LEARNING OBJECTIVES

Readers of this chapter will be able to:

1. Understand what is meant by the crime rate and how it is determined
2. Explore issues of mass incarceration, deterrence, recidivism, and gun control
3. Assess the role of history, politics, and the courts in crime and public policy

GUNS ON CAMPUS: SAFETY OR RISK?

April 16, 2007, should have been a beautiful spring day on college campuses, with students thinking about finals and the end of the school year. Instead, it was ugly, devastating, and surreal. At 7:15 a.m., Seung Hui Cho, a twenty-three-year-old student at Virginia Polytechnic Institute and State University (Virginia Tech), shot and killed two people in the dorm. That would have been horrific enough, but he was not done. Just over two hours later, he entered a classroom building, chaining and locking the doors behind him. Armed with a 9-millimeter handgun, a 22-caliber handgun, and with hundreds of rounds of ammunition, Cho went from room to room shooting people. In all, twenty-seven students and five faculty were killed and seventeen more students injured before Cho turned the gun on himself as police closed in on his position. Cho earned a dubious spot in history by killing the most people ever on a college campus.

PHOTO 6.1
Thousands gather in a candlelight vigil to mourn the thirty-two people killed during the mass shooting at Virginia Tech in 2007.

Robert Gauthier/Los Angeles Times via Getty Images
In the aftermath of this tragedy came calls for new policies. The U.S. Department of Education fined Virginia Tech for failing to give prompt, campus-wide warnings that a gunman was still at large after the first shooting in the dorm. Following the shooting, early-warning systems were examined on campuses throughout the country. Universities and colleges increased campus security and instituted new policies about how and when to warn students of potential dangers on campus. Campus lockdown procedures were reviewed and strengthened, and many campuses practiced those procedures, in a similar manner to tornado or fire drills.

Changes in these policies drew little criticism, as students, their parents, faculty, and college administrators wanted safe places to learn. However, one policy became very controversial: allowing guns on campus. In some states, including Colorado, Idaho, Kansas, Mississippi, Oregon, Texas, Utah, and Wisconsin, state legislators argued that mass-shooting events demonstrated a need to ease existing firearm regulations and allow concealed-carry weapons on campuses. Other states, such as California, Florida, Georgia, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Jersey, New York, and North Carolina, enacted state laws banning guns on public university grounds. They believed tightening restrictions on the presence of weapons on college campuses would help prevent events like the one at Virginia Tech. Other states left it for individual public universities and colleges to determine whether or not to allow concealed weapons.

Which position is correct, and who should decide what policy to adopt? Recent studies suggest two findings. First, college campuses are increasingly prone to gun violence. The Citizens Crime Commission of New York City reviewed 190 incidents at 142 colleges from the 2001–2016 school years. The study revealed that shooting incidents increased 153 percent and casualties increased 241 percent, calling the last five years an “epidemic” in gun violence on college campuses, as over 437 people—most of them students—were shot (Cannon 2016). So, too, elementary and high schools are not immune from gun violence. A horrific mass shooting occurred in 2012 at Sandy Hook Elementary School, claiming the lives of twenty children and six adults. In the first two months of 2018 two high school shootings, one in Benton, Kentucky, and one in Parkland, Florida, killed nineteen people and injured twenty-eight. Despite precautions, gun violence in schools continues.

Second, studies indicate that controlling gun violence is not as simple as allowing guns on campus or on school grounds. Allowing people to carry weapons may actually increase violent crime, according to researchers at the Brennan Center for Justice. They found a 10 percent average increase in violent crime in states that adopted right-to-carry laws. The Citizens Crime Commission also found that states with ready access to guns were more likely to have gun violence on campuses. Twelve states accounted for 64 percent of the gun violence on college campuses, and these states had more gun dealers, no requirement for universal background checks, easy access to purchasing assault weapons, or no limits on the number of guns purchased (Cannon 2016, 3).

A (2016) study by Johns Hopkins University also found that having concealed-carry laws did not deter mass-shooting events. From 1966 to 2015, less than 10 percent of high-fatality mass shootings in America, whether on college campuses or elsewhere, took place in “gun-free zones,” or where carrying guns is prohibited (Webster et al. 2016). A similar analysis, by the National Bureau of Economic
Research, found that only 13 percent of mass shootings from 2009 to 2015 occurred in gun-free or gun-restricted zones (Michaels 2016). This runs contrary to the argument of concealed-carry advocates that “gun-free zones” provide ready targets for shooters, since they know that no one will fire back at them.

Arguments about the right to have guns on college campuses or bans on semi-automatic weapons, such as the AR-15 rifle used in the Parkland High School shooting, are reflected in larger debates about gun control and crime. Mass shootings, especially in schools, are important public policy issues that must be addressed. However, this chapter takes a broader look at crime and criminal justice policies. The chapter explores the history of crime and punishment and various approaches to deterring crime. We look at relationships between drug use and crime; the roles of national, state, and local government in fighting crime; and the role of race in arrests and incarceration.

We look at criminology, or the study of crime, to inform our understanding of how, why, when, and where crime occurs, and explore our criminal justice system of enforcing laws, investigating crimes, prosecuting and punishing criminals, and rehabilitating persons convicted of a crime (Roufa 2016). Both of these fields (criminology and criminal justice) shape policies that deal with crime. The chapter ends with U.S. incarceration rates, the problem of escalating prison costs, and the special challenge of capital punishment. Finally, we return to the topic of gun control, considering possible policy choices to prevent future massacres at the hands of someone with a gun.

OVERVIEW OF CRIME IN AMERICA

People have different views on the extent of crime in the United States, the causes of crime, the kind of punishment that should occur, what to do about mass shootings, and whether or not the death penalty is good public policy. Let’s begin by looking at the types of crime and the crime rate in recent U.S. history.

Types of Crime

Crimes are actions that are prohibited by federal and state governments because they are deemed to be harmful to society. Crimes are defined by criminal law, which determines whether a person should be punished by imprisonment, fines, or both. Crimes that are punishable by more than one year in prison are felonies, such as murder, kidnapping, or robbery. Less serious crimes, such as shoplifting, with sentences of less than one year, are called misdemeanors.

Crimes may be classified into four broad categories. The first is personal crime, where the crime results in injury or harm to a person or persons. Examples of violent crime include assault and battery, kidnapping, rape, and homicide. When an individual acts with premeditation and intent to kill, prosecutors will charge that person with first-degree murder. A second category is property crime, which involves the taking or interference with the property of another. Examples include auto theft, burglary, robbery, and larceny. A third type of crime is inchoate. Inchoate crimes include crimes that were in progress but never completed, or assisting another person with a criminal act. Examples include
conspiracy and aiding and abetting. The final category is statutory crime. This includes crimes that are specifically proscribed by state or federal laws, in addition to the ones set out in the previous categories. Many alcohol- and drug-related crimes are statutory crimes, as are traffic offenses.

The state or national government prosecutes criminal cases on behalf of the people. In contrast, civil cases typically involve private disputes between individuals or organizations. Both criminal and civil cases are heard in federal or state court, depending on jurisdiction. Jurisdiction is an important concept that refers to the ability of a court to hear a case. Contrary to popular belief, the most serious cases are not necessarily prosecuted in federal courts. Most criminal cases are heard by state courts, which have broad jurisdiction. For example, robbery is a crime that is most often tried in state courts as violating state law.

Criminal cases where the United States is a party, such as crimes that occurred on federal property, involved a federal employee, or violated federal laws or the U.S. Constitution, are heard in federal courts. For example, the crime of robbery would be tried in federal courts if the individual robbed a bank insured by the Federal Insurance Deposit Insurance Corporation (FDIC), an agency of the U.S. government. If the individual robbed a local convenience store, gas station, or residence, however, that person would be prosecuted in state court.

It is also possible for an individual to be prosecuted for violating both state and federal laws. An historic example is the case against four police officers charged with beating Rodney King, an African American man, after a high-speed chase in 1991. The officers were tried in California state court in 1992, and acquitted of assault charges. The acquittal verdict prompted riots that took more than fifty lives and caused over $1 billion in property damages in Los Angeles (Mydans 1993). The officers were subsequently charged with violating King’s civil rights and tried in a federal court; two of the four were convicted.

The interplay between federal and state criminal courts is discussed in greater detail later in the chapter. The bottom line, however, is that state courts are the workhorses of the criminal justice system, prosecuting more than 90 percent of criminal cases in the country, hearing over eighty-six million cases in 2015, as shown in Figure 6.1. Note that 21 percent, or about one in five cases, heard in state courts is a criminal case; the majority of cases, 54 percent, involve traffic violations. The next section traces the incidence of crime over time in the United States.

**FIGURE 6.1**

Types of Cases Heard in State Courts, 2015

![Diagram showing types of cases heard in state courts: 18% Civil, 6% Domestic, 54% Criminal, 1% Traffic, 21% Juvenile. Total: 86.2 million cases.](Source: Adapted from R. Schauffler, R. LaFountain, S. Strickland, K. Holt, & K. Genthon. Examining the Work of State Courts: An Overview of 2015 State Court Caseloads, p. 3. National Center for State Courts, 2016.)
One essential element measuring the status and scope of crime in America is the crime rate, which refers to the incidence of crime that is then standardized by the population. Crime rates are often expressed by the type of crime, or total crime, per 100,000 people. Crime rates of communities, cities, states, or the nation help us better understand the extent of crime in any given location. The incarceration rate, another important indicator of crime, is defined as the number of persons in local jails, state prisons, and federal prisons per 100,000 residents (Bureau of Justice Statistics 2015). Let’s look first at the crime rate.

The U.S. Crime Rate

A favorite talking point of some politicians is the increase in crime and the need for more police and security measures. Local media frequently report crimes that happen in certain communities, making it seem like crime is rampant everywhere. However, deciphering the U.S. crime rate is a bit more challenging, and depends on if one refers to the overall crime rate or a particular type of crime or location, or if one looks at data over a short time frame.

The Federal Bureau of Investigation (FBI) within the U.S. Department of Justice compiles annual statistics on crimes reported by law enforcement agencies across the country. The Uniform Crime Reporting Program (UCR) is a nationwide, voluntary effort among local police departments and sheriffs that started in 1930. Four publications, including Crime in the United States, the National Incident-Based Reporting System, Law Enforcement Officers Killed and Assaulted, and Hate Crime Statistics, are prepared each year to guide the understanding of policymakers, criminologists, criminal justice scholars, and others about crime and its incidence. Over time, UCR has become a key source of information about the rate of criminal activity in America.

Looking at the trend shown in Figures 6.2 and 6.3 based on UCR data, we see that the long-term trend for violent crimes, such as murder, rape, or aggravated assault, has been in decline. Figure 6.2 shows that the rate of violent crime peaked in 1991, with 758 offenses per 100,000 people; by 2014, the rate had dropped by more than half, to 365 per 100,000 people (Robertson 2016; U.S. Department of Justice 2016). Also shown in Figure 6.3, the murder rate declined from a high of about 10 murders per 100,000 people in 1979 to less than 5 murders per 100,000 people in 2014. (The September 11, 2001, terrorist attacks are not included in these calculations.)

Another database used to report the crime rate is the Bureau of Justice Statistics’ National Crime Victimization Survey (NCVS), which is the nation’s primary source of information about who has been a victim of crime. The NCVS surveys 90,000 households each year, asking about violent crimes as well as property crimes that may have occurred. Ongoing since 1973, this database includes crimes that may not have been reported to the police. Looking at Figure 6.4, we see a similar trend to the UCR data. The trend reveals a crime rate (indexed to the year 1976) that has declined broadly with respect to all types of crimes.

Explaining Decreases in the U.S. Crime Rate

The fact that crime rates nationwide stand at lows not seen since the 1960s is heartening news. Crime, which once was thought to be unstoppable and unmanageable, seems to have plateaued, at least for now. This phenomenon leads policy analysts and criminologists to
FIGURE 6.2

Source: FBI Uniform Crime Reports.

FIGURE 6.3
U.S. Murder Rate, 1960–2014

Source: FBI Uniform Crime Reports.
Scholars who study trends in the crime rate have attempted to explain reasons for the decrease in crime. Farrell, Tilley, and Tseloni (2014) hypothesize that improvements in the quality and quantity of security devices, such as electronic immobilizers on new vehicles or home security systems, is one factor explaining reductions in the crime rate. They also argue that crimes are linked, so that a decrease in vehicle theft may subsequently decrease violent crimes, as shown in Figure 6.5.

In turn, while violent crime and motor vehicle theft have declined, opportunities for crime over the Internet and cell phones have increased. Thus, it may be that a different type of crime (e-crime) will increase, while other types of crime (car theft) decrease (Farrell, Tilley, and Tseloni 2014). The Bureau of Justice Statistics reported that 17.6 million Americans, or about 7 percent of U.S. residents age sixteen or older, were victims of identity theft in 2014, but that number will likely increase. In 2017, Equifax, one of three credit-reporting companies in the United States, reported that cybercriminals accessed the personal information of as many as 143 million Americans, making it one of the worst cybersecurity breaches to date. However, as people become more aware of cybercrime, they are also taking actions to help prevent it. About 85 percent of U.S. residents took some kind
of action to prevent identity theft, including checking credit reports, shredding documents with personal information, or changing passwords on financial accounts (Bureau of Justice Statistics 2015).

A study by the Brennan Center for Justice (Roeder, Eisen, and Bowling 2015) found that increased numbers of police and decreased use of crack cocaine were among the factors that helped start a downward trend in the crime rate in the 1990s. So, too, were demographic factors such as an aging population, increases in income, and consumer confidence. Law enforcement’s use of a new database to manage crime called CompStat also contributed to crime rate declines from 2000–2013. Both the number of police on the street, and how police fight crime, are important.

The Brennan Center study further found that the things we commonly think of as decreasing the crime rate had no or little influence. For example, the use of the death penalty does not deter crime; nor do right-to-carry gun laws. Perhaps the most interesting observation from the study is that there is a limited effect of incarceration on the crime rate. In other words, putting more people behind bars does very little to reduce the crime rate.

This seems counterintuitive, but if you are familiar with the economic concept of diminished returns, it makes sense. We get a lot of public benefit by putting very violent criminals in prison. But swelling the prison population to include nonviolent drug offenders provides negligible crime control benefit. The study noted that California, Michigan, New Jersey, New York, and Texas have reduced their prison populations and crime in those states has not gone up. In fact, it has continued to fall (Roeder et al. 2015).

Public Perceptions about Crime

Given the downward trend of crime in the country over the last few decades, one wonders why perceptions are that crime is on the rise. One reason may be as noted above: different types of criminal acts, such as those using the Internet, are replacing more traditional types of crime, such as home burglary.

Public perception is also influenced by high-profile crimes, such as mass shootings in schools, including those described in the opening to the chapter. Mass shootings prompt national media attention, which in turn influences our understanding about crime. After the 2018 shooting at Marjory Stoneman Douglas High School in Parkland, Florida, students marched for gun control, taking their pleas to the state capital, Tallahassee, and to Washington, D.C. This kept the media spotlight on gun control.

Another reason why the public perceives an increase in crime is that politicians often like to talk about crime as a way to get voters’ attention. Sometimes, this is in response to a tragedy, such as a mass shooting. Other times, however, politicians describe year-to-year trends, which can lead to erroneous conclusions. For example, in 2016, presidential candidate Donald Trump campaigned on ridding major cities of crime, especially in the inner cities of places like Chicago. He noted in a July 11, 2016, speech, “Our inner cities are rife with crime. According to the Chicago Tribune, there has [sic] been more than 2,000 shooting victims in Chicago alone this year” (Robertson 2016). He referenced the city’s newspaper story, which noted an increase over the same period in 2015. Chicago would end 2016 with what was described by the Chicago Tribune as a “soaring pace of violence,” with 4,368 shooting victims and 762 homicides—the most since 1996, when there were 796 (Chicago Tribune 2017; Rosenberg-Douglas and Briscoe 2017). Chicago had more murders that year than Los Angeles or New York (Martin 2016).

However, two items are worth emphasizing. The first is that, as a matter of public policy, it is better to look at long-term trends rather than do a comparison from year to year. Trends over decades, as shown in Figures 6.2 to 6.5, provide a more accurate accounting of the crime rate. One should not put too much stock in year-to-year differences. A second point is that a few U.S. cities have increases in crime while the trend for the nation is in decline, or holding steady. Analysis by the Grawert and Cullen (2016) of the thirty largest cities in the United States showed that half of the increase was attributable to just three cities: Baltimore, Maryland; Chicago, Illinois; and Washington, D.C. Other big cities, such as New York, have not experienced increases in the crime rate.

Staying with the Chicago example, we see another point worth noting regarding the crime rate. Just as some cities have spikes in crime while others do not, some communities within Chicago have greater incidences of crime than other communities. The city of Chicago aggregates reported crime from the Chicago Police Department’s Citizen Law Enforcement Analysis and Reporting System, or CLEAR. This database, accessible through the Chicago Data Portal, provides a map of the incidence of crime, as well as the

134  SECTION III  UNDERSTANDING KEY PUBLIC POLICY ISSUES

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type of crime reported. Astute real estate agents use this dataset in selling properties in areas with lower incidences of crime. However, more important for public policy is that the dataset, and ones like it in other cities, should provide guidance as to where to direct more public safety personnel, install better lighting, advance neighborhood protection programs, or focus economic stimulus programs, rather than make blanket statements about an entire city.

A final item of note regarding the crime rate and public perception takes us back to our opening story about the horrific shooting at Virginia Tech and subsequent arguments for and against guns on campus or in public schools, and the reasons for gun violence. In Chicago, Police Superintendent Eddie Johnson lamented that gun violence was endemic to the city’s West and South sides, and cast blame on a “national climate against law enforcement” and lax sentencing guidelines for repeat gun offenders. By his reasoning, more public support for police and stronger punishments for persons engaged in gun violence would help keep crime in check. Others, however, would argue for more gun ownership among citizens, adopting the oft-quoted argument of National Rifle Association (NRA) CEO Wayne LaPierre that “the only thing that stops a bad guy with a gun is a good guy with a gun” (Arter 2012). Reflecting that sentiment after the school shooting in Parkland, President Trump suggested that teachers with gun expertise should bring their weapons to school to protect children in their classrooms.

Still other policymakers point to a decrease in street stops by police and a decline in arrests, as well as abysmal and dangerous conditions in some neighborhoods prone to drive-by shootings (Rosenberg-Douglas and Briscoe 2017). They observe, too, the economic disparity among Chicago communities. In an interview, the Reverend Jesse Jackson suggested, “You can’t police poverty. You must eliminate poverty. You must educate children, employ parents, and provide transportation. Chicago’s inner city has been treated unlike the rest of the city, and the results are predictable…. We need an even playing field for opportunities, for education, health care and job training” (Martin 2016).

It seems clear that criminologists, policy analysts, politicians, and policymakers have very different views on the crime rate, the reasons for crime, and possible solutions. It’s no wonder that public perceptions may inaccurately perceive escalating crime. Still, despite some year-to-year upticks, especially in a few cities such as Chicago, and continued mass shootings, the overall trend for crime has been in decline for the last few decades. Next, let’s look at the incarceration rate and the phenomenon of mass incarceration.

The U.S. Incarceration Rate

Americans put a lot of people in jail. The most recent incarceration rate reported by the Bureau of Justice Statistics is 670 adults per 100,000 U.S. residents (Carson 2014). (The incarceration rate for males is 1,242 per 100,000; females have a much lower rate of 82 per 100,000.) Over 2.2 million people are behind bars in the United States, representing a staggering increase of 500 percent over the last forty years (The Sentencing Project 2017). In 2015, 1 in every 115 adults in the United States was in jail or prison. The number of people in prison is so high that America has the dubious distinction of being the world’s leader in putting people behind bars, as shown in Figure 6.6. Our incarceration rate is more than the rate of Russia and China combined, and far greater than European countries, leading the nonprofit organization The Sentencing Project to wryly note, “Our criminal
justice system today is like a bicycle stuck in one gear: the prison gear” (The Sentencing Project 2017).

A major contributor to higher rates of incarceration was a shift in policy orientation among state legislatures and the U.S. Congress. Beginning in the 1990s, states and the federal government enacted stricter laws in an effort to “get tough on crime.” These included the three strikes and truth in sentencing laws described later in the chapter. By taking away the discretion of prosecutors and judges to impose lighter sentences, prison numbers grew dramatically.

America’s policy called the “War on Drugs” aimed at eradicating drug use through strict laws, strong enforcement, and harsher sentences. By 2015, nearly half of people in state prisons were convicted of nonviolent drug, property, or public order crimes; people convicted of drug offenses represented half of federal prison inmates (The Sentencing Project 2017). Most inmates currently in federal prison for drug offenses were convicted of crimes related to marijuana. The Obama administration saw tough drug policies for low-level, nonviolent drug offenses as unjust and pledged to seek early release or lighter initial sentences for these offenders. President Obama granted clemency to more than 1,300 federal prisoners convicted of nonviolent drug crimes, and called for compassionate release of elderly prisoners. The Trump administration, notably Attorney General Jeff Sessions, reversed these policies and sought to impose tough sentences for persons convicted of federal crimes.

Mass incarceration has created another public policy crisis—overcrowded prisons. The courts have taken a dim view on prisons that do not provide enough beds for inmates, finding that to be a violation of the Eighth Amendment protection against cruel and unusual punishment. As a result, state and federal prisons have to accommodate a growing prison

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**FIGURE 6.6**

International Rates of Incarceration per 100,000

<table>
<thead>
<tr>
<th>Country</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>670</td>
</tr>
<tr>
<td>Russia</td>
<td>439</td>
</tr>
<tr>
<td>Rwanda</td>
<td>434</td>
</tr>
<tr>
<td>Brazil</td>
<td>307</td>
</tr>
<tr>
<td>Australia</td>
<td>162</td>
</tr>
<tr>
<td>Spain</td>
<td>129</td>
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<tr>
<td>Canada</td>
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<tr>
<td>Austria</td>
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<tr>
<td>Germany</td>
<td>76</td>
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<tr>
<td>Denmark</td>
<td>59</td>
</tr>
<tr>
<td>Sweden</td>
<td>53</td>
</tr>
<tr>
<td>India</td>
<td>30</td>
</tr>
</tbody>
</table>

population either through early release programs, building more prisons, sending prisoners to local jails rather than state correctional facilities, or putting prisoners in privately run prisons. All of these solutions have potential downfalls, and all of them put a strain on public budgets.

Our incarceration rate, in addition to the human toll on the families of prisoners and the prisoners themselves, is costly. A study done for the Prison Policy Initiative found that the system of mass incarceration costs around $180 billion every year (Wagner and Rabuy 2017). Of that amount, $81 billion is the cost of running corrections systems (prisons, jails, parole, and probation). These costs fall largely on the states, since the states account for the vast majority of people put in prison. Rising costs affect the ability of states to spend in other policy areas. For example, many states spend almost as much on corrections as they do on higher education, and eighteen states, including California, Colorado, Florida, Michigan, Oregon, Pennsylvania, and Vermont, spend more on corrections than on state colleges and universities (Ingraham 2016; National Association of State Budget Officers 2016).

Without efforts to reduce prison populations, another factor is likely to escalate costs, and that is health care for prisoners. The prison population is getting older, and the Bureau of Justice Statistics reports that people over the age of fifty-five are the fastest-growing age group in the U.S. prison population. This trend is unlikely to change in the near future as a result of stricter, mandatory minimum sentences that put people in prison for a long time, sometimes for life. As the population in prison ages, elderly prisoners have increased needs for medical care, including prescription drugs, surgeries for heart and cancer disease, and end-of-life care. In addition to geriatric-related medical needs, elderly prisoners will need added protection from younger, predatory inmates in the general prison population. As states enact policies for an aging prison population, costs will increase (Abner 2006).

Next, let’s look at the history of federalizing crime, evolving attitudes about crime, and the role of the media in shaping our perceptions of criminals and criminal activity.

HISTORY AND DEVELOPMENT

Federalizing Crime

At the founding of the country, few crimes were prosecuted in national courts. Crime was viewed as a state and local concern, and law enforcement activities rested almost exclusively with the states. States still prosecute the vast majority of crimes, but Congress has passed laws asserting federal jurisdiction into what had been the long-standing domain of state governments, including laws that dealt with interstate commerce and the misuse of the U.S. mail, such as mail fraud (American Bar Association 1998). This trend continued into the twentieth century, as congressional power to regulate interstate commerce prompted many new laws.

Take, for example, the Prohibition era—those thirteen years when the manufacture, sale, and transportation of alcohol were prohibited by the national government. The Eighteenth Amendment, which banned for the first time alcoholic beverages throughout the United States, and the National Prohibition Act, commonly referred to as the Volstead Act, designed to implement the amendment and define powers of enforcement, greatly increased activity in federal criminal law enforcement. The Volstead Act set the
starting date for nationwide prohibition as January 17, 1920, and created a new federal law enforcement agency: the Bureau of Prohibition. This soon gave rise to organized crime and gangsters, the most famous of which was Al Capone, who ran a crime syndicate in Chicago built on illegal alcohol sales. Gangsters ran the operation, and crime increased dramatically. Federal law enforcement officers were soon assisting local and state agents. Eliot Ness and his team of Untouchables became famous for taking down Capone and saw the growth of federal agents in the FBI and the agency known today as the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF).

This is perhaps the most famous example of federalizing crime, but the trend includes other crimes, such as crimes that violate civil rights, hate crimes, environmental crimes, and immigration crimes. This creates overlapping jurisdictions (such as we saw in the Rodney King example), and also causes growth in the federal criminal justice system, increasing costs, expanding the power of federal agencies such as the FBI or the ATF, and creating burdens on the federal courts and prisons.

So why would Congress choose to criminalize conduct under federal law, when state laws are on the books? To answer that question, we return to politicians. Federal crime legislation is politically popular, as people perceive that the federal government will act more effectively than state governments. However, the American Bar Association concluded that “increased federalization is rarely, if ever, likely to have any appreciable effect on the categories of violent crime that most concern Americans, because in practice federal law enforcement can only reach a small percent of such activity” (American Bar Association 1998, 18). In short, while federalization of crime has increased, primarily due to efforts to get tough on drug-related crime, the bulk of the criminal justice system is in the hands of state governments. States were given police powers under the Constitution, and will likely remain the major players in addressing crime and shaping criminal justice policy.

Public Attitudes about the Incidence of Crime

Polling done by Gallup and other organizations suggests that people are concerned about crime in the United States, though not necessarily in their neighborhoods. In 2010, crime and punishment did not rise to the top of most voters’ lists of local or state concerns, according to research by the Pew Center on the States (Public Opinion Strategies 2010). In this study, only 2 percent of voters rated crime as the most important problem facing their state. This is true even though most of the voters in the study incorrectly believed the national crime rate was on the rise. Most important, people overwhelmingly supported programs that reduced prison time for nonviolent, low-risk offenders (87 percent; Public Opinion Strategies 2010). Most voters understood the costs of incarceration and wanted to minimize costs while still keeping their communities safe.

The public perception that crime is a problem at the national level, but not in most communities, was confirmed by Gallup polling. When asked by Gallup in 2016 if they worry about crime a great deal, a fair amount, only a little, or not at all, 53 percent of U.S. adults replied they worried a great deal about crime and violence (Davis 2016). In 2017, just after the Las Vegas shooting that killed fifty-eight people 59 percent of respondents described the problem of crime in the United States as extremely or very serious. However, only 12 percent of respondents believed that crime in the area where they live was extremely or very serious, and 22 percent did not believe crime was a problem at all in their neighborhood (Gallup 2017).
When demographic characteristics of the survey respondents in 2016 are included, several observations are possible. First, people with no college education are twice more likely to worry about crime than are college graduates (70 percent and 32 percent, respectively). Second, nonwhite respondents, and those making less than $30,000 per year, are also more likely to worry about crime.

The same study found increased worry about drug use as well—a valid concern, given that drug overdose deaths in this country continue to increase. The Centers for Disease Control and Prevention estimate that ninety-one Americans die every day from an opioid overdose, noting that the majority of those deaths are related to legally prescribed opioids (Centers for Disease Control and Prevention 2017). Here, again, people with a high school education or less were much more likely to see drug use as a great concern (66 percent) compared with college graduates (22 percent). While one factor for this variation may be that less educated, lower-income respondents live in more dangerous neighborhoods, Gallup pollsters suggest that increased concern about crime might also be due to the extent and type of media coverage of violent crime. Let's look at the role of the media in shaping our opinions about crime.

**Media and Crime**

Most people come to understand criminal behavior and the U.S. justice system through their consumption of media—what they watch on television or in movies, including both news programs and fictional crime shows. Given this, criminologists have explored the effect that media have on public attitudes about crime. When we view stories of real crime, often sensationalized by the news media, or watch television shows and movies containing fictional violent criminal acts, does it create fear among the general public and influence criminal justice policy attitudes? The answer is mixed. Many studies have found that regular viewers of crime shows are more likely to fear crime (Dowler 2003; Gerbner et al. 1980). Gerbner et al. (1980) observed that extended viewing of television violence resulted in people perceiving a greater threat from crime. The researchers believe that viewers internalize violent images and see the world as a dangerous and dark place. Dowler argued that, in part, this is due to the way criminals are portrayed in the media as greedy, revengeful, brutal, or mentally ill—having characteristics that make them amoral and different.

Take, for example, serial killers. Perhaps the fictitious Hannibal Lecter or Freddy Krueger come to mind. Or maybe you are thinking about the infamous, real-life killer Ted Bundy, whose murderous rampage before he was caught involved at least thirty homicides in seven states, or Jack the Ripper, who mutilated and killed at least five women in the East End of London in 1888. Movies are made about these gruesome criminals, books are written about them, and television crime shows focus on them. But the reality is that serial killers are criminal anomalies—far fewer exist than what we may imagine by watching crime shows, reading thrillers, or going to the movies. Based on FBI crime statistics, serial killings account for no more than 1 percent of all murders in the United States (Bonn 2014). Serial homicide captures our imaginations largely due to the larger-than-life images of serial killers presented by the media.

The effect of sensationalized coverage of crime is that the viewers of crime shows and violent movies see offenders as monsters to be feared. Media not only tend to stereotype persons who commit criminal acts as arch-villains, but many crime shows focus on violence.
and sex crimes where the perpetrator is unknown to the victim. In reality, most criminal acts involve persons known to the victim. The media overplaying of sensational criminal behavior also masks the reality of property crimes and tends to exaggerate the success of law enforcement to solve cases.

In short, the media distort the reality of who commits a crime and who is a victim. It is not too surprising, then, that people who regularly watch crime drama are more likely to fear crime. The relationship between watching crime shows and increased fear, however, is not absolute. Criminologists have found that the effect of media on increasing fear of impending violent crime is limited because other factors, such as the way we are raised, our exposure to a range of different cultures and communities, and education help temper our understanding about the incidence of crime.

If watching crime drama on television makes us slightly more fearful that we will become victims, can media actually prompt people to become criminals themselves? Scholars have suggested that media may actually cause crime. People may imitate what they see on television or in the movies. They also may learn criminal techniques or become desensitized to criminal acts.

ACTORS IN CRIMINAL JUSTICE POLICY

Many actors are involved in identifying and preventing crime, as others are involved in prosecuting, incarcerating, and rehabilitating criminals. Victims of crimes have rights under our criminal justice system, as they and their families may be traumatized, incapacitated, or worse. This section explores the role of law enforcement personnel, the courts, and the victims of crime.

Federal Law Enforcement Agencies

Law enforcement agencies range from small-town police departments to large federal agencies. At the federal level, sixty-five agencies have some law enforcement duties, many of them housed in the Department of Justice, including the Bureau of Prisons; the Federal Bureau of Investigation; the Drug Enforcement Administration; the U.S. Marshals Service; and the Bureau of Alcohol, Tobacco, Firearms, and Explosives. The Department of Justice is headed by the attorney general, who oversees federal law enforcement operations. Another important federal law enforcement agency is U.S. Customs and Border Protection, one of the largest law enforcement agencies in the world. It employs more than 60,000 people in safeguarding the country’s borders, screening cargo, enforcing U.S. trade laws, and preventing terrorists from entering the country.

State and Local Law Enforcement Agencies

State law enforcement agencies are established by the state government, and they vary among the states. All states have an Office of the Attorney General, which serves to enforce state laws, typically housed in a state-level Department of Justice. Many of these state-level departments also house state bureaus of investigation with crime labs and specialized personnel to assist local police. Unlike the U.S. attorney general, who is appointed by the president and confirmed by the Senate, most state attorneys general are elected by the people.
Every state operates a state highway patrol agency to enforce traffic laws and promote traffic safety by inspecting commercial vehicles, ambulances, school buses, and other large vehicles. While state highway patrol personnel have a primary mission to enforce traffic laws, they also possess full law enforcement authority and can enforce any state law.

Most familiar to many people are law enforcement agencies at the local level. These include police departments in towns and cities. Most counties have sheriffs and sheriff’s offices created by state governments. Local police departments are tasked with upholding local laws, patrolling neighborhoods, and investigating local crimes. While we tend to think of federal enforcement agencies as the most sophisticated, many large cities have impressive and significant roles in criminal law enforcement. Additionally, many municipalities have community policing programs, where police officers and members of the community partner to solve public safety issues.

Federal and State Courts

Both federal and state courts hear criminal and civil cases. The criminal court process varies slightly among states, but the following is a brief overview of the beginning of the process. The process starts when a prosecutor files charges against an individual accused of committing a crime. This results in an initial appearance, or arraignment, where the charges are read and penalties and constitutional guarantees of a right to legal representation are explained. For felony cases, the next step after the initial hearing is a preliminary hearing. The government must demonstrate that sufficient evidence exists, or probable cause, that the accused individual has committed the crime. If the court finds probable cause, then the case is transferred to a trial court, called a district court. This step ends with the defendant entering a plea (guilty, not guilty, or nolo contendere, or no contest). If a plea of not guilty is entered, bail is set.

If the process is important to ensure the rights of anyone accused of a crime, so, too, are the judges who oversee the trial. Judges must guard against impropriety on the part of the lawyers, or the audience in the court room. They must work closely with the court reporter, who is taking down every word spoken by witnesses and the attorneys. A criminal court clerk must keep all records and files in order. Court coordinators provide further assistance to the jury and to keeping the caseload of the court running smoothly. Given the workload, judges have a demanding role to play. Their ability to exercise discretion, ensuring justice and finding compassion in the sentence, has been influenced by evolving policies explored later, such as “three strikes” laws. Their core duty is to enforce the law, even ones they may find objectionable. A case may be appealed to an intermediate, or appellate, court on the basis of an error in the process, and eventually may reach the state supreme court.

A federal crime is prosecuted in the federal court system, which has a similar process, where cases are heard in federal district courts and may be appealed to a U.S. court of appeals. There are ninety-four federal judicial districts and twelve regionally based courts of appeals.

Crime Victims

Being a victim of a crime can be a life-changing experience. Victims must deal with the trauma of a violent act, or face unparalleled grief. States and the federal government have passed laws to establish victim’s rights. These laws require that victims are informed about
the criminal justice process, from the arraignment of the offender until that person is released from prison. In most states, victims have the right to be heard during sentencing or parole decisions. Victims also have the right to be protected from threats, intimidation, or retaliation during criminal proceedings. These protections may include police escorts, restraining orders, or even relocation (National Center for Victims of Crime 2012). Federal and state agencies further support and protect crime victims by offering sexual or domestic abuse assistance and partnering with counselors and mental illness specialists. Many states have compensation funds that may cover medical, counseling, or funeral expenses, as well as lost wages that are not covered by insurance or other programs. Victims of crime have a right to seek restitution by offenders, which means that the offender should pay to repair some of the damage that resulted from the crime.

Probation Officers and Parole Officers

These officers perform a vital role in the criminal justice process. Probation officers work with individuals who are given probation instead of jail time. During the time of probation these officers monitor the probationer with the goal of keeping the public safe and also rehabilitating the probationer. They develop treatment plans and report to the court on the progress (or lack thereof) made by the individual on probation.

Parole officers work with individuals who have been released from prison and are serving parole. Parole is an early release of a prisoner that is conditioned upon that person's continued good behavior. Parole officers monitor a parolee, with the goal of helping the parolee reenter society and not commit another crime. Both parole and probation officers schedule regular meetings with their supervisees, and may provide job training or substance abuse counseling to aid in rehabilitation. This works as an important back-stop in the system.

MAJOR U.S. CRIMINAL JUSTICE AND CRIME POLICY STATUTES

As discussed at the beginning of the chapter, there are many types of crimes at the federal and state level, and it is not possible to list them all here. However, policies on sentencing have fluctuated over the last few decades, resulting in two types of laws worth mentioning. One approach that gained popularity in the 1990s is truth in sentencing. Truth in sentencing, as the name implies, is designed to reduce any uncertainty about the amount of time an offender must serve in prison. By 1999, forty-one states and the District of Columbia had passed laws implementing some form of the truth-in-sentencing requirement (Sabol et al. 2002). Most states required offenders to serve 85 percent of their imposed sentence; some states eliminated parole release and imposed determinate sentences. The aim was directed to the severity of punishment approach, as policymakers reasoned that individuals may choose not to commit a crime if they knew there was little or no chance of an early release.

Another law that gained prominence in the 1990s is referred to as “three strikes.” Directed at repeat offenders, this policy imposes stiff sentences, ranging from twenty-five years to life imprisonment, on persons convicted of a third felony. Twenty-six states and the federal government have “three strikes” laws in place. The federal law provides a good example. In 1994, Congress passed the Violent Crime Control and Law Enforcement Act, creating a powerful “three strikes” provision to deal with violent repeat offenders.
Under the federal “three strikes” provision, a defendant receives mandatory life imprisonment if he or she is convicted in federal court of a serious violent felony and has two or more prior convictions in federal or state courts, at least one of which is a serious violent felony. The other prior offense may be a serious drug offense (Harris 1995). Policymakers believe that criminals facing life imprisonment would be deterred from committing additional crimes, and that keeping career criminals behind bars would decrease crime. Prosecutors also can use three strikes as leverage over first- and second-time offenders.

However, three strikes laws have been sharply criticized. One critique is that “three strikes” can violate an individual’s guarantee under the Eighth Amendment to be protected from cruel and unusual punishment. Take, for example, the case of *Lockyer v. Andrade*. The defendant in the case, Leandro Andrade, stole $150 worth of children’s videotapes from two separate stores in 1995. Andrade had committed unarmed burglary in 1983. As bad luck would have it, California had passed its three strikes law the year before Andrade took nine videotapes from two discount stores. Worse for Andrade, the prosecutors were able to elevate these petty thefts from misdemeanors to felonies. Thus, Andrade was tried under the newly fashioned three strikes provision and sentenced to fifty years in prison. Had the “three strikes” law not been in place, Andrade might have served a year for petty theft, or even three years as a repeat offender (Chemerinsky 2003). Though the conviction was overturned in the Ninth Circuit U.S. Court of Appeals as a cruel and unusual punishment, the U.S. Supreme Court reversed. Without intervening clemency by the governor of California, Andrade will be eighty-seven years old before he is released from prison (he was thirty-seven at the time of his conviction).

A third criticism is that the severity of punishment has been shown to be less effective than the certainty of punishment. To put it simply, “three strikes” laws and other tough-on-crime measures are not powerful deterrents. For one thing, deterrence theory assumes that human beings act rationally (Wright 2010). Drug and alcohol use may impair the ability to think clearly about the consequences of any actions. Also, someone acting passionately in the moment may not stop to consider what will happen if he or she breaks the law. Other criticisms of three strikes laws are that they are disproportionately applied to persons of color—a topic of the next section—and that prison overcrowding often results.

**Capital Punishment**

Sentencing someone to death is the ultimate punishment, and has been part of America’s criminal justice policy since before the founding of the country. The first recorded execution occurred in 1608, in the Jamestown Colony of Virginia, and colonies soon adopted laws imposing the death penalty, sometimes for minor offenses such as stealing grapes or chickens (Death Penalty Information Center 2017). By the mid-1800s, public opinion in some states began to shift away from capital punishment. Michigan was the first state to abolish the death penalty for all cases except treason; Rhode Island and Wisconsin abolished the death penalty for all crimes. However, in the 1930s, criminologists persuasively argued that the death penalty was a necessary social measure to curb crime, and once again, the death penalty found public support. By 1950, public sentiment turned away from imposing the death penalty, and fewer death sentences were imposed (Death Penalty Information Center 2017).
Beginning in the 1960s, cases were brought to the courts arguing that the death penalty was a violation of the cruel and unusual punishment guarantees of the Eighth Amendment. Advocates of abolishing the death penalty argued that the imposition of capital punishment was too arbitrary. They had some facts on their side: repeated studies revealed a pattern of either race-of-victim or race-of-defendant discrimination. For example, in Louisiana, the odds of receiving a death sentence were 97 percent higher for offenders who murdered a white person than for those whose victim was black (Death Penalty Information Center 2018). The U.S. Supreme Court effectively voided death penalty laws across the country in 1972, in Furman v. Georgia. In a 5–4 split decision, the Court ruled that states’ laws governing the death penalty were not imposed uniformly. After this case, states worked to improve the process of capital punishment. Four years later, in Gregg v Georgia, the Supreme Court upheld the new state policies regarding the death penalty, and that the death penalty, properly applied, did not violate the Eighth Amendment. However, capital punishment remains controversial. Box 6.1 explores public support for capital punishment over time.

**ISSUES AND CHALLENGES**

**Deterrence and Recidivism**

A key question any student of public policy interested in crime and punishment should ask is simply: Does punishment prevent crime? More broadly, how can policymakers lower the incidence of crime? **Deterrence** is the inhibition of criminal behavior, or discouraging a crime because the potential perpetrator fears the consequences of his or her behavior. Criminals may be deterred in two ways. The first is by increasing the certainty or likelihood of being caught. Calculating the risk of apprehension is familiar to any driver going over the speed limit who has slowed down on a public highway when in view of state troopers or police officers. We reduce our speed because we perceive that the likelihood of getting a ticket is much greater in the presence of law enforcement. Another way that criminal behavior may be deterred is by the severity of punishment. In this case, potential offenders weigh the consequences of their actions and conclude that the risk of punishment is too severe. Capital punishment, or the death penalty, provides a stark example of how severe a punishment may be.

Another core challenge in criminal justice policy is keeping someone who has committed a crime from doing it again. If correctional policies work, then a person should not relapse into criminal behavior. **Recidivism** is measured by criminal acts committed by an individual that results in a subsequent arrest, reconviction, or return to prison with or without a new sentence within three years after the individual is released (National Institute of Justice). Studies of recidivism rates are not encouraging. The Bureau of Justice Statistics studies find that most prisoners commit additional crimes. One study tracked over 400,000 prisoners over a five-year period, with sobering results: nearly 77 percent of released prisoners were rearrested within five years, and over half were arrested within the first year of release from prison. Over 82 percent of property offenders committed another crime and were arrested (Durose et al. 2014). Policies to lessen recidivism include job training and education, drug or alcohol rehabilitation programs, as well as providing ongoing support in the community. Staying away from gangs can
Box 6.1: Telling Stories with Data

The Death Penalty
As of 2018, thirty-one states and the federal government permit the death penalty to be imposed in murder and treason cases. Between 1976 and 2018, 1,469 executions have taken place (Death Penalty Information Center 2018). As shown in Figure 6.7, the majority of Americans still favor imposing the death penalty on persons convicted of murder. However, public support was less in 2016 (49 percent) than in the previous forty years. Opposition to capital punishment has correspondingly increased, as people acknowledge the risk of putting an innocent person to death, the disparate imposition of the death penalty for persons of color, and the growing belief that it is not an effective crime deterrent (Masci 2017). Execution methods have also become suspect after media reports of botched executions using lethal injection or the electric chair.

What do you think?
Looking at the graph, it appears as though the two lines (showing support and opposition) are coming together. Comparing the two trends, do you think the number of people opposed to the death penalty will soon exceed the number of people expressing support for it, as happened in 1966? Why or why not?

FIGURE 6.7
Public Support for Capital Punishment, 1936–2016

be effective. Hooley (2010) notes that the most important determinant of whether an individual released from prison will reoffend is the peer group of the offender once he or she is released from prison.

**Crime and Race**

A reality of crime and U.S. public policy is the existence of a racial divide in the conviction and punishment of persons of color when compared to white Americans. In the early decades of the twentieth century, remnants of the overt discrimination after the Civil War resulted in many black men receiving poor representation, unfair trials, and long prison sentences—or worse. The infamous case of Ed Johnson illustrates this point. In 1906, Johnson, a black man, was charged with raping a white woman. He was convicted in a Tennessee court and sentenced to death, even though more than a dozen witnesses testified that he was working at the time and there was no direct evidence linking him to the crime. After the U.S. Supreme Court issued a stay on the execution in order for the case to be appealed, a lynch mob grabbed Johnson from the county jail and hanged him from a bridge outside of town. No one from the lynch mob was indicted (Spohn 2015).

Today, much of this kind of flagrant racism has been addressed. Black defendants are no longer tried by all-white juries, with scant evidence, denied bail or attorneys. The days of vigilante lynch mobs are over. However, inequities persist. Persons of color are more likely to be prosecuted, given longer sentences, and receive the death penalty. The proportion of blacks in state and federal prison has increased dramatically since 1918, when blacks represented 22 percent of the prison population. That percentage continued to increase until blacks comprised over half of the prison population by 1990 (Spohn 2015). The U.S. Bureau of Justice Statistics reported in 2014 that 35 percent of state prisoners were white, 38 percent were black, and 21 percent were Hispanic—a troubling statistic, since whites comprised 62 percent, Hispanics 17 percent, and blacks just 13 percent of the general U.S. population in 2015 (U.S. Census Bureau 2015). A study by The Sentencing Project revealed that African Americans are incarcerated at five times the rate of whites, and in five states (Iowa, Minnesota, New Jersey, Vermont, and Wisconsin) it is close to ten times the rate (Nellis 2016). The Pew Center on the States study noted similar overrepresentation of persons of color in prison, and that among black men aged twenty to thirty-four, one of every nine was incarcerated (Pew Center 2008).

Criminologists offer varying explanations for the overrepresentation of persons of color in U.S. prisons. Some scholars observe that the racial disparity is due to the fact that persons of color have higher arrest rates and, therefore, higher incarceration rates (Blumstein 1982). However, more recent research suggests that higher arrest rates may be poor surrogates for higher rates of crime, as the act of arresting an individual may itself be biased. They suggest that racial biases, including racial profiling and targeting of inner cities, also explain different arrest and incarceration rates. Racial profiling by law enforcement is the practice of targeting people for suspicion of crime based on race, ethnicity, religion, or national origin (National Institute of Justice 2013). The American Civil Liberties Union, and other organizations, fights racial profiling, noting that it violates the U.S. Constitution's equal protection guarantee, is ineffective, and alienates communities from law enforcement.

Yet another factor that helps explain higher incarceration rates between persons of color and white Americans is the shift of policy toward stricter sentences for drug offenses. Harsher drug laws that started in the 1980s accelerated the arrest of African Americans.
In part, this was due to a law enforcement focus on street crimes, which prompted more arrests of young black males. A 2009 Sentencing Project study found much higher arrest and incarceration rates for drug offenses for African Americans between 1995 and 2005. African Americans comprised approximately 13 percent of the drug users but accounted for 36 percent of drug arrests and 46 percent of drug convictions during this time (Mauer 2009).

While the factors explaining the relationship between race and crime are complex, these disparities suggest the need for continued scrutiny by policymakers. As one scholar observed, “The fact that more than half of the young black men in any large American city are currently under the control of the criminal justice system (or saddled with criminal records) is not—as many argue—just a symptom of poverty or poor choices, but rather evidence of a new racial caste system at work” (Alexander quoted in Spohn 2015, 58).

Juvenile Crime

Yet another issue in criminal justice policy is under what conditions juveniles should be treated as adults. Juveniles who commit crimes face an escalating set of punishments, based on the type of crime, location, state law, and inclination of the prosecutors and juvenile court judge. These authorities decide whether to handle the situation informally, file a petition to request an adjudicatory hearing, or move to a waiver hearing. A waiver hearing transfers juveniles to criminal court so they may be tried as adults. The Juvenile Justice and Delinquency Prevention Act of 1974 required states to keep youth under the jurisdiction of the juvenile court and out of adult jail. Therefore, as long as juveniles are tried as juvenile delinquents, they enjoy protection under the law. The law also provided funds for states to address state and local juvenile justice programs. However, once states permitted youth to be tried as adults, the law did not apply.

Like the three strikes and truth in sentencing policies that began in the 1990s, state legislatures also moved to lower the minimum age at which a juvenile may be waived into the adult system. Getting tough on juveniles produced the intended effect. The number of cases sent to criminal courts more than doubled between 1988 and 1994 (Furdella and Puzzanchera 2015). Similar to the decline in the crime rate, juvenile court cases have also dropped after peaking in the mid-1990s. The net effect was that juveniles were less likely to be arrested for violent crime and serve time in prison in 2017 than they were twenty years earlier. The juvenile violent crime rate fell 46 percent, and the rate at which youths were sent to prison dropped 53 percent between 2001 and 2014 (Horowitz 2017).

Even though fewer juveniles are prosecuted as adults today than in the 1990s, states still put sixteen- and seventeen-year-olds, and sometimes even younger, in prison after trying them as adults. On any given day, an average of 7,500 youth are incarcerated in adult prisons (Campaign for Youth Justice 2007), and over 2,225 prisoners serving life sentences without the possibility of parole had committed crimes as children (Coalition for Juvenile Justice n.d.).

Children as young as thirteen had been sentenced to effectively spend their lives behind bars until the Equal Justice Initiative brought a lawsuit challenging the mandatory life without parole sentences for children. The organization was successful in making its case, which involved two separate incidents in which fourteen-year-old boys committed homicide. In 2012, the U.S. Supreme Court ruled in Miller v. Alabama and Jackson v. Hobbs that mandatory life sentences without parole violated the constitutional rights of persons
seventeen years old and younger (Equal Justice Initiative 2016). In a 5–4 decision, the Court held that children must be given an opportunity for parole, as life imprisonment represented a disproportionate punishment for children (Miller v. Alabama).

While tough-on-crime advocates continue to feel that trying children as adults reduces crime, studies have reached opposite conclusions. One study by the MacArthur Foundation (2015) showed that children under the age of eighteen in adult corrections facilities face harsher settings, experience more developmental problems, and reoffend at higher rates that juveniles in juvenile correctional facilities. Moreover, they typically lack access to educational resources or rehabilitation programs.

Another issue is that youth in adult prisons are especially vulnerable to victimization because of their age and size. Less than half of the states offer additional protections for incarcerated youth in adult prisons (for example, requirements that juveniles be kept separate from adults). Children in adult prisons are twice as likely to be assaulted by staff, and 50 percent are more likely to be attacked with a weapon than are children housed in juvenile facilities (Coalition for Juvenile Justice n.d.). Not surprising, children in adult prison are thirty-six times more likely to commit suicide than are children in juvenile facilities (Campaign for Youth Justice 2007).

Other studies suggest that incarcerating children in adult facilities also increases the likelihood that young offenders will commit additional crimes, and that those crimes will be more serious and violent in nature (Kolivoski and Shook 2016). Kolivoski and Shook (2016) also found that the younger the age of the juvenile, the higher number of prison misconducts that person is likely to have. Misconduct is perhaps understandable, as juveniles are also more likely to be victimized in prison.

**Mass Shootings**

The chapter opened with the horrifying mass shooting at Virginia Tech in 2007, when thirty-two people were killed, prompting debates about gun control and the right to carry guns on college campuses. It would be nice to say that mass shootings are part of the past, but sadly, that is anything but the case. Over 1,620 mass shootings occurred between December 2012, when a gunman walked into Sandy Hook Elementary School and killed twenty children and six adults (including his mother) before shooting himself, and February 2018, when a former student shot and killed seventeen people at Stoneman Douglas High School (The Guardian 2018; Lopez 2017). Bookmarked between these tragedies are memorable mass shootings. A gunman opened fire on an outdoor concert on the Las Vegas Strip, killing fifty-eight people and wounding over five hundred others in 2017, to date the largest mass shooting in U.S. history. He used a device called a bump fire stock on his weapon, effectively turning it into a machine gun. A little over a month later, another gunman entered a small church in Sutherland Springs, Texas, and opened fire, killing twenty-six people in the largest mass shooting in Texas history. While these mass shootings are remarkable for the number of people murdered, they have become commonplace, as this country averages more than one mass shooting every other day. (A mass shooting is defined as involving four or more victims.)

Studies consistently show that the mass shootings in the United States are unique in the world. America has nearly sixteen times the number of gun-related homicides than other developed countries. The United States also has more guns—lots more guns—than other countries. Americans own over 40 percent of the civilian-owned guns in the world, but
represents about 5 percent of the world’s population. Gun control advocates point to data that show countries with greater control over the access to weapons have far fewer mass shootings. As discussed in the opening vignette, states with more guns have more gun deaths. Gun ownership advocates, embracing the position of the NRA point to the Second Amendment, which guarantees the right to bear arms. The NRA has long been an influential group in the national gun debate, and has effectively blocked efforts to limit gun ownership.

However, increasingly vocal citizen groups, spearheaded by the Parkland students in 2018, are advocating for the ban of semiautomatic weapons and accessories like bump fire stocks, universal background checks, raising the age at which a person can purchase a semiautomatic weapon from eighteen to twenty-one years old, and other methods of gun control. Controlling the incidence of mass shooting requires new public policy approaches, as well as a careful conversation about gun control.

In sum, issues and challenges in addressing deterrence and recidivism, rethinking tough-on-crime laws, racial disparities, the extent to which juveniles should be treated as adults when they commit crimes, and the uniquely American problem of mass shootings present opportunities to create new policies. Capital punishment presents ongoing challenges in its proper application and in decreasing levels of public support. We offer an everyday citizen connection for you to consider crime more broadly.

Everyday Citizen Connection

If you’ve never experienced a crime or viewed a prison, you may be thinking, “So what does this have to do with me?” The answer is that crime and public policy involve all of us. How we maintain public safety, while at the same time being a just society, has implications for our democracy. Keeping us safe is a primary obligation of government—but so is protecting our freedoms and our constitutional guarantee to equality. If we are to maintain both a fair and humane country, how we treat persons who commit crimes is important. We need to think carefully about when, and for how long, to incarcerate someone who commits a crime. After all, every person in prison is someone who cannot contribute to the social fabric of society. We need to consider the importance of the criminal justice system and the need for fair trials and due process—something the founding fathers saw as critical to our democracy.

Moreover, we should look broadly at the policy implications of mass incarceration, not only as a matter of humanity, but as one that takes a vast fiscal and social toll. As Joseph Stiglitz observes, “When 1 in 28 children has a parent in prison, the cycle of poverty and unequal opportunity continues a tragic waste of human potential for generations” (Stiglitz in Roeder et al. 2015, 1). As noted in this chapter, the estimated costs of incarceration exceed $80 billion per year; add the cost of policing, prosecuting, and providing criminal courts and the annual cost reaches nearly $200 billion. To put this in perspective, the budget of the EPA in 2016 was approximately $10 billion. The cost of incarceration exceeds the state budgets of Alabama, Nebraska, North Dakota, and Tennessee combined. Money spent on incarceration is money that can’t be spent other ways, such as to fund education, make college affordable, provide for environmental protection, or add to our social safety net for people in need.

Discovery Question:

Take a moment and consider another country. Use this country to do a basic research search on how its prison system is designed. Are the data similar to those of the United States? Why or why not?
Policy Choices: Gun Control

<table>
<thead>
<tr>
<th>Choice #1: States' Choice in Gun Control/Status Quo</th>
<th>Choice #2: Universal Background Check</th>
<th>Choice #3: Ban on Assault Rifle</th>
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<tr>
<td>In recent years, there have been a number of mass shootings in the United States. Despite this growing number nationwide, many state governments and interest groups believe that states should retain the right to pass laws relating to gun control rather than creating federal laws on gun control. While some states have chosen to pass additional background checks as a response to mass shootings, other states have responded by passing laws to allow concealed handguns without concealed-carry permits in the United States. Thus, some states have responded to the increase in mass shootings by adding additional restrictions, while others have responded by passing laws with increased access to concealed- or open-carry laws. For instance, Texas recently allowed for open-carry in most public places as of January 1, 2016. In regards to proposed sweeping federal regulations, twenty-four states have proposed to fight any federal legislation on gun control and insist gun control policy should be left to the states. Many opponents of increased federal restrictions to gun control laws focus on unreliable data on gun violence, ownership, and sales.</td>
<td>About 40 percent of guns purchased in the United States are done without a background check. A recent poll after the Orlando nightclub shooting in 2016, which killed 50 people and wounded 53, found that 92 percent of Americans favored a universal background check when purchasing a firearm. While a federal universal background check might be a challenge to pass in Congress, many states are closing the loophole by requiring background checks at the state level. Federal law prohibits firearm possession by a number of classifications including felons, fugitives, certain domestic-violence offenders, and those found to be a danger to themselves or others due to mental illness or involuntarily committed to a psychiatric institution. These restrictions, however, are only limited when purchasing through a federally licensed gun dealer and do not apply to gun shows or to private or online sales of firearms. Therefore, many people restricted from federally licensed firearm sales can still purchase firearms through other dealers. The proposal to expand background checks seeks to close such loopholes in current legislation.</td>
<td>Those who carried out the mass shootings in Parkland, Florida; Orlando, Florida; Sutherland Springs, Texas; Las Vegas, Nevada; Newtown, Connecticut; and Aurora, Colorado, to name a few, used assault-style rifles to inflict a large amount of causalities. Proponents of a national assault rifle ban believe that such a ban would restrict an assailant’s ability to carry out mass shootings. Assault rifles were banned under Title XI of the Federal Violent Crime Control and Law Enforcement Act of 1994. Subtitle A: Public Safety and Recreational Firearms Use Protection Act banned the possession, transfer, and manufacturing of certain semiautomatic and large-capacity firearms. This ban expired in 2004. Neither the Bush II administration nor Congress sought to renew the ban. Those who oppose the ban on assault rifles argue that only a small percentage of gun crimes are committed with assault-style weapons. However, those who support the ban report the percentage of crimes that used assault rifles decreased by one-third while the ban was in place. Proposed bans on assault-style weapons seek to expand the number of types of weapons included in the ban,</td>
</tr>
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</table>
CONCLUDING THOUGHTS

This chapter looked at crime and policy in America. We learned that public attitudes and policy positions regarding crime change over time, and that our crime rate is lower today than during the peak of the 1990s. Media can shape our perceptions about the incidence of crime, as we see many violent crimes reported on the news, on television shows, and at the movies. Mass incarceration, a phenomenon of the tough-on-crime laws, makes the United States the number one country in the world for putting people in prison. As we enter a new era, policymakers will need to consider how to address racial discrimination, prison overcrowding, how to prevent recidivism, and whether or under what conditions capital punishment should be imposed. All of these policy issues touch in some way the use of guns in our country. We pay a heavy price for gun violence, which leads us to policy choices about the extent to which our Second Amendment constitutional guarantee to bear arms should be limited by public policy. One hopes that the mass shootings will never happen again, but the way we remain safe on college campuses, schools, and other public or private venues will require informed decisions about guns and gun control.

Policy Choices: Gun Control1 (Continued)

<table>
<thead>
<tr>
<th>Choice #1: States' Choice in Gun Control/Status Quo</th>
<th>Choice #2: Universal Background Check</th>
<th>Choice #3: Ban on Assault Rifle</th>
</tr>
</thead>
<tbody>
<tr>
<td>However, such lack of reliable data could be a result of gun lobbyists’ desire to restrict federally funded research on gun control. For example, in 1996, the NRA succeeded in removing funding from the Centers for Disease Control and Prevention (CDC), the primary federal agency studying gun violence. Since then, there have been few conclusive studies on gun control in the United States, creating a challenge for evidence-based decision making.</td>
<td>Opponents of this legislation do not believe that those banned from federally licensed dealers intend to purchase firearms legally. Therefore, the expansion of background checks would be highly ineffective at reducing access to firearms. However, proponents of the ban believe it would make it more challenging for those restricted from purchasing firearms to do so under a universal background check.</td>
<td>Impose background checks on current owners of guns under the ban, and prohibit the trade of assault-style weapons. The focus on the ban would be weapons with large-capacity machines or guns that are able to fire multiple rounds in a short amount of time. After the shooting in Parkland, stores such as Dick’s Sporting Goods indicated that semi-assault weapons would not be sold. A March to Save Our Lives in March 2018 hoped to draw political attention on a nationwide ban.</td>
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</tbody>
</table>

### Glossary Terms

<table>
<thead>
<tr>
<th>Term</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>crime rate</td>
<td>130</td>
</tr>
<tr>
<td>criminal justice</td>
<td>128</td>
</tr>
<tr>
<td>criminology</td>
<td>128</td>
</tr>
<tr>
<td>deterrence</td>
<td>144</td>
</tr>
<tr>
<td>incarceration rate</td>
<td>130</td>
</tr>
<tr>
<td>jurisdiction</td>
<td>129</td>
</tr>
<tr>
<td>recidivism</td>
<td>144</td>
</tr>
<tr>
<td>“three strikes”</td>
<td>142</td>
</tr>
<tr>
<td>truth in sentencing</td>
<td>142</td>
</tr>
<tr>
<td>Uniform Crime Reporting Program</td>
<td>130</td>
</tr>
</tbody>
</table>

### Discussion Questions

1. How would you describe the crime rate and public perceptions about crime?
2. What accounts for the rise of mass incarceration, and what problems does mass incarceration present?
3. What evidence do you see of racial discrimination in sentencing policies?
4. Do you support capital punishment? Why or why not?
5. Which of the issues described in this chapter seem most important to you?

### Suggested Resources

**Suggested Websites**
- Death Penalty Information Center, https://deathpenaltyinfo.org/

**Suggested Books or Articles**

**Suggested Films**
Sharpen your skills with SAGE edge at http://edge.sagepub.com/rinfret. SAGE edge for students provides a personalized approach to help you accomplish your coursework goals in an easy-to-use learning environment.