonly held misunderstandings can lead people who were violently victimized to question whether they were in fact victimized: The offender was a friend, there was no weapon, I was not seriously injured . . . was it really a crime? Misunderstandings about the reality of crime and victimization in the United States distort policies, waste time and resources, create unnecessary fear, and may endanger individuals.

Narrow-Casting

Further exacerbating the distorted presentation of crime in the media is the contemporary practice of narrow-casting. Once upon a time, there were few media outlets, which meant that each needed to offer a wide range of perspectives on crime. Broad coverage was required to appeal to their viewership. Today, there are countless media channels, and most offer narrow and often distorted views of reality. Viewing audiences are smaller and more homogeneous, and the infotainment presented to them, described as factual and comprehensive, is not. Failure to tune in to a multitude of media and nonmedia sources and an inability to critically consume information lead to uninformed and misinformed citizens.

Viewers must understand that the media constitute a for-profit business. The primary goal of the media—including so-called news programs—is not to inform and educate members of the public. The ultimate goal of these for-profit businesses is to deliver viewers to advertisers. This agenda is seldom accomplished by offering truthful and comprehensive accounts of crime. Rarely is it accomplished by offering the nuances of crime, mundane criminal events, and difficult policy discussions. Rather, delivery of viewers to advertisers is best achieved by emphasizing the most heinous of crimes, the most vulnerable of victims, and titillating topics, packaged in easy-to-digest frames. This approach leaves an audience that feels crime is perpetually out of control.

CRIMINAL JUSTICE VERSUS CRIMINOLOGY

What is the difference between criminal justice and criminology? Many use the terms interchangeably, and while there is some overlap, they refer to two disciplines. Adding to the confusion is the lack of agreement over the degree of overlap or differences between criminology and criminal justice. Criminal justice refers to the system—that is, the system of law enforcement, courts, and corrections. This approach involves investigating
the practices of these three institutions, including laws relating to crime and offenders, approaches to deterring future crime, sanctioning and/or rehabilitating offenders, and recidivism. In contrast, criminology refers to the study of the nature, extent, and causes of criminal offending and criminal victimization. Some scholars suggest that criminal justice refers more to the policy aspects of crime, whereas criminology applies more to the behavioral aspects of offending and victimization. While these perspectives offer tidy descriptions, separating the two in practice is messy. For instance, some scholars conduct research on the behavior of police officers. Others conduct research on the interaction of victims with policing agencies. Others examine jurors’ responses to victims of violence and their likelihood to render a guilty verdict based on the characteristics of the offender.

The fields of criminal justice and criminology are extensive, and opportunities for careers as academics, practitioners, and advocates are widely available. Overall, the two disciplines are intertwined in ways that are often indistinguishable. Many criminal justice programs offer courses in criminology, and many criminology departments offer courses in criminal justice. Content and research cannot easily be pigeonholed into one or the other category. The material presented in this text reflects that overlap. You will be exposed to criminal justice as well as criminology material. Together, this information offers a comprehensive overview.

CHAPTER WRAP-UP

This chapter explored the nature of crime and the controversies surrounding definitions, types of crimes, different perspectives, and legal changes over time. The material and examples demonstrated that the criminal justice system fluctuates over time, changes given advances in technology, and is believed by many to act differently dependent on the characteristics of the victim, the offender, and the crime committed. The problematic relationship between crime and the media also was addressed in this chapter. Understanding crime and the media is vitally important for all students of criminal justice. We hope that this inclusion offers the basics and raises questions that lead to greater exploration of the topic. We introduced four individuals personally entangled with the criminal justice system as victims or offenders and their stories. The remainder of this text continues their stories as they wend their way through the system. Keeping in mind the road map as well as the role of the victim in the system, you will follow each of our case studies as it takes its unique path through the system.
KEY POINTS

- Crime affects everybody either directly or indirectly.
- Crime is not uniformly defined, encompasses a variety of acts, differs across jurisdictions, evolves over time given available technology, and changes to reflect cultural norms and mores.
- The popular view of crime tends to be narrow and to focus on street crimes such as robbery, rape, murder, and burglary. In fact, crime is far more expansive and includes white-collar crimes, cybercrimes, so-called victimless crimes, and terrorism.
- The criminal justice system is a large array of institutions with three main components: law enforcement, courts, and corrections. Traditionally overlooked, the victim is an integral part of the criminal justice system.
- The criminal justice system has expanded dramatically in the past several decades. Only recently has the growth in some areas slowed and in some cases even reversed course. Some commentators and scholars argue that the criminal justice system affects particular subpopulations (e.g., the disadvantaged) more than others.
- There is no single criminal justice system; rather, it is composed of many local, state, and federal systems that operate differently across jurisdictions. In addition, some people argue that the criminal justice system experience differs based on characteristics of the offender, the victim, and the event.
- Not everyone agrees on the purpose of the criminal justice system. Some view it as a mechanism to punish offenders to deter them from future offending. Some view it as a way to rehabilitate offenders to be productive citizens. Others view it as a system that deals with the offender, victim, and community to make whole the damage from a crime. And finally, many feel that the system’s role should be greatly reduced as it does more harm than good.
- Public policies established in response to crime and the criminal justice system influence every person’s life. Evidence exists that policies may disproportionately affect the disadvantaged to a greater degree than others.
- Though criminal justice and criminology are distinct disciplines, there is overlap between the two. Basically, criminal justice refers to the system of law enforcement, courts, and corrections. Investigating the practices of these three institutions includes how laws relate to crime and offenders, approaches to deterring future crime, sanctioning and/or rehabilitating offenders, and recidivism. Criminology refers to the study of the nature, extent, and causes of criminal offending and criminal victimization.
- One can neither study criminal justice without considering the role of the victim and victimization nor study it without giving attention to the role of diversity among victims and offenders.
- The purpose of the media is to deliver viewers to advertisers, not necessarily to educate the public about crime and the criminal justice system. Media depictions of crime are more likely to come in the form of infotainment, be narrow-casted, and offer the viewer a false sense of full and accurate information.

KEY TERMS

Adultery 19
Blocked Opportunities Frame 26
Castle Doctrine 18
Conflict Model 24
Consensus Model 24
Corrections 6
Courts 6
Crime 13
Crime Control Perspective 21
Criminal Justice 4
Criminology 28
Cybercrime 17
Decriminalization 18
Due Process Perspective 22
Faulty Criminal Justice System Frame 25
Framing 25
Inalienable Rights 12
Indeterminate Sentence 11
Infotainment 26
Judicial Activism 13
Justifiable Homicide 18
Law Enforcement 6
Mala in Se 18
Mala Prohibita 18
Narrow-Casting 27
No Bill 10
Nolle Prosequi 10
Nolo Contendere 10
Nonintervention Perspective 24
Property Crime 13
Racist System Frame 26
REVIEW QUESTIONS

1. How are policies related to crime and our personal liberties associated?
2. Why is crime difficult to define? What are some issues that make it difficult?
3. What type of behaviors does crime encompass?
4. How does increased criminalization and decriminalization of behaviors influence your life?
5. What is the difference between *mala prohibita* and *mala in se*?
6. What causes crime to change over time?
7. What is the criminal justice system? What are its primary components?
8. What factors account for high incarceration rates?
9. What personal characteristics are related to one's likelihood of being incarcerated?
10. What are the major perspectives regarding the purpose of the criminal justice system?
11. Why is narrow-casting a departure from past portrayals of crime in the media?

CRITICAL THINKING MATTERS

1. **Achieving Justice and Fairness.** In what ways can the criminal justice system ensure equal and fair treatment for all? Are there methods that could be used to streamline the system and still respect due process rights? How can the criminal justice system operate in a more cost-effective manner and still protect the public from offenders? How can the system better care for victims? How could the system have helped in the case of Jennifer Schuett? Is expecting the system to assist victims going beyond the boundaries of what a criminal justice system should focus on?

2. **How Do You Distinguish Terrorism?** What makes a domestic terrorist attack different from traditional violent crime? How is it that what Timothy McVeigh and Terry Nichols did in Oklahoma City is terrorism, when the Columbine massacre is a school shooting? Are we drawing a false distinction in violent acts? Why should it matter whether a terrorist act was one of domestic or international origin? What difference does it make to the victims, the offenders, or the citizens of the nation?

3. **Policy and Drunk Driving Laws.** Research shows that drivers with BAC levels higher than 0.10% are responsible for more than 80% of drunk driving deaths. Yet in most states, the legal BAC limit is 0.08%, and MADD is continuing to work toward lowering this threshold. What is the right thing to do? Should we use resources to lower the legal BAC if these drivers are not likely to be involved in fatal accidents? Should the legal limit go to 0.10% to focus on the worst offenders? Should persons under age 18 be held to tougher BAC thresholds? Have drunk driving laws created an industry allowing attorneys to get rich while costing citizens their reputations, opportunities at employment, and high fines? Has Chris Farias been caught up in a system that continues to criminalize benign behavior and "create" more offenders? Or have the tough drunk driving laws made our society safer? Was Chris Farias a criminal who needed to be taken off the street at the expense of the taxpayer?

4. **Crime and the Media.** Many people have distorted views of the criminal justice system given that their knowledge is based on media portrayals only. Does having a distorted view of criminal justice matter? Is there any harm in remaining uninformed? Should the government step in and regulate portrayals of crime in the media to ensure that the public is better educated? What are the advantages and disadvantages of such a policy? Or should the education system do a better job at teaching individuals the truth about the criminal justice system? What can be done to make a more educated populace, and does it really matter?
5. **Male Rape and Marital Rape.** Many people find it difficult to understand how a man can be raped. Gabe Wright was raped at gunpoint after being beaten while on a fishing trip. Was this rape? Do we need specific laws to address rape when the victim is male? Why or why not? Similarly, many struggle to understand how rape can occur between married people. Consider the stories of Karen Carroll (http://thevoicesandfacesproject.org/V&F/index.html#folio/carroll.html) and Victoria Sherden (http://thevoicesandfacesproject.org/V&F/index.html#folio/sheridan.html), who were each raped by their husbands. After reading their stories, do you view these to be incidents of rape? Prior to changes in law, these husbands could not have been charged with rape. Are these changes in statutes a positive or negative thing? Why?

6. **Frameworks and Gang Violence.** Danny Madrid was raised by his mother and grandmother in an impoverished Latino and black neighborhood in Los Angeles. In this environment he became a gang member, committing minor and serious crimes. Given the little you know about Danny, what framework do you believe explains his descent into offending? Were his criminal acts a result of a faulty criminal justice system—a system that is easy on crime and one in which criminals know they can get away with their deeds? Or is it the lack of opportunities made available to Danny to become an astronaut that steered him to a life of violence? Perhaps you find that the breakdown of his family was the culprit? Danny’s father was a “rolling stone” who was primarily absent from his life, and when he was around, he could be violent. Danny’s last interaction with his father was when he was 14, when an argument resulted in Danny’s being beaten by his father with a broomstick. Does this sort of breakdown have something to do with Danny’s story? What role does the fact that Danny is Latino in what some consider a racist country play? Which of these do you believe account for his eventual gang membership and criminal behavior and why? Given the framework that you have selected, what solutions are indicated? As a policymaker, what would you do to maximize the chances of other little boys growing up in the same situation to become law-abiding citizens?

7. **Violence and Crime.** Although a great deal of violence is portrayed in the media, does it influence behavior? Or are aggressive people drawn to aggression depicted in the media? Does watching a movie or playing a violent video game make one commit an act of violence? Does watching a violent movie make you feel like acting out in a violent fashion? If the media are so influential, why is most crime that is committed property crime? If people become more violent by watching violence in the media, why do most violent crimes committed result in uninjured victims? Should it be the government’s role to step in and regulate what we see in the media? Or does such a proposal trample our freedoms? How do you moderate viewing of violence for yourself and your family? Or do you? Does it matter?