

CHAPTER 1

Studying Criminal Justice

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LEARNING OUTCOMES

After reading this chapter, students will be able to:

- Describe the differences and similarities between the fields of criminology and criminal justice.
- Recognize the key players within the criminal justice system and outline their roles and responsibilities.
- Characterize the core theoretical models of criminal justice and explain how these models inform criminal justice policy.
- Understand the factors that influence how crime is defined and reported, including the role of the media, police practices, and the general public's sense of safety.
- Identify the three sub-fields of criminal justice studies and be familiar with central terms in the criminal justice field.

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Introduction

Cases like the one that opened this book reveal the complexity of the criminal justice system and the challenges inherent in its study. No doubt there were some disagreements among your colleagues about the appropriate sentence for the offender and the reasons for it. Working through these debates is a key component of the criminal justice profession and the many different agencies, institutions, and stakeholders it involves. These differences of opinion are also why studying criminal justice can be such an interesting endeavour. There is always more than one side to a story. Crime is, after all, an aspect of social life. Some theorists, such as the French sociologist Émile Durkheim, have argued that crime is a necessary part of human societies and their development. It exists in all civilizations regardless of political leadership, financial circumstance, geography, religious belief, cultural history, demographic composition, language, or levels of industrialization—although, as this book will discuss, each of these factors can influence how much crime there is and how it is addressed.

Criminology and Criminal Justice: Liberal Arts Endeavours

Understanding how much crime there is, on the one hand, and determining how to address it, on the other, is a good way to think about the difference between criminology and criminal justice. Criminology is interested in *how* and *why* crime happens, while criminal justice is concerned with what to do about criminal activity once it has occurred. Those are, of course, simplistic definitions of both fields, and it is important to keep in mind that criminology and criminal justice rely on the work and expertise of each other. Criminology, for example, wants

desistance
the process by which, with or without the involvement of criminal justice professionals, an offender terminates their offending and pursues a crime-free life

to know more about “the criminal mind” and the factors that motivate an offender to commit illegal acts. Research in this area often relies on psychology, biology, sociology, and the studies conducted by criminal justice experts about existing offenders and their treatment programs. In the same way, criminal justice scholars are sometimes interested in how to encourage **desistance** and rehabilitation among convicted offenders or how to help prisoners reintegrate into a community after being released. This challenge is made easier with the help of studies by criminologists about what motivates people to commit crimes in the first place and how an offender’s community can play a role in the prevention, commission, and control of crime. As noted by a former president of the Academy of Criminal Justice Science, criminology is not in competition with criminal justice: “To overlook the nature of crime [criminology] or society’s responses to crime [criminal justice] is to fail to do either well” (Hunter, 2011, p. 12).

The cooperative work of criminologists and criminal justice professionals can also be witnessed by examining the central aims of each area of study. The purpose of the criminal justice system includes both the prevention and control of crime while maintaining and promoting justice and enhancing public safety and well-being. This requires knowing a lot about how crime happens and how society feels about it. How should police priorities be determined? What kinds of activities should be illegal? What does justice or fair punishment look like? Criminologists are often engaged in research that helps to provide answers to these questions, using scientific methods to explain the interactions of law-making, law-breaking, and the reactions of society to these processes. As a multidisciplinary field of study, criminology and criminal justice draw from the disciplines of psychology, sociology, anthropology, political science, history, law, biology, and other natural sciences to develop ways of defining and responding to criminal behaviour.

Criminal justice is one of the fastest growing and most popular areas of student specialization. Some college and university departments focus on the study of policing, courts, and corrections as the main content areas of criminal justice studies. Other programs offer criminology and criminal justice studies together with a curriculum that focuses on critical thinking skills, as exemplified in a liberal arts education (Ahlin & Atkin-Plunk, 2020). A liberal arts education encourages students to develop a healthy sense of skepticism when confronted with absolute claims to knowledge and to engage with experiences and perspectives that differ from one’s own, cultivating a free and informed exchange of ideas. These practices help develop key skill sets that are of particular use in the criminal justice field. Research has found higher education to have a positive impact on several aspects of policing, for instance, including levels of rape myth acceptance (Parratt & Pina, 2017) and misuse of force among officers (Stickle, 2016). A 2021 review of criminal justice programs and the future needs of police, probation, parole, and corrections officers concluded that the most valuable education for criminal justice professionals is one that includes components of a liberal arts education and the opportunity to put these values into practice in applied settings (Hummer & Byrne, 2021). This may be because many professionals within the field report that their degrees in criminal justice have improved not simply their competency at work but their ability to excel in higher-level functions, including empathy. In a 2020 study among American police officers, participants expressed feeling better equipped “to empathize with marginalized minority communities” when trained in the liberal arts, given its focus on compassion, ethics, and diverse human experience (Del Toro, 2021, p. iv).

In this book, we begin each section with a case study that will help you consider the life circumstances surrounding the criminal event. These case studies provide you with a further opportunity to think critically by taking in all of the information that you can about the nature and circumstances surrounding the case in question. Cotugno (2018) used a case study approach by drafting scenarios for her students that recreated a crime and the details that were available to solve the case. This is like your opening case study where you were asked to “Be the Judge.” Cotugno (2018) found that the students who were involved in the case study exercises improved their abilities in writing and comprehension and were better prepared for working in the field.

These skills in applied reasoning and an appreciation for the social and cultural contexts of human relations are even more important when the widespread social protests of the 21st century are considered, such as #MeToo in 2017, #BlackLivesMatter in 2020, and #EveryChildMatters in 2021.

For some academics, this has signalled a “criminal justice reform movement” where many criminal justice education programs have begun to add curriculum components that examine structural racism and inequality in the criminal justice system (Hummer & Byrne, 2021). A survey in 2019 by the British Society of Criminology of more than 100 higher education institutions offering criminology and criminal justice courses observed “a flourishing array of new specialisms and perspectives (questions of culture, identity, harm and environment; post-colonial and border studies; critical race perspectives) which have enriched and broadened the criminological curriculum” (Harris et al., 2019, p. 138).

Traditionally, the relations of power, **ideology**, politics, and the manipulation of the law through lobbying by special interest groups was an area left underexplored in criminal justice studies (Williams & Robinson, 2004). Examining the criminal justice system and its agencies through a lens informed by the liberal arts allows for a more critical gaze, one that is sensitive to relationships of power and capable of debunking the dominant myths of crime and criminal justice. This text encourages this kind of approach, using ideology as a framework for understanding both the intended and unintended consequences of crime policies and programs. This use of ideology as a method of gaining a more critical understanding of the criminal justice system is further explored throughout this chapter.

There will be more discussion regarding the overrepresentation of Indigenous people in the criminal justice system and issues of systemic racism in Chapters 12 and 13.

ideology

a system of beliefs or assumptions about the correct or proper order of things, particularly with respect to morality and political arrangements; a value system that shapes a person’s position on specific issues

SIDEBAR

Freedom Behind Bars: Liberal Arts in Prison

Want to keep people out of prison? Give them a liberal arts education. This was the answer Max Kenner proposed when he established the Bard Prison Initiative (BPI), a program to offer liberal arts education classes to prisoners in the United States. Male and female offenders in New York state prisons enrol in academic programs that lead to degrees from Bard College in New York. Although BPI is the largest program of its kind in the United States, similar programs are offered in collaboration with several other colleges and universities, including Boston University, Columbia University, and Vassar College (Grawert et al., 2021). Each program is deeply rooted in the belief that education has transformative power—both for the individual and the prison itself. As one graduate of the program describes:

It changes the atmosphere. If you ever visited, you would not see anything similar to what you would see in Hollywood shows or these documentaries that like to show prisoners acting irrationally and violently all the time. You would see incarcerated people walking around with textbooks in the yard, having conversations about philosophy and Plato. It pervades throughout the general population, the people who are not in the program: When they see us having a discussion, often they would come over and ask what we were talking about. The next thing we know, they were part of the conversation and we were able to teach them, but also we were able to listen to them. (Michaels, 2019, para. 21)

The BPI program, which is now the subject of a four-part documentary series, *College Behind Bars* (2019), began as an idea Kenner had while an undergraduate student himself at Bard College. The United States Congress had just revoked college funding for prisoners, resulting in the termination of most prison education programs. Kenner, having recently discovered the value of his own liberal arts education, became determined to see it shared with those behind bars. What began as one course offered to 18 inmates is now a nationwide program offered in more than nine states with an annual budget of \$2.5 million. As of 2021, more than 500 inmates from six New York state prisons have earned degrees through the program. What’s more, graduates of the program are significantly less likely to return to prison than their non-degreed counterparts. In comparison to the US national average, where about 37 percent of released offenders commit another offence within three years and

(Continued on next page.)

46 percent reoffend within five years, only 4 percent of all graduates of the BPI program have returned to prison (Fullilove et al., 2020; Mooney, 2020).

For many participants, this is due to the nature of studying the liberal arts itself. As Sebastian Yoon, a graduate of the program, remarked, “In a place like prison, once you’re given even a glimmer of hope, you’re just going to latch onto it. And higher education materialized in a form of hope” (Michaels, 2019, para. 13). Yoon was released from prison in 2019 but remembers the significant effect of learning the liberal arts behind bars. When reading books and writing essays while incarcerated, Yoon says, “the walls, they disappear. They dissipate. And I’m in my zone. I’m reading about Kierkegaard. I’m learning about history, memory. And I become free” (Chamlee-Wright, 2019, para. 18).

Criminal Justice: Areas of Study and Key Players

The field of criminal justice has a mandate of *responding to* crime. Its many institutions and agents work to investigate criminal activity, enforce the criminal law, and provide the correctional arm of the state, including assisting offenders and communities in the aftermath of criminal activity. Criminal justice professionals are therefore found in a diverse range of fields, including research, policy, and community development work in academic, government, non-government, and non-profit sectors.

Studying criminal justice involves examining the work of all these agencies, but it can be broadly understood to be about three general parts of the criminal justice system—namely, policing, the criminal law, and corrections. This book is organized around these three sub-fields of specialization. The policing section of the book looks at the history and structure of Canada’s many law enforcement services and their affiliated organizations, including municipal, regional, provincial, and federal levels of policing. Policing discussions in this book are also about *how* police do their work, including methods of community-based policing, surveillance and investigative teams, as well as specialized forces such as the Aboriginal Policing Directorate and the forensic science services used by law enforcement agencies throughout the country.

CAREER PROFILE

Jorge Frasca

Jorge Frasca is a technical operations leader in the Evidence Recovery Unit of the Royal Canadian Mounted Police (RCMP) Forensic Laboratory in Vancouver.

How did you become interested in forensics?

Forensics was never really an interest for me until my wife told me the RCMP was hiring scientists to work in forensics. I put in my application, was eventually hired as a forensic biologist at the RCMP Forensic Laboratory in Vancouver, and have been employed in forensics ever since.

How did you become a technical operations leader?

I began my career as a search technologist in the Evidence Recovery Unit, which is the front-end search, identification, and recovery unit in biology. I quickly gained experience and confidence in the examination of exhibits, recovering and identifying a variety of evidence, and conducting the search of numerous exhibits. I was then promoted to search coordinator and, after two years, to section manager. I enjoyed managing, but was always drawn toward the scientific part of the work. When I had an opportunity to become technical operations leader, I did not hesitate. I have a much more direct involvement with the technical aspects of forensic science, and still work closely with others to manage their training, development, and technical competencies.



What are some of your most important duties? Is there such a thing as a typical day for you?

One of the things that I enjoy most about my job is that it is quite varied. Every aspect is important, as they can all impact the quality of the work that is carried out in the laboratory. However, the most important part of my role involves being a coach and mentor in the technical aspects of evidence examination and recovery. As well, being involved in the development of policy and scientific methodology and techniques on behalf of the discipline are very important responsibilities.

What are the most challenging and the most rewarding aspects of your job?

Being a forensic scientist is a somewhat unique experience. My role allows me to develop both scientific and personal skills, and use knowledge gained throughout my career directly in support of high-profile investigations; in some instances, the results of my work can have a very tangible and immediate impact. On a daily basis, I am consulted on complex casework scenarios and challenging examination situations. Being involved in providing factual and objective evidence that can help these investigations is satisfying and rewarding on a personal level.

The most challenging and rewarding part of my job is leading the training and supervision of new forensic scientists. It makes no difference how much experience and knowledge I have gained: passing these skills to understudies and helping them develop can be difficult at times.

Overall, I find it very gratifying to know that my work contributes to the ongoing effort to make our communities safer.

In your opinion, what are some of the greatest contributions of forensic evidence to investigating and solving crimes?

Forensic science can assist criminal investigations by providing physical evidence that links individuals to each other and to crime scenes. It can also help to corroborate a particular scenario, witness statement, and/or sequence of events.

While traditional investigative techniques can put police on the right track, forensic evidence provides factual, unbiased evidence and can greatly assist in showing whether a theory is correct.

With the advent of DNA profiling, forensic evidence has evolved from “nice to have” evidence to a “must have” in a greater number of investigations, particularly those that are more serious and high profile in nature.

How have the media affected the public's view of forensics?

In my opinion, the focus of the media on forensics is a double-edged sword.

On the one hand, the spotlight has grossly inflated the expectations of forensic evidence, and it places unrealistic expectations on what the science is capable of. The reality is that while forensics can be a very powerful tool, there are certain questions that it will not be able to answer. Forensic scientists need to place more emphasis on education so that these expectations can be properly balanced.

On the other hand, the publicity has increased the demand on the services that forensic laboratories provide. An increased emphasis on forensics helps push the science forward, and it forces laboratories and scientists to constantly improve their processes and methodology.

In my opinion, the most important effect of the focus of the media on forensics is that it has opened the door for many new scientists to consider pursuing a career in forensic science. An increased demand for positions in forensics has had a positive impact on the quality of personnel that forensic laboratories can draw from.

The book's second area of focus is the criminal law and its procedures. This field of study involves the work of many court-based personnel, including lawyers, judges, and their research teams (comprising paralegals, legal secretaries, and law clerks). It is also an area interested in the work of court services personnel, including bailiffs, registrars, jury attendants, and court reporters, as well as criminal justice professionals who provide services and support to victims and witnesses, such as victim services organizations and social workers, and court-appointed personnel, such as **duty counsel** and child protection workers.

The third sub-field of criminal justice is also one of its largest areas: corrections. It focuses on the procedures and institutions of imprisonment in terms of the assessment, treatment, re-

You will have the opportunity to learn more about some of these criminal justice professionals who are working in the field throughout the book.

duty counsel

a lawyer paid by the government to provide legal advice and services to individuals who come to court unrepresented (see Chapter 6 for more)

habilitation, and reintegration of offenders. Correctional officers, security personnel, and prison administration workers (such as the warden or superintendent of the institution) are key players in this criminal justice field. The work of post-incarceration personnel, such as parole officers, drug and alcohol abuse counsellors, and mental health workers, is also of interest to criminal justice scholars, as is the policy work of both government and non-government officials and organizations that study correctional frameworks and experiences. Community-based work among criminal justice professionals that doesn't take place in jail, court, correctional centres, or prison is also a part of the corrections area and includes halfway house counsellors, attendance centre program personnel, educational consultants, youth workers, probation officers, group home workers, and diversion or extrajudicial measures coordinators.

It is also important to mention the programs that are operated within the community that aim to prevent crime through both voluntary groups (e.g., crime prevention associations) and other non-governmental organizations (e.g., the John Howard Society, Elizabeth Fry Society, and St. Leonard's Society). These programs and agencies assist the more formal state-run institutions under the direction of a broad base of community volunteers and provide additional services to prevent and reduce crime and harm in communities.

This is far from an exhaustive list of criminal justice agencies or professionals, but it should give you some indication of the wide variety of work that is conducted within the criminal justice system and the exciting opportunities such diversity creates for those who (like you!) have chosen to study it.

SIDEBAR

The State of the Criminal Justice System in Canada

Between 2016 and 2018, Canada's Department of Justice held broad consultations with over 11,000 Canadians to consider the state of the criminal justice system in Canada. These consultations led to a series of recommendations that focused on the need to "transform" the system in order to make it more equitable for Canadians. As the 2019 Report notes:

Canadians want a fair, efficient, and compassionate criminal justice system, and one that promotes a safe, peaceful, and prosperous Canadian society. (Department of Justice, 2019, p. 2)

As reported, there were too many gaps in the collection of data to be able to perform a robust assessment of the operation of the criminal justice system. In 2018, the Department's Research and Statistics Division released a framework with 38 indicators to provide evidence of progress toward meeting the nine outcomes identified in the consultation process. The Department recognized that the lack of meaningful data was hindering evidence-based solutions and practices. The report's nine outcomes or goals for the criminal justice system are that:

1. Canadians are safe and individuals and families feel safe.
2. The criminal justice system is fair and accessible.
3. Canadians understand the role of and express confidence in the criminal justice system.
4. The criminal justice system operates efficiently.
5. The criminal justice system promotes and supports diversion, restorative justice, Indigenous justice, and tools for community-based resolution.
6. The criminal justice system provides persons in the correctional system with services and supports to rehabilitate them and integrate them back into the community.
7. The criminal justice system respects victims' and survivors' rights and addresses their needs.
8. The criminal justice system reduces the number of Indigenous people in the system.
9. The criminal justice system reduces the number of marginalized and vulnerable people in the system.

Each of these outcomes is assessed using national data from the Canadian Centre for Justice Statistics, Statistics Canada, the Department of Justice, the Correctional Service of Canada (CSC), and

the Office of the Correctional Investigator. For example, outcome 9, reducing the number of marginalized and vulnerable people in the system, examines data from Statistics Canada regarding self-reported violent victimization among marginalized and vulnerable populations and police contact among individuals with a mental or substance use disorder. CSC would also consider this outcome in relation to the data on mental health needs in federal corrections and the number of visible minorities in correctional services.

Each year, the Department of Justice will release an annual report of **performance monitoring** of the nine outcomes and their 38 indicators. The general public will have access to this reporting through an online dashboard (see: <https://www.justice.gc.ca/socjs-esjp/en>).

Critical Thinking Questions:

1. Visit the Department of Justice website and take a look at the dashboard and the data that is presented for the selected outcomes. Do you feel that you have a better understanding of where Canada is at in terms of reaching the nine desired outcomes? How else might you know whether or not the criminal justice system was meeting these goals?
2. What is your opinion about the list of nine outcomes? Are they the ones that you would expect of the Canadian criminal justice system? If not, what other goals do you think Canada should have for its justice system?

performance monitoring

a set of research processes that consider how well goals or outcomes that have been set are performing

How Do We Come to Know What We Know About Crime and Criminal Justice?

The appeal of criminology and criminal justice courses may lie in the fascination that people have with the subject matter, but this is perhaps further enhanced by the many popular films and television series that explore issues of crime and justice, such as *Law and Order*, *Criminal Minds*, *Wentworth*, and other such shows and movies.

SIDEBAR

The CSI Effect

Donna Hale, an American criminologist and past president of the Academy of Criminal Justice Scholars, was quoted in *The New York Times* in 1998 when discussing the increasing enrollment of criminal justice majors in liberal arts programs throughout the country: “When I’m teaching, I ask students why they take the class and what they want to be. It used to be they wanted to be police officers or state troopers. Now they all want to be FBI profilers. They see it on TV; it’s very glamorized” (Butterfield, 1998, para. 18).

This notion that rising interest in the study of crime and criminal justice is due to a steady diet of televised crime shows has persisted over time, but are decisions about pursuing a degree in criminology or criminal justice influenced by crime shows on television as much as they were in 1998? A recent study found that in a sample of students who had pursued a criminal justice major, the majority said that television did *not* influence their decision to study criminology (Slak et al., 2020). Rather, students reported that they were interested in the subject, they thought it was exciting, and they felt it would prepare them for additional studies in law, social work, and other professions. Interestingly, though, when the participants were asked about whether their peers had selected a major in criminal justice due to the influence of crime shows, 84 percent of the respondents said yes!

This demonstrates how important criminal justice research can be in distinguishing public perceptions of crime and the criminal justice system from reality. Another good example of this is the so-called “CSI Effect,” first coined by Kluger when it appeared in a 2002 *Time* magazine article. The CSI Effect refers to the confidence that jurors and courts have had with DNA and forensic evidence since



The popularity of television programs in the crime show genre has had a variety of impacts on public interest in criminology.

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the television series *CSI: Crime Scene Investigation* premiered in 2000 (Chin & Workewych, 2016). The CSI Effect is a result of mixing reality and fiction through the media portrayal of police investigations, prosecutions, and courtroom procedure, thereby influencing how jurors think about evidence in a case. Forensic evidence and the use of other scientific endeavours are portrayed as superior to any other form of discovery and therefore believed to be definitive of guilt. As one reporter described it shortly after the CSI Effect began to hit the headlines, “real-life jurors who are fans of CSI [have] either caused hung juries or acquitted obviously guilty criminals, claiming the investigators failed to test evidence the way CSI does on television” (Walker, 2005, para. 2).

Although several criminal justice professionals, including prosecutors and judges, have reported the presence of the CSI Effect in courtrooms, little evidence of it has been found by criminal justice researchers. Shelton et al. (2006) surveyed over 1,000 prospective jurors on their television viewing habits and their perceptions related to possible outcomes in criminal trials. They found that participants who watched televised crime shows (such as *CSI* or *Law and Order*) regularly had higher expectations of scientific evidence than those who did not, but the study did not find that these expectations resulted in any significant differences in jurors’ propensity to convict or acquit a defendant. Similar results were found in a smaller ($n = 178$) study of prospective jurors, in which the authors conclude that “the alarm raised over a possible CSI Effect influencing jury decision making may be unwarranted” (Klantz et al., 2020, “Abstract”). In a study comparing the judgments of criminal scenarios that presented forensic evidence and those without such evidence, based on crime television consumption, there was no evidence found of a CSI Effect (Ling et al., 2021).

Despite this evidence, the term continues to be used to refer to the impact of television on the attitudes and beliefs of individuals who consume popular media. Some researchers have also begun to refer to a “Reverse CSI Effect” to describe how increased viewing among jurors of crime television shows can purportedly benefit the *prosecution*. Some defence lawyers worry, for example, that *CSI* and similar shows have changed the way jurors view the trial process itself: “Crime television shows focus on the investigation, and therefore, jurors may come to view the trial as ‘a mere formality’ to an investigation that was dispositive of guilt in a case” (Chin & Workewych, 2016, p. 4). The Reverse CSI Effect is therefore also known as the “Defendant’s Effect” (Cole & Dioso-Villa, 2011).

Critical Thinking Questions:

1. Why did you make the decision to study criminal justice? Do you think that you were influenced by crime shows in popular culture? What about your friends who are studying criminal justice?
2. Why do you think that the students in the study felt that their friends who were studying criminal justice were influenced by crime shows even though they reported that the shows had no influence on their own decisions about what to study?
3. Do you think that the CSI Effect is well known among university students today? Twenty years after the premiere, *CSI* returned as a new series on television in September 2021. What impact do you think this will have in terms of public perceptions?
4. What do you think about the claims that defence lawyers make about a Reverse CSI Effect? Consider some of the crime television shows that you watch. How might they influence a juror’s view of a case and its evidence? Are these ways that benefit the Crown or the defence?

Many of us are subject to a daily barrage of images about crime and disorder through news media, television, and Internet sources. Crime constitutes a constant and significant portion of the total news portrayed on radio and television, and in the print media. Both the news and entertainment industries are notorious for consistently taking the least common crime or criminal justice event and making it appear to be the most common crime or justice image. Such practices can make anyone *seem* like an instant authority on crime, but all too often the image of crime portrayed in popular media is based more on stereotypes than empirical evidence. This influences the beliefs we have about crime, which can impede our ability to see things differently or find alternative solutions to the problem. Consumers of a steady diet of crime and criminal justice images from the media have been subjected to a vocabulary of force, where police are portrayed as crime “fighters” in the “war” on crime. This prepares a student entering a course

in criminal justice to hold beliefs that crime must be “fought” rather than treated, prevented, reduced, or solved. Students who do not learn about how laws are made may not appreciate that they are imperfect, incomplete, and not impartial. Learning how law can be biased and represent the interests of some over others is a key step in understanding the present realities and challenges of Canada’s criminal justice system. Students of criminal justice learn to consider the principles of sentencing when responding to a crime and reflect on the purposes of punishment and the role of sentencing in crime prevention and public safety. Releasing offenders from carceral settings back into communities is also an area of critical concern that can influence public opinion and policy with respect to misinformation about the success of offenders upon release through parole provisions. As criminal justice students, you will have an opportunity to consider these important issues in further depth as you delve into the chapters in this book.

Thinking Critically About the Issues

In asking you to think critically about the issues in this text, we want you to embark on a process of reasonably deciding what to do and believe while considering what sources, images, ideas, and arguments helped you reach these positions. We want you to be able to assess your own and others’ arguments, but also to be able to construct good arguments when the issues being presented are controversial—which most topics in criminal justice are! Criminal justice professionals and scholars should always be striving to create counterarguments and examples that require empirical evidence, while remaining sensitive to their own biases and values. This requires a commitment to open-mindedness and fairness, empathy for the views of others, openness to self-criticism, and an appreciation of the value of looking at criminal events from multiple vantage points. This may mean a change in some of the beliefs you already have about crime and how it should be addressed, and this kind of shift is not always easy to undertake. As Mark Twain once remarked, “Education consists mainly of what we have unlearned,” and when it comes to society’s reactions to and treatments of criminal activity, one might say there is a great deal of unlearning to do. As Gendreau et al. (2002, p. 366) have noted:

[P]ublic opinions are woefully inaccurate and, not surprisingly, tend to be aligned with the “get tough” orientation of the media. Thus, the public mistakenly believes that prisons (the harsher the better) deter criminal behaviour, that parole rates and parole violations are far too high, that Canada’s incarceration rates are lower than those of other countries and our sentencing policies are soft on crime, recidivism rates are sky high, and violent crime is epidemic.

In order to be able to dispel these inaccurate perceptions, it is essential that students enter into the study of criminal justice with an open and critical mind. Few commentators on the criminal justice system—and even fewer students of criminal justice—think about the social and ethical responsibilities of this task before becoming involved with the system themselves. When students encounter the system, studies show that they often do so with “rose-tinted glasses” and can experience a reality shock, leading to early career burnout and **moral distress** (Lentz et al., 2021; Todak et al., 2018).

We all have a responsibility to act thoughtfully in our support for public policies within the realm of crime prevention and control, including when we elect our government leaders. Thinking through several viewpoints of the implications of a proposed change to the criminal law or a government agenda to “crack down” on crime is an important task in assessing the value of any given criminal justice practice. One of the purposes of this text is to help you dispel the myths about crime and criminal justice so that you can critically evaluate criminal justice policies in light of competing views about the nature of crime, the methods of responding to it, and the possible intended and unintended outcomes of these interventions.

As we have noted, the police, the courts, and the state’s correctional arm are the principal areas of focus in criminal justice studies. This is not only a reflection of how our current system *responds* to crime, but also how it *defines* crime. The history and structure of Canada’s police sys-

moral distress

occurs when a person is unable to take the action that they believe is ethically or morally correct because of institutional constraints, rules, or practices

tems, courtrooms, and correctional institutions inform us about how the criminal justice system is organized as well as its underlying assumptions. Remember, however, that these are not the only ways of responding to crime. Many alternative approaches to policing or to determining punishments for offenders are explored in criminal justice studies each year (some of which are discussed in the upcoming chapters). It is important to keep in mind how the choices of lawmakers and government officials influence what behaviours are targeted and to keep an open mind about new ways of approaching old problems.

Implementing criminal justice policy in policing, criminal law, or corrections requires an understanding that focusing on one form of crime control will affect the quality of life not only of the targeted group but of the population as a whole. If any one method is used exclusively, it will have limited returns, so we must be mindful of the need to consider alternative processes. Through a systematic practice of recognizing our own beliefs and being open to the insights of others, we have an opportunity to explore the assumptions that might marginalize groups or individuals, thereby allowing us to consider all sides of an often-conflicting array of proposed solutions. This book, therefore, encourages the study of criminal justice as an inquiry into not simply the *how* of criminal justice, but more importantly, the *why* behind the actions of Canada's police, courts, and correctional system.

How Much Crime Is There? Debunking the Myths

Crime and society's response to it are frequent features in news media reports, leaving many issues of policing, the court system, and the correctional system open to public scrutiny. Criminologists have also noted that the reporting practices of the mass media have a significant influence on public attitudes and beliefs about crime. News reports tend to focus on violent offences (despite their rarity) while paying less attention to declining **crime rates** in general, leading more Canadians to believe that violent crime is on the rise. It is not surprising, then, that public opinion often gets the facts wrong, but even well-informed editorials tend to focus on the system's failure to keep citizens safe or the injustice of an offender getting off on a "technicality." Few of these opinions consider the complexity of the system or the human rights frameworks and principles of justice that underpin these "legal loopholes." Taking a closer look at crime rate statistics provides a good example.

Understanding Crime Rates

The crime rate is a measure of police-reported crime in a given region or population. It is calculated by adding up all of the criminal incidents that have been reported to the police and dividing by the population (i.e., rate per every 100,000 persons). In Canada, this data is taken from the Uniform Crime Reporting (UCR) Survey, which collects information filed by police departments across the country about the number of crimes reported, the number of criminal charges that were laid, how these were addressed (e.g., were they "cleared" or solved by police?), as well as the age and gender of the offenders. Because it does not include information about any crimes that were *not* reported, the crime rate is only one indicator of how much crime really occurs.

Despite politicians' frequent claims to the contrary, the national crime rate in Canada has fallen steadily for the past several decades, and, in 2014, it was at its lowest recorded level since 1969 (see Figure 1.1) (Moreau, 2021). The same is true in the United States, where crime is persistently thought to be worsening even though the crime rate has been in decline since the early 1990s (Shi, 2020). Consecutive decreases in police-reported crime have a considerable impact on **crime trends** or patterns, particularly when changes to the crime rate occur. Canada's crime rate rose between 2015 and 2019, for example, but remained 9 percent lower than it had been a decade earlier (Moreau et al., 2020). In 2020, there was a significant decrease (–10 percent) in the crime rate in Canada, with 5,301 incidents per 100,000 population and drops in violent crime (–2 percent), property crime (–13 percent), and drug offences (–5 percent) for the first time in five years

crime rate

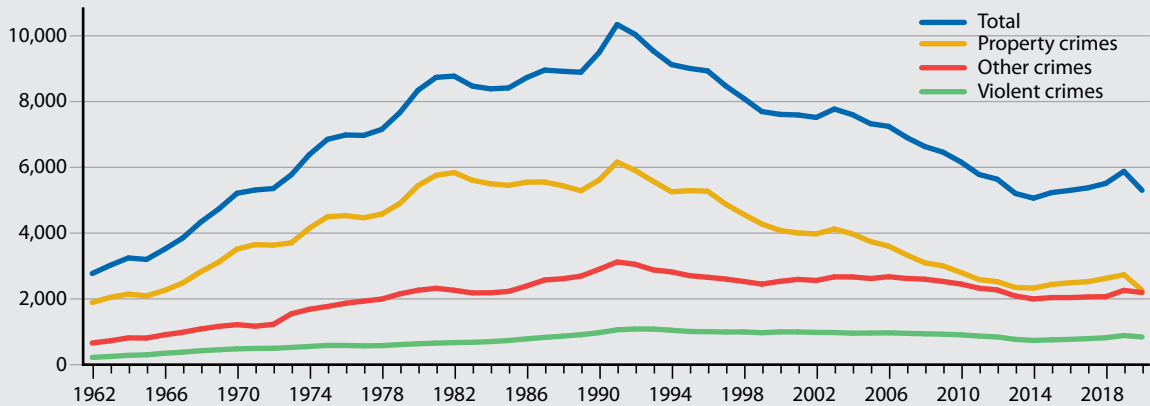
the measure of the overall number of police-reported crimes as a percentage of the population in any given region

crime trend

an observable pattern in how crime rates have changed over time

(Moreau, 2021). Experts attribute these changes to the COVID-19 pandemic and its restrictions on social movement and interaction (see Figure 1.2) (Hodgkinson & Andresen, 2020; Moreau, 2021).

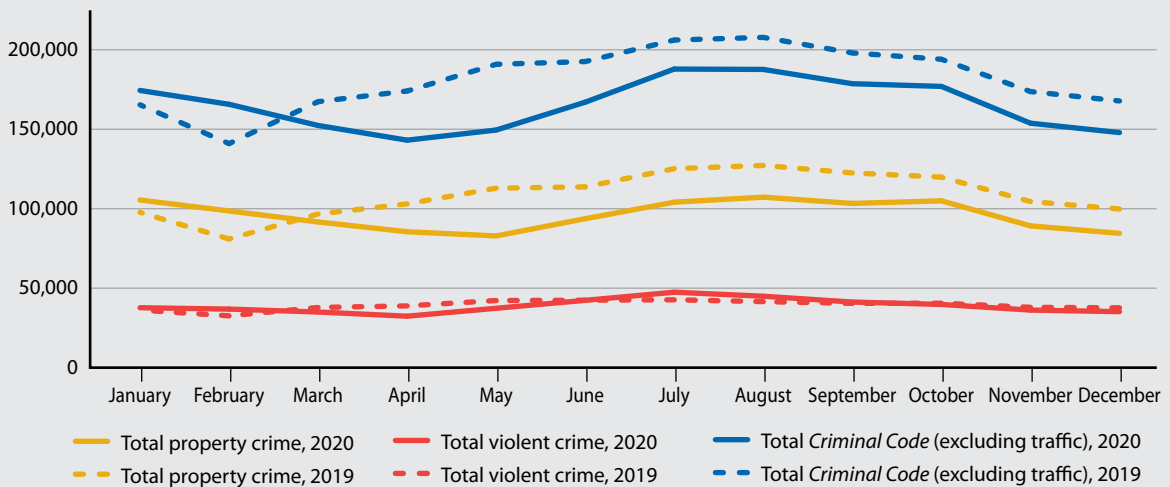
FIGURE 1.1 Police-Reported Crime Rates, Canada, 1962 to 2020



Note: Information presented in this chart represents data from the Uniform Crime Reporting (UCR1) Aggregate Survey and permits historical comparisons back to 1962. New definitions of crime categories were introduced in 2009 and are only available in the new format back to 1998. As a result, numbers in this chart will not match data released in the new UCR2 format. Specifically, the definition of violent crime has been expanded. In addition, UCR1 includes some different offences in the “other crimes” category. Populations are based upon July 1 estimates from Statistics Canada, Centre for Demography.

Source: Police-reported crime statistics in Canada, 2020 by Greg Moreau, Canadian Centre for Justice and Community Safety Statistics. July 27, 2021. Statistics Canada.

FIGURE 1.2 Police-Reported Criminal Incidents (by Type and Month), Canada, 2019 and 2020



Note: Total *Criminal Code* (excluding traffic) includes “other *Criminal Code*” offences not included in Total violent crime or Total property crime. Monthly data were not available for the Kativik Regional Police Force, Gesgapegiag Amerindian Police Service, La Salle Police Service, Canadian National Railway Police, St. Thomas Police Service, and Windsor Police Service. Therefore, these police services were excluded from the monthly analysis.

Source: Police-reported crime statistics in Canada, 2020 by Greg Moreau, Canadian Centre for Justice and Community Safety Statistics. July 27, 2021. Statistics Canada.

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COVID-19 and Crime

The global pandemic required people to stay at home, and as Moreau (2021) suggests, the presence of capable guardians may partially account for the decrease in theft (36 percent) and robbery (18 percent) charges. While there was also a decrease in break-and-enter offences, this follows a general decline observed prior to the pandemic. Over the past ten years, the rate of break-and-enter offences has declined by 38 percent. It's also important to note that while the pandemic may have led to the reduction of crimes due to stay-at-home orders, these same orders led to an increase in incidents of family violence. Explanations for these increases include the added pressures of isolation, financial stress, and their impact on mental health. The need to care for children who were at home with school closures and the lack of vigilance by family and friends that might support a call for service are also contributing factors. The police collected data related to calls for service for such matters as domestic disturbances (7 percent increase) and other mental health challenges (13 percent increase), but this did not make an appreciable difference in the reporting of crime. While violence in the home is often not reported to the police, the pandemic raised concerns across the world, leading the United Nations to coin the phrase "The Shadow Pandemic" to describe the impact of COVID-19 lockdown measures on violence against women and within families throughout the world. The lack of reporting may account for the steady rate of family violence from the previous year. There were also increases in violence against seniors (5 percent) in 2020, showing a continuing upward trend since 2015.

Most of the cases that were required to proceed in the courts across Canada did so by means of virtual teleconferencing from detention and remand centres. There were also a lot of cases that were **stayed**, withdrawn, or diverted to extrajudicial programs that might not have been considered without the impact of COVID-19.

The pandemic also impacted the experience of offenders serving their sentences. CSC provided updates related to procedures within the federal system and reported on deaths in custody in a timely manner. However, there were insufficient resources to handle social distancing requirements within already crowded penitentiaries. Further, the Office of the Correctional Investigator has reported that correctional facilities house a number of health-compromised and vulnerable individuals. In the first year of the pandemic, the rate of COVID-19 infection in male correctional facilities was ten times higher than that shown in the general public. Even more striking was the rate for federally incarcerated women, which was 77 times the national rate of infection (Coyle, 2020). In a brief to the Standing Committee on Health, the Canadian Association of Elizabeth Fry Societies reported that 60 percent of the women at Joliette prison in Quebec were infected with COVID-19 as of June 2020. They also reported that the women were forced to spend increased time in their cells and that segregation units were being used for inmates who presented with COVID-19 symptoms. The report also noted that the technology to have virtual visits with family members was often malfunctioning, increasing the women's isolation, given the federal government's suspension of in-person visits as of March 14, 2020.

Provincial correctional centres, which house inmates being held in pre-trial detention or those serving sentences of less than two years, had variable reporting depending on their provincial ministry guidelines. In Ontario, the data was updated weekly on their website, reporting over 5,000 entries of testing and outcomes over the period from May 2020 until July 2021. While there were positive cases throughout this period of time, the number of cases was significantly less than those being reported in the wider community. Correctional facilities in Canada fared much better than their American counterparts. CSC reports as of September 13, 2021, of the inmates that have received COVID-19 testing, 2.7 percent of the population have tested positive (CSC, 2021). As of September 17, 2021, 7.9 percent of inmates throughout the United States have tested positive (COVID Prison Project, 2021).

While all inmates were affected by the steady lockdowns and restrictions within facilities, older inmates were particularly at risk. As was the case in the community, older vulnerable individuals were at a heightened risk of complications from the COVID-19 virus. The continuing increase in the number of older adults in Canadian correctional facilities was exacerbated by the inability of some health care providers to adequately care for aging offenders. Being subject to lengthy periods of lockdown meant that many older adults lost muscle mass, leading to increased risk of bone deterioration and weakness.

stay of proceedings
a court order that suspends (temporarily or permanently, depending on the order) a criminal trial

Critical Thinking Questions:

1. What do you think about the impact of COVID-19 on the reporting of crime, the processing of cases through the criminal justice system, and the completion of sentences?
2. Compared to cruise ships and nursing homes, how do you think the rates of positive COVID-19 within prisons measure up? What are some of the similarities and differences between cruise ships, nursing homes, and prisons? (For further inquiry, see Sloane, 2020.)

In total, Canadians reported more than 2.2 million crimes in 2020, which was 195,000 fewer incidents than the year before (Moreau, 2021). Among these offences were 743 reported homicides—56 more than in 2019. This increased the national homicide rate to the highest reported (1.95 homicides per 100,000) since 2005. The mass shooting in Nova Scotia in April 2020 (see Case Study 2), during which 22 people lost their lives, was the deadliest of its kind in Canadian history and had a noted impact on both national and provincial crime rates (Moreau, 2021).

Given how the crime rate is calculated, an increase of even one homicide in a region can dramatically increase the overall rate and severity of crime. The crime rate, which measures the overall volume of police-reported crime, counts all offences equally, so that one incident of bicycle theft is counted the same as one incident of murder. As such, the crime rate tends to be driven by high-volume, less-serious offences, such as minor thefts and mischief rather than the more violent offences people often imagine when they hear the word “crime.” To provide a better understanding of the more serious crimes in Canada, the **Crime Severity Index (CSI)** was introduced in 2006. In addition to the volume of crime reported to the police, the CSI also gives a weight to each offence based on the average sentences handed down by the courts. The more serious the average sentence, the higher the weight for the offence on the CSI. As a result, in the calculation of the sum of the weighted offences (divided by the population), the more serious offences such as murder will have a greater impact on changes in the CSI from year to year (Wallace et al., 2009). Statistics Canada reported a decrease in 2020 in all measures of the CSI after five years of increases, showing declines in all but four provinces and territories (see Figure 1.3) (Moreau, 2021).

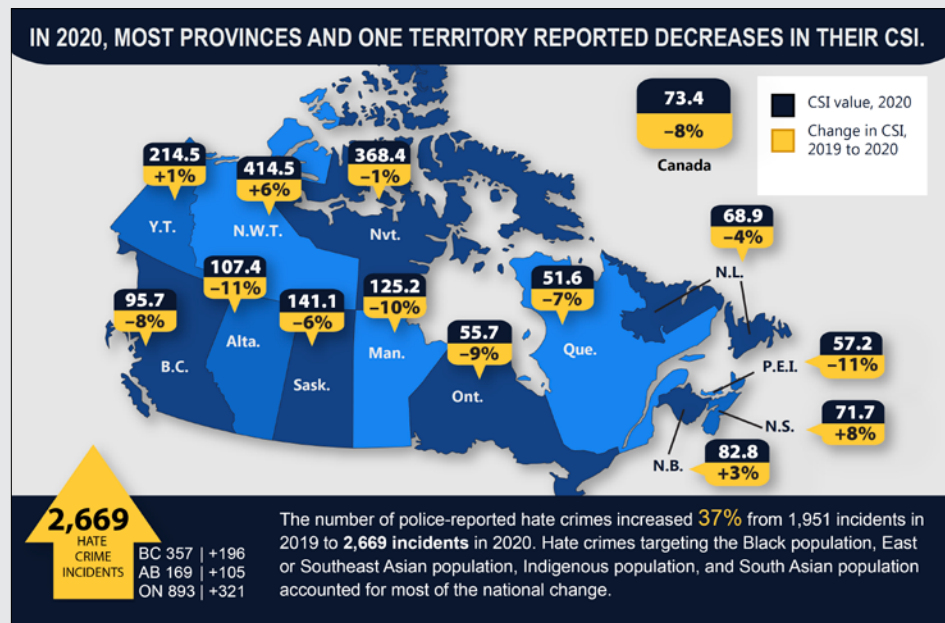
Not all types of crime decreased during this period, however. As noted on the bottom of Figure 1.3, police-reported rates of hate crime increased significantly during the first year of the pandemic, rising 37 percent in 2020, along with higher reports of firearms offences and opioid-related offences, the latter of which rose by 34 percent (Moreau, 2021). The crime rate in 2020 was also comparable to 2017 (5,334 incidents per 100,000) and slightly higher than the rate in 2016 (5,224 incidents per 100,000). Crime is experienced differently because of many factors, including race, gender, region, and socio-economic status. This can result in heightened levels of victimization among certain groups even amid consistent declining crime rates.

Following the 2014 RCMP report, *Missing and Murdered Aboriginal Women: A National Operational Overview*, Statistics Canada began working with police to collect data on the Indigenous identities of homicide victims. The results are staggering. In 2020, Indigenous peoples accounted for almost 5 percent (4.9 percent) of the Canadian population as a whole, and yet more than a quarter (27 percent) of all homicide victims were Indigenous (see Figure 1.4). The 2020 homicide rate was seven times higher for Indigenous peoples than for non-Indigenous peoples (10.05 per 100,000 as compared to 1.42 per 100,000), representing a rate increase of 10 percent from 2019 (Moreau, 2021). A poignant and horrific addition to the mounting evidence of unexamined racism in Canada’s criminal legal system took place in 2020 when the bodies of Indigenous children were found by the hundreds in unmarked burials on the sites of former residential schools. For many criminal justice professionals, it is a call to action. As lawyer David Butt (2021) explains, this “is where we find ourselves now, with the discovery of thousands of unmarked graves of Indigenous children ... some of which had grave-markers that were allegedly deliberately bulldozed. That looks and smells like criminal activity, and so these events cry out for serious and sustained professional investigation—and, where warranted, vigorous prosecution” (para. 2).

Crime Severity Index

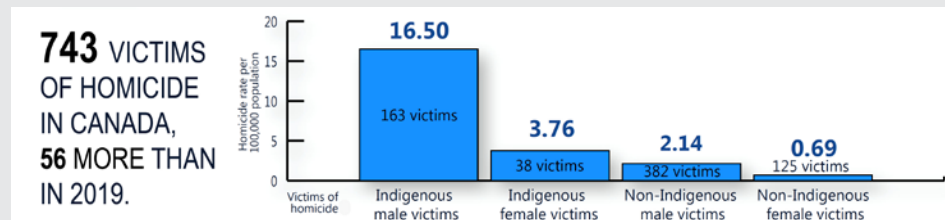
a measure of the volume and severity of police-reported crime in any given region or time period, based on the seriousness of crimes committed

FIGURE 1.3 Crime Severity Index and Increases in Police-Reported Hate Crime, 2020



Source: Police-reported crime statistics in Canada, 2020 by Greg Moreau, Canadian Centre for Justice and Community Safety Statistics. July 27, 2021. Statistics Canada.

FIGURE 1.4 Homicide Victims in Canada, 2020



Source: Police-reported crime statistics in Canada, 2020 by Greg Moreau, Canadian Centre for Justice and Community Safety Statistics. July 27, 2021. Statistics Canada.

Understanding Criminal Victimization

To gain a fuller picture of what crime is occurring and how it is experienced, it is important to examine crime rates from many vantage points, using many sources of data, such as public inquiries and victimization surveys that provide information on offences not disclosed to police. These considerations are particularly important for learning more about unreported crime.

Unreported Crime: The Dark Figure

In Canada, the crime rate is calculated as a percentage of the population with the crime data from the police. The UCR Survey, which is an amalgamation of police-reported crime from across the country, includes information about the number of crimes reported, the number of

criminal charges that were laid, how these were addressed (e.g., were they solved or “cleared” by police), as well as the age and gender of the offenders. The UCR only includes information about crimes that were reported. Therefore, the crime rate is only one indicator of how much crime really occurs.

In addition to police-reported crimes, learning more about self-reported crimes (from victimization surveys like the General Social Survey) provides an overview of how Canadians feel in terms of their sense of personal safety and their satisfaction with the police. Self-report studies are particularly useful given their ability to provide data on crimes that are not reported to police and thus omitted from national measurements of the crime rate. Many other offences occur but never come to light. This leads criminologists and law enforcement personnel to refer to this unknown amount of crime (that stays out of view of the public and the police) as the **dark figure of crime**.

The “dark figure of crime” is used in criminology and criminal justice studies to refer to the vast amount of criminal activity that is not reported to police. This makes the total amount of crime in any given society impossible to know. How much crime goes unreported is thought to vary depending on the offence. For example, sexual assault has the lowest reporting rate of any criminal offence, estimated to be less than 6 percent. This means that of every 100 sexual assaults that occur, only six are ever reported, leaving the criminal justice system “in the dark” about the remaining 94 offences.

The General Social Survey (GSS), which began in 1985 and runs every five years, is one of the largest sources of data about unreported crime and criminal victimization. It polls a sample of the Canadian population (sample size (n) = 20,000) aged 15 years and older. In order to gain an understanding of some sub-populations, there may be an over-sampling in some geographic areas or with some identified groups (e.g., immigrants and youth). The GSS asks a series of questions that consider: (1) changes in the living conditions and well-being of Canadians over time by gathering data on social trends, and (2) current or emerging issues in Canadian society. There are seven theme areas for which the 2019 data was collected, each of which is aimed at gathering information about different aspects of Canadians’ lives: (1) caregiving and care receiving; (2) families; (3) giving, volunteering, and participating; (4) life at work and home; (5) social identity; (6) time use; and (7) victimization. New content is also regularly added to each cycle to address emerging issues. The GSS has historically focused on each theme every five to seven years.

The GSS Victimization survey is the only national survey to collect self-reported data on crime victimization (Statistics Canada, 2019). When collecting data under the victimization theme, the GSS asks about experiences with three types of crime, making up eight specific offences: violent victimization (sexual assault, robbery, physical assault), theft of personal property, and household victimization (break-and-enter, motor vehicle theft, theft of household property, and vandalism). The GSS last collected victimization data in 2019, when an online version of the survey was offered for the first time. The 2019 GSS also added new content on fraud offences and dating violence, and included a special focus on public safety, including “perceptions of the criminal justice system, risk behaviours, isolation, social disorder, trust in people, crime prevention” and personal experiences with family violence (Statistics Canada, 2021). According to the data from the GSS, fewer than one-third (29 percent) of criminal incidents were reported to the police in 2019, down slightly from the previous GSS on victimization in 2014 (31 percent) (Cotter, 2021). Motor vehicle thefts were the most commonly reported crime in 2019 (52 percent), and sexual assaults were the least reported (6 percent). Responses to the 2019 GSS also revealed that most child abuse (93 percent) that is experienced by Canadians before the age of fifteen is never reported to police or child protective services (Moreau, 2021, citing Cotter, 2021).

Despite their ability to provide some insight into the dark figure of crime, self-report studies depend on many subjective factors, such as the honesty of respondents and whether or not the survey questions were understood as intended. These variations affect how crime is understood by criminal justice researchers and professionals and can alter how crime-control policies are developed.

dark figure of crime

those crimes that have been committed but go undetected and/or not reported to the police but have shown up in self-report measures or other indicators of crime and victimization

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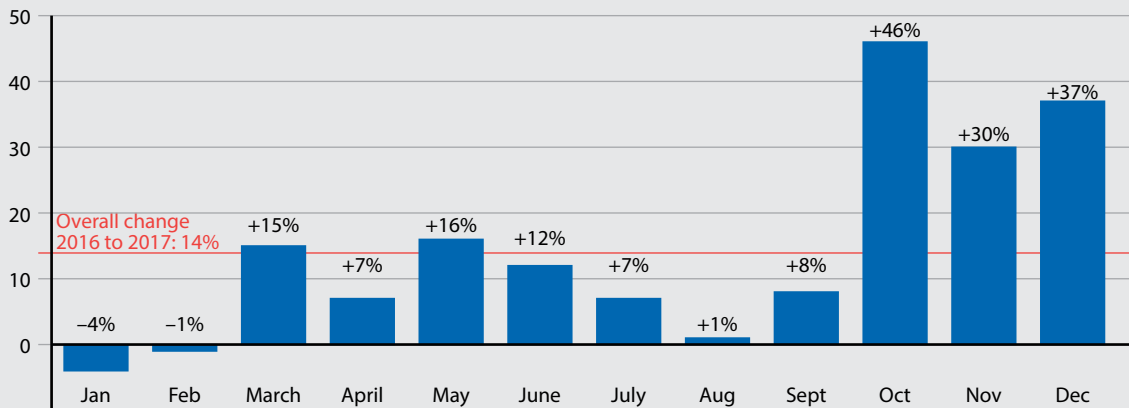
Crime Rates and the #MeToo Movement

Many different factors can influence crime rates, including major cultural and socio-political events that change how the public views and reports criminal activity. The #MeToo movement throughout 2017 and 2018 provides a good example. Initially a grassroots program started in 2006 for survivors of sexual violence to show solidarity and “empower through empathy,” the MeToo movement gained global notoriety following a



celebrity tweet on October 15, 2017 that called on survivors to use the hashtag #MeToo so as to raise awareness about the ubiquity of sexual violence (Daigle, 2021). It worked—the hashtag generated more than 12 million uses in the first 24 hours after it began trending (Hoffman, 2021). Moreover, Statistics Canada data showed a 13 percent increase in reports of sexual assault to police in the year that the social media campaign went viral (Rotenberg & Cotter, 2018). A 10 percent increase in the number of sexual assaults reported to police in the first six months of the #MeToo campaign was also found across 30 other countries (Levy & Mattsson, 2021). Most striking, however, is the increase in reporting rates in the campaign’s initial month (see Figure 1.5). When the #MeToo hashtag first went viral in October of 2017, police recorded a 46 percent increase in sexual assault reporting rates—the highest recorded since 2009, when Statistics Canada first began collecting the data (Rotenberg & Cotter, 2018).

FIGURE 1.5 Police-Reported Sexual Assaults Before and After #MeToo



Note: Sexual assault offences include sexual assault level 1, level 2, and level 3. Percent change numbers represent the percent change between the number of victims of sexual assault reported in a given month in 2016 and the same month in 2017. Counts are based on the number of victims where the most serious violation in the incident was sexual assault. The report date is the date when the incident became known by the police or was reported to the police. Excludes incidents where the age or sex of the victim was unknown or over 89 years of age (<1%).

Source: Police-reported sexual assaults in Canada before and after #MeToo, 2016 and 2017 by Cristine Rotenberg and Adam Cotter, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey. November 8, 2018. Statistics Canada.

Victimization and Fear of Crime

When we look at the most recent data gathered by Statistics Canada on public perceptions of crime and safety, we find that the largest majority of Canadians (83 percent) report feeling safe walking alone in their neighbourhoods at night and that only a small portion of the population (11 percent) reports feeling as though crime has increased in their neighbourhoods (Statistics Canada, 2020). Important to note, however, is that public perceptions of safety are influenced by many factors, not the least of which are personal experiences of victimization and marginalization. Research released in 2021 from the Canadian Centre for Justice and Community Safety Statistics reported a number of inequities with respect to how crime is experienced. Race and gender were significant factors, with Indigenous women and girls facing the highest rates of victimization of all population groups in Canada (Heidinger, 2021). Many other groups also face heightened risks of violent victimization, including people with disabilities; immigrant youth; and members of the LGBTQ2+ (lesbian, gay, bisexual, transgender, queer, two-spirit, and other minority sexual and gender orientations) population (Adhia et al., 2020; Cotter & Savage, 2019; Savage, 2021). These same groups report the lowest levels of confidence in the police (Ibrahim, 2020). These systemic inequities pose considerable challenges for effective criminal justice policy and warrant continuing research into the diverse needs of victims of crime.

Victims' Rights and Policy

Sparked by an interest among criminologists in the social and emotional experiences of the victims of crime, the field of **victimology** was developed to better understand the processes and effects of victimization. This area of study is also associated with strong activism for victims' rights and support services, including advocacy for more meaningful involvement of victim perspectives throughout the various stages of the criminal justice system. Advancements in this field of study have led to an increased awareness among criminal justice scholars and agents of the importance of supporting victims through the various stages of a criminal prosecution and advocating for their place within these processes. This includes understanding the experiences victims have with and after crime, but researchers also examine the factors that may influence who becomes a victim or how victims are chosen by offenders.

The emergence of a victims' rights movement in Canadian criminal justice history was a response to a global interest in the experiences of victims of crime. In 1979, the World Society of Victimology was formed to provide a forum for researchers, policy-makers, and service providers to pursue their common interests and exchange knowledge. It began to use its combined knowledge to influence the United Nations, and in 1985 the UN General Assembly adopted a resolution on the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*. The resolution committed every government in the world to a transformational shift in the manner in which the criminal justice system operated, requiring that there be a recognition that crime impacts victims and families and not just the state. Further, governments were called on to recognize that victims are also subject to abuses of power by agents of the state and its criminal justice agencies, including police and correctional services.

In 1988, the Canadian Parliament passed Bill C-89, which gave victims various rights, including the right to file a **victim impact statement** or speak to the court during a sentencing hearing. Ongoing victims' rights advocacy and research have resulted in several other amendments to the *Criminal Code*, making it possible for impact statements to be admitted during sentencing, for judges to order restitution for victims or publication bans to protect their identities, and for victims to attend parole hearings (Puddister, 2021). In 2015, the *Canadian Victims Bill of Rights* (CVBR) was enacted that established four fundamental rights for victims of crime that must be considered during each step of the criminal justice system: (1) information, (2) protection, (3) participation, and (4) restitution (see Figure 1.6).




victimology

a sub-area of criminological inquiry that includes an awareness of the rights of victims, the importance of their voice in all stages of the criminal justice process, and activism to support the rights of those impacted by crime

victim impact statement

a written statement prepared by a victim of a crime that details the physical, emotional, social, psychological, and sometimes financial impact that the offence has had on the individual's life; the statement is considered at the offender's sentencing hearing and may be delivered orally by the victim or someone else

FIGURE 1.6 Canadian Victims Bill of Rights Act

CRIMINAL JUSTICE CONTINUUM				
	Investigation 	Trial 	Sentencing 	Federal Corrections and Conditional Release
Victim Rights	<p>Right to information about the status and outcome of the investigation of the alleged offence, location of proceedings, and available services.</p>	<p>Right to information about the location and time of the proceedings and outcome.</p>	<p>Right to information on reviews while NCR/UST* offender is subject to Review Board hearings and about the location and timing of sentencing hearings and their outcome.</p>	<p>Right to information about the date, destination, and conditions attached to an offender's release under the Corrections and Conditional Release Act (CCRA) and about available programs and services, including Restorative Justice programs.</p>
	<p>Right to protection by having their security and privacy considered during the investigation.</p>	<p>Right to protection by having their security and privacy considered; to have reasonable and necessary measures taken to protect them from retaliation and intimidation; to request that their identity be protected; and to request testimonial aids.</p>	<p>Right to protection by having their security considered at sentencing.</p>	<p>Right to protection by having their security considered and to have reasonable and necessary measures taken to protect them from retaliation and intimidation.</p>
	<p>Right to participation by conveying their views when decisions are made by authorities that affect their rights under the Act, and to have those views considered.</p>	<p>Right to participation by conveying their views when decisions are made by authorities that affect their rights under the Act, and to have those views considered.</p>	<p>Right to participation by conveying their views when decisions are made that affect their rights under the Act, and to have those views considered as well as to present victim impact statements.</p>	<p>Right to participation by conveying their views when decisions are made that affect their rights under the Act, for example, at a parole hearing, and to have those views considered.</p>
	<p>Remedy: Victims who feel that their rights have been breached by a federal department, agency, or body can file a complaint through its complaints process.</p>	<p>Remedy: Victims who feel that their rights have been breached by a federal department, agency, or body can file a complaint through its complaints process.</p>	<p>Right to restitution by having the courts consider a restitution order in all cases and have it entered as an enforceable judgment in Civil Court.</p> <p>Remedy: Victims who feel that their rights have been breached by a federal department, agency, or body can file a complaint through its complaints process.</p>	<p>Remedy: Victims who feel that their rights have been breached by a federal department, agency, or body can file a complaint through its complaints process.</p>

* NCR: Not Criminally Responsible; UST: Unfit to Stand Trial

The victims' rights movement has changed the victim's role in the criminal justice system in a number of ways, moving the victim of a crime beyond the role of observer or mere witness to that of a participant in the criminal process. The extent of this participation, however, remains a matter of debate within criminal justice research. Some legal researchers have warned that victims' rights advancements that equate respect for victims with harsher sentences may result in unjustly punitive sentencing regimes (Janzen, 2021). Others have noted that the reliance on victims to provide evidence of harm is burdensome and could aggravate the problem in sexual assault cases, for example, of judges relying on myths and stereotypes of the "ideal victim" as one that has suffered physical injuries and can show signs of resistance (Ruparelia, 2012). Other victims' rights advocates and researchers have called attention to the remaining gaps in victim services. In its five-year review of the CVBR, the Office of the Federal Ombudsman for Victims of Crime found that implementation of the CVBR had been "sporadic and inconsistent" and called on governments to increase the Bill's enforceability in order to empower victims of crime and increase public confidence in the criminal justice system (Ombudsman, 2021).

Who Are the "Criminals"?

By definition, a criminal is anyone who has been convicted of a crime. Contrary to the popular image of the criminal behind bars, of the many individuals who come in contact with Canada's criminal justice system, the smallest group are those convicted and sentenced to a term in prison. There is far more crime than the number of sentences served would suggest. This is because, as cases move through the criminal justice system, various factors affect whether they will continue to the next stage. One of the most important is human discretion and decision-making. After a person commits a crime, the crime must be reported and investigated before an arrest (if any) can be made. The arrest, as you will learn throughout the course of this book, represents only the beginning of a criminal prosecution. Many decisions by police, lawyers, probation officers, judges, and juries will affect whether a conviction for the crime will occur and, after conviction, what type of sentence will be imposed. Many cases, however, are dropped from the system long before they reach the sentencing phase, let alone a sentence of incarceration. This funnelling process is known as **attrition** and is estimated in recent Statistics Canada data to be about 4 percent, meaning that if 100 crimes were reported to police over the year (which would be very low!), only four of them would result in a sentence of imprisonment.

attrition

the filtering process that reduces the number of criminal cases as they move through the various stages of the criminal justice system

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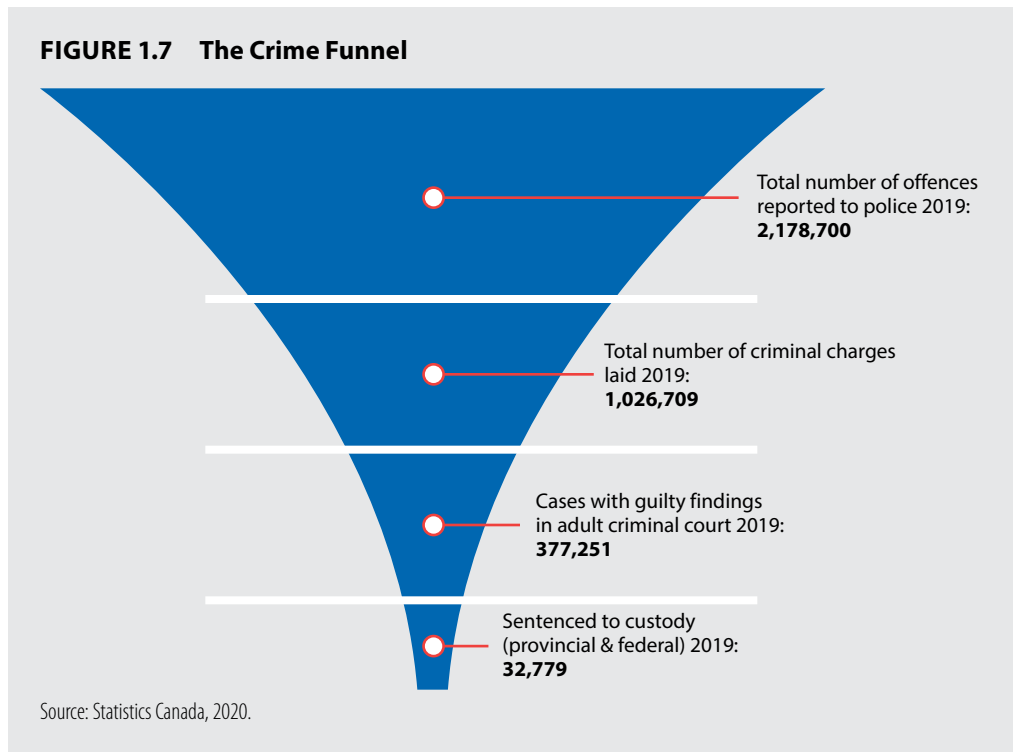
The Crime Funnel

The crime funnel, also known as attrition, refers to the reduction of cases as they make their way through the various parts of the criminal justice system. This leaves a small percentage of the total number of cases investigated by police resulting in conviction and even fewer that end in a custodial sentence. There are several key points within this funnelling process where attrition is greatest:

- The victim's decision to report the crime to police.
- The police investigation and decision-making process with respect to whether the allegation is credible or supported by sufficient evidence (i.e., "founded").
- Discussions between police and Crown prosecutors and their joint discretion to lay a charge.
- The criminal prosecution of an accused, including any pre-trial and trial procedures that can affect whether a case goes forward.
- The judge or jury's decision in reaching a guilty verdict or the entering of a plea from the accused.
- The determination of an appropriate sentence.

The number of cases decreases at each of these attrition points.

Figure 1.7 illustrates the attrition process for the year 2019. Although nearly 2.2 million crimes were reported to police in Canada that year, criminal charges were laid in less than half of the cases (1,026,709). Of these cases, only 377,251 (or 37 percent) resulted in a finding of guilt (including both conviction and guilty pleas), with fewer than 9 percent (32,779) of those resulting in a custodial sentence. In more than 68 percent (600,783) of cases where criminal charges were laid, the charges were stayed or withdrawn (Statistics Canada, 2020).



There are several decision points where members of the formal criminal justice system are relied on to make choices that will impact the flow of cases through the system. Some of these decision points are identified in the Crime Funnel Sidebar above.

As you will read throughout the chapters in this text, the police officer has discretion in terms of arrest, laying a charge, or diverting the individual to alternative measures that are sanctioned by the state. At this point of the funnel, some cases can be referred to community services and supports that are seen as better alternatives to trial. For those cases that proceed through the funnel, decisions and arguments made by lawyers for the Crown and the defence will further affect which cases stay in the system and which drop out. As you will learn in the criminal law and procedure chapters (Chapters 5 and 6), case outcomes depend on legal arguments that either support the charge as laid or negate it based on case law precedent (judge-made law) or legislation, such as the *Criminal Code* and the *Canadian Charter of Rights and Freedoms*. Assuming that the case progresses to court and the individual is found guilty, another decision point is made with respect to the appropriate sentence for the offender, as well as which institutional setting and programs are most suitable. Further points of attrition follow the offender throughout the incarceration and reintegration stages, including key outcomes with respect to parole and probation. You will be asked to think critically about these decision points through Case Studies and Mini Case Studies throughout this text.

SIDEBAR

Penology: Considering Harm Inflicted on Others

As a student of criminal justice studies, it will be important to use your critical thinking skills when it comes to decisions that might bring harm to another individual. Sanchez et al. (2020) argue that criminal justice students should be provided with an opportunity to look at the humanistic side of the individuals who come before the courts to be sentenced. **Penology** is the multidisciplinary study of the justifications of penalties and social sanctions that seek to understand broader questions concerning who we punish, for what offence, when, and why. The penologist seeks to understand the deployment of penalties within their social, historical, economic, and political contexts and is concerned with the practices, laws, and procedures that shape punishment and its effectiveness. Many students of criminal justice studies seek employment working in the field of corrections either in provincial detention or correctional centres, federal penitentiaries, or community-based agencies working with offenders post-release. A critical understanding of the myriad issues that the offender has faced is a helpful consideration when examining the reasons that have brought the person before the court. In a survey of criminal justice students who had completed an in-course exercise designed to reflect on the types of behaviours that may lead a person into the criminal justice system, the researchers found that the reflections helped students to recognize their privilege and be less judgmental and more empathetic toward criminals (Sanchez et al., 2020). One student remarked: “It was extremely effective in opening my eyes to the fact that anyone and everyone is a criminal. Before we started the exercise, I was very arrogant in my confidence that I would not be a criminal” (p. 275). In terms of empathy, another student had this to say: “I feel for the situations they may be placed in that lead to a life of crime. I was thinking about people I see in mugshots on the news, and they look like they have had a hard life. It got me thinking, what would I be like if I grew up facing things I never did? My life is privileged because I never dealt with poverty, drugs, or abuse. My dad is a lawyer, and my mom stayed home with us. I never had to worry ... I need always to consider people’s situations before I judge them” (p. 276).

In addition to considering what brought the offender into the system, the handing out of punishment through sanctions that will lead to more harm being inflicted on the individual also requires critical thinking and consideration of the impact of the sanction on the individual, but also on the wider community when that individual’s sentence is completed. Throughout this text, you will often consider the issue of risk to reoffend (**recidivism**) and the manner in which a criminal might be encouraged to adopt a more pro-social lifestyle. This can be a difficult transition for a lot of individuals within the criminal justice system. There are many conditions placed on an offender who is being released into the community either on probation, early release, on a temporary absence pass, or parole. Some of these conditions can make it very difficult for offenders to be successful.

Nugent and Schinkel (2016) report that professionals who work with offenders returning to the community after incarceration are recognizing these “pains of desistance” and provide programming that assists their effective reintegration. In order to prepare criminal justice students for work in the field, they recommend that criminal justice courses cover the literature on desistance. Nixon (2020) encourages her criminal justice students to reflect on the stereotypes that often surround offenders and offers students an opportunity to hear from and consider the narratives of those who have desisted from crime. Desistance is contingent upon relationships with others and, as such, criminal justice practitioners who recognize the offenders’ potential and help them build on their existing strengths will better assist offenders in leading more pro-social lives after leaving prison. The humanizing impact of looking at desistance as another framework beyond rehabilitation and punishment is a helpful strategy for criminal justice students to consider.

Critical Thinking Questions:

1. What are your views on crime, criminality, and criminals? Do you have an “us and them” focus? Do you see yourself “judging” people for their actions or for their lifestyle? What role do other structural factors, such as poverty, adversity, or mental health challenges, play in these considerations? How might you encourage an offender to desist from crime? Do you see the difference between rehabilitation and desistance?
2. Think back to the offender in Case Study 1. What “pains of desistance” did she have? What programs or services would you recommend in her case?

penology

the study of punishment and social sanctions, including the laws, practices, and beliefs about who, how, and why societies punish

recidivism

relapsing into criminal behaviour after treatment and/or sentencing within the criminal justice system; most simply, it can be thought of as “reoffending”

Recall the “You Be the Judge” case study at the beginning of the text. Did you consider factors that lead a person into the criminal justice system? As you read other cases in this book, remember to explore them in a manner that reflects a consideration of the individuals involved from a humanistic perspective.

polyvictimization
the experience of multiple forms of victimization, such as physical and sexual abuse, emotional neglect, and exposure to family violence; it also includes repeated victimization that has compounding and lasting effects on the individual’s life and health

trauma-informed
considers the impact of trauma on an individual, in order to be sensitive to long-term effects and triggers to previous experiences long after the trauma

The crime funnel serves as a good example of what the study of criminal justice is like. We often begin with broad-based concerns or topics but must narrow them in order to reach a fuller understanding and make any change. This is particularly the case when what some criminologists refer to as the “social context” of crime is considered. This perspective views the social conditions in which crime takes place (e.g., the existence of inequality or discrimination) as central to understanding how crime is treated by the criminal justice system, including how crime and criminals are defined.

SIDEBAR

Offenders as Victims and the Impact of Trauma

It may surprise you to find out that many of the individuals who enter the criminal justice system have also been victims of crime. Victimization in childhood is strongly linked to later criminal conduct. **Polyvictimization**, the experience of multiple forms of victimization (as well as repeated victimization), has been shown to have compounding effects on future criminal behaviour (Farrell & Zimmerman, 2017). Similarly, there is a strong likelihood of being revictimized after an initial victimization experience (Pridemore & Berg, 2017).

Compared to the general public, individuals who are incarcerated are more likely to have experienced childhood abuse and subsequent issues stemming from the abuse in the form of mental health problems, behavioural disorders, and repeated victimization experiences before and during their incarceration (Meade et al., 2020). Felitti et al. (1998) identified ten adverse childhood experiences (or ACEs) that, when present, led to long-term health consequences for the individual. The ten ACEs are: maltreatment (physical, sexual, and emotional abuse, and physical and emotional neglect) and household dysfunction (parental separation/divorce, domestic violence, mental illness, substance abuse, and incarceration). The experience of one or two ACEs is related to three times the likelihood of adults requiring anti-depressants; experience of three ACEs has shown a 60 percent increase in autoimmune disorders; with four ACEs, individuals are seven times more likely to go to prison and have substance abuse problems; and those with six or more ACEs have shortened lifespans of up to 20 years (Asmundson & Afifi, 2020; Hughes et al., 2017). Studies have shown that incarcerated men on average have five or more ACEs, while incarcerated women report seven. While it is clear that ACEs are traumatic events, trauma refers to the experience of negative events and the individual’s response to those events. In a study looking at trauma in 24 countries, Benjet et al. (2016) reported that just over 74 percent of individuals surveyed had experienced at least one traumatic event, with 76 percent of the Canadian sample reporting trauma. The focus on trauma has become mainstream, with many conversations across social media platforms talking about the importance of safe spaces and a trauma-informed approach. In fact, in 2021, Oprah Winfrey partnered with a well-known psychiatrist, Dr. Bruce Perry, to co-author a book titled *What Happened to You? Conversations on Trauma, Resilience and Healing*, which has been widely discussed on talk shows and other communication platforms.

Recognizing the pervasiveness of trauma and its impact in terms of post-traumatic stress disorder and other negative health outcomes, there has been a trend over the past decade to work on creating **trauma-informed** practices to help create safe spaces in service delivery systems. These practices aim to prevent further harm to those who have already experienced complex trauma. More recently, the recognition of the intersectional impact of systemic and structural inequities on interpersonal violence throughout a person’s life has led to the creation of trauma- and violence-informed care (TVIC) (Wathen et al., 2021). This acknowledgment of historical trauma as well as ongoing violence and the traumatic effects it has on individuals allows for an awareness of the psychological distress and ongoing impact that social circumstances and life history have on people requiring care.

Throughout the text there will be examples provided that talk about intergenerational violence and other forms of traumatic events that have affected an individual’s life. It will be important to consider the “trauma-informed lens” when making decisions about the case studies provided throughout the text. The trauma-informed lens considers the supports that might be necessary for someone impacted by ACEs and other traumatic events to speak, respond, or even move comfortably through

a space. Such supports and approaches are being developed in many criminal justice fields, creating trauma-informed lawyers, trauma-informed police, and trauma-informed corrections.

Could You Identify the Criminals in Canada Today?

As some of the studies discussed in this chapter have argued, it is important to think critically about how crime rates and statistics about Canada's criminal population are both calculated and understood. Critical thinking involves asking questions about who is being "counted" as a criminal and at what point in the crime funnel offenders are situated. Identifying who is a criminal is not always as simple as it seems. Canada's *Charter of Rights and Freedoms* provides everyone with the right to be presumed innocent until proven guilty. Although the term *criminal* brings to mind an image of a person behind bars, in Canada, there are more innocent people sitting in jail cells than guilty ones due to the high number of people who are denied bail while awaiting trial, also known as **remand**. In 2020, the remand population amounted to nearly two-thirds (65 percent) of all adults incarcerated in provincial and territorial facilities (Statistics Canada, 2020). This means that most people who are "behind bars" in Canada have not yet been convicted of a crime. Although later chapters in this book will explore pre-trial detention in further depth, the remand population serves as a good example of how important it is to inform our opinions about crime and criminals with research and evidence.

If a quick glance into a Canadian jail is not a reliable way of identifying criminal offenders, who *are* the people most often associated with criminal behaviour? John Hagan (2010) asks this very question in his book *Who Are the Criminals?*, noting that the answer is largely a matter of politics. Elected leaders "advocate and implement definitions of crime and causal arguments to suit ideological preferences, placate fears, and serve electoral needs" (Hagan, p. 3). Critical criminologists have long argued that laws protect the interests of the world's wealthy by defining crime in ways that target society's poor while avoiding the criminalization of corporate, or "white-collar" activities. This view is well summed up in the title of Jeffrey Reiman's classic book, *The Rich Get Richer and the Poor Get Prison* (1979). Hagan's historical analysis of US crime policy drew attention to this differential targeting of criminal activity, noting a lax approach to what he refers to as "suite crime" (or white-collar crime) and a harsh approach to street crime (e.g., common assault, break-and-enters). This point illustrates that, in addition to how crime is defined, the ways in which crime is addressed within the criminal justice system are also subject to multiple forms of bias and discrimination, where some groups experience privileged treatment at the expense of others. Sadly, the observations made by Reiman almost half a century ago remain true:

For the same criminal behavior, the poor are more likely to be arrested; if arrested, they are more likely to be charged; if charged, more likely to be convicted; if convicted, more likely to be sentenced to prison; and if sentenced, more likely to be given longer prison terms than members of the middle and upper classes. (1979, p. 112)

Research conducted on the various points of attrition in the US system of justice through the decades since Reimer's observation has shown that male and Black offenders are more likely to be arrested, convicted, and face sentences of imprisonment than any other type of offender, "leading to a [prison] population that becomes less representative of the total offender population throughout the crime funnel" (Charette & van Koppen, 2016). The same is certainly true in Canadian prisons, where the overrepresentation of BIPOC individuals is striking when contrasted with the Canadian population at large. In 2020, the Office of the Correctional Investigator (OCI) announced that the number of Indigenous people in federal custody had reached "historic highs," surpassing 30 percent of the total federal inmate population, despite representing only 5 percent of Canada's general population. Among women's institutions, the level of overrepresentation is much higher, with Indigenous women making up 42 percent of all feder-

See Chapters 5 and 6 for further discussion about bail hearings, the remand population, and an accused's Charter right to be tried within a reasonable time.

remand

the holding of an accused in custody while the person waits for trial or sentencing (as opposed to being granted bail, which would allow the individual to live in the community while awaiting trial)

ally sentenced female offenders (OCI, 2020). An investigative report released by the *Globe and Mail* in 2020 also found significant racial disparity in the outcomes of risk assessment measures used to make decisions about offender admission and release. The study found that Black men were 24 percent more likely to end up with the worse scores, resulting in maximum security classifications, fewer programming opportunities, and longer periods behind bars (Cardoso, 2020). The study also found that Indigenous men were 30 percent more likely than white offenders to receive the worst possible “reintegration potential” score, thus disadvantaging them for parole. Critics of these assessment tools argue that they are susceptible to discriminatory use because of inherent biases within the criminal justice system. The tools are not assessing an offender’s dangerousness but rather the likelihood that they will be arrested again—an exercise that some critics have argued is about predicting policing and not predicting crime (Harcourt, 2007). These and other structural issues of racism within the criminal justice system are explored in Chapters 12 and 13 of this text. Discussions around risk assessment will be covered in Chapter 8.

SIDEBAR

White-Collar Crime

“White-collar crime” is a term that was coined by sociologist Edwin Sutherland in 1939 to refer to the illegal, fraudulent, and sometimes negligent activities of corporate executives, business personnel, and other persons of high social status that are committed for the purposes of financial gain. These crimes are typically committed during the course of one’s employment, and, while not considered directly violent, they can have violent consequences, as was the case with the 2018 Camp Fire in Northern California, which claimed the lives of 84 people when it swept through and destroyed the small community of Paradise and several other foothill towns in Butte County. Investigators determined the fire had been started when a power transmission line broke from “a nearly 100-year-old tower” that the Pacific Gas & Electric (PG&E) company had repeatedly failed to properly maintain and inspect (Penn & Eavis, 2020). In an unprecedented admission of corporate wrongdoing, the CEO of PG&E, Bill Johnson, pleaded guilty on June 16, 2020, to 84 counts of involuntary manslaughter, officially becoming the deadliest corporate criminal in US history. What’s worse is that this was not PG&E’s first offence. In 2016, the company was convicted of safety violations and obstruction of justice in relation to a pipeline explosion that killed eight people in San Bruno, California. And in 1997, PG&E pleaded guilty to 739 counts of criminal negligence after its failure to trim trees along its power lines sparked a wildfire in the Sierra Nevada that destroyed more than 150 homes (Sandler, 2021).

One of the district judges in the Camp Fire case remarked that the company’s “oversights were so egregious that if PG&E had been an actual person, it would have faced the maximum sentence of ninety years in state prison” (Johnson, 2020, p. 328). Instead, it was fined \$3.5 million in a plea agreement that survivors of the fire have described as a “slap on the wrist” (Penn & Eavis, 2020). One victim, whose mother burned to death in her truck trying to escape the fire, expressed his frustration in his victim impact statement, noting:

They have put profits over people year after year and the state of California just keeps letting it happen. The company’s acceptance of guilt is inconsequential if the appropriate safety measures are not enacted to prevent the future loss of life and property. (Penn & Eavis, 2020)

Critical Thinking Questions:

1. Should corporate criminals be punished differently than individual offenders? Is one more deserving of blame than the other? Why or why not?
2. Consider the following two scenarios that were used in a 2021 study about perceptions of blame toward government officials and business executives in corporate crime cases.

Scenario 1:

A space shuttle breaks apart 73 seconds into its flight, killing all seven crew members. The breakup was caused by the failure of seals that were not designed to handle unusually cold temperatures. An

investigation reveals that NASA and the company contracted to build the shuttle knew that the design contained a potentially catastrophic flaw. Yet, pressured by budget cuts and with deadlines to meet, NASA managers and the company's executives decided to overlook warnings from engineers about the dangers of launching on a cold day.

Scenario 2:

A fire in a chicken processing plant claims the lives of 25 workers. The fire was caused by a failure in a hydraulic line. An investigation discovers a number of safety violations by the plant's owner, including poorly marked or blocked emergency exits to prevent employee theft of chicken and to keep flies out of the factory. Yet, because of staff reductions among health and safety inspectors, the plant has not received one single inspection in 11 years of operation. Further, some inspectors knew of the safety hazards but failed to report them.

When asked who was most responsible for the tragedies described above, study participants overwhelmingly (78.8 percent in Scenario 1 and 60.6 percent in Scenario 2) answered that the blame should be *shared* by both government and corporate actors in each of the scenarios (Michel, 2021).

Do you agree? What do you think this study's findings can tell us about how corporate crime should be addressed?

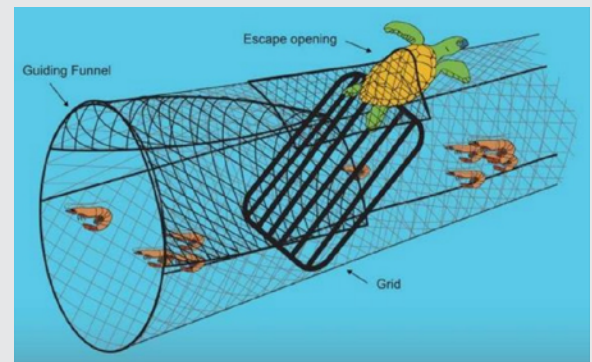
Note: It may surprise you to learn that both of these scenarios are, sadly, based on real-life events. Scenario 1 details the destruction of the 1986 Challenger space shuttle, and Scenario 2 summarizes the 1991 chicken plant fire in Hamlet, North Carolina.

Crime Funnel or Crime Net?

Critiques like Reimen's present the possibility of a different perspective on the crime funnel. You will recall that the crime funnel suggests that only some criminal behaviour comes to the attention of the police and the courts, and that a great number of cases are dealt with outside the formal criminal justice system. Some cases manage to "escape" the system rather than proceed through the funnel.

Another way of discussing this phenomenon is what some criminologists refer to as the "crime net." Contrary to the crime-funnel approach, the crime-net model compares policing to fishing, where the type of "net" that police use when deciding where to go and what criminal to catch plays a significant role in who and what gets caught. Key to this approach is the idea that not all people who commit offences are caught, and even fewer are selected for prosecution. Although the crime funnel also includes this narrowing of cases, the crime-net model explains some of this attrition by pointing to systemic or built-in explanations for the case exclusions. An innovative technique in marine conservation efforts known as the Turtle Excluder Device or "TED" provides a useful example (see Figure 1.8). Picture the wide but finely meshed trawling nets used by shrimping boats. The nets are widely cast and pulled along the sea floor, picking up fish and marine life of all sizes, including tens of thousands of sea turtles that get caught in the nets each year and drown (World Wildlife Fund, 2016). The TED is a built-in "escape hatch" for turtles and other larger fish, directing the shrimp toward the back of the net through a grid that large fish cannot enter. While saving sea turtles is certainly a good thing for marine conservation, this analogy illustrates how "big fish" in the crime world may be able to get away from the net that police use because of the way it is designed, including whom it is aiming to catch, and who falls outside their interest.

FIGURE 1.8 Turtle Exclusion Device (TED)



Source: NOAA.

Social structural approaches to crime like the crime-net model draw attention to the over-representation of marginalized members of society in prison, while rich and powerful members committing equally heinous offences seem to “swim away.” Defining some activities and not others as crimes results in different types of criminals. The regulation of employment safety standards or the determination of the maximum number of hours in a working day, for example, hardly seems related to criminal justice; however, the exploitation of workers and their impoverished socio-economic conditions has resulted in far more deaths than all of the world’s serial killers put together. The Union Carbide disaster in Bhopal, India in 1984 is a sad but effective example. Considered the world’s worst industrial catastrophe, the plant’s unsafe working conditions resulted in a gas leak that killed an estimated 25,000 people, severely injuring and deforming more than 550,000 others. No time in prison has been served by anyone in relation to this incident, and studies continue to investigate death rates and long-term health effects among people living near the disaster site today (Banerjee et al., 2020; Eckerman & Børsen, 2018).

The Union Carbide disaster demonstrates how definitions of crime, perceptions about who is a criminal, and opinions about how to address criminal activity depend on an individual’s ideological perspective. For instance, attrition in the criminal justice system might be viewed as a “loss” or a “gain,” just as crime rates can be understood to be “high” or “low,” depending on what activities are considered criminal. Thinking through your own ideological perspective (as well as those of others) is key for critical criminal justice analysis. The same is true when you are considering how best to intervene in the lives of those who come in conflict with the law. Given the difficulty of understanding how much crime there is in society and who should “count” as a criminal, it seems predictable that it will be difficult to agree upon the best way to deal with those individuals who formally enter the criminal justice system. Ongoing debate surrounds whether it is better to treat the underlying individual and social factors that lead to crime or to make offenders pay for their crimes through punishment, **denunciation**, and **retribution**. The policies and practices related to sentencing, **deterrence**, **reintegration**, recidivism, and desistance will be explored in many of the chapters that follow.

denunciation

the philosophy that sanctions that meet with considerable disapproval are the most effective

retribution

a theory of punishment that is based on delivering proportional suffering to offenders for the harm their crimes has caused, sometimes summed up with the expression “an eye for an eye”

deterrence

the philosophy that if the threat of punishment is perceived as both severe enough and likely to occur, it will outweigh the perceived benefit to the individual of committing the crime

reintegration

the process of returning offenders back to the community through supports to allow them to be law-abiding citizens

What Works? The Debate About Crime Control Versus Rehabilitation

Over the years, the pendulum in Canada has swung from left to right in terms of criminal justice policy for those who come in conflict with the law. At the height of the rehabilitative era, when the focus was on individualized treatment, the federal government focused its budget on assessment, treatment, and rehabilitation. Some critics of this approach argued that rehabilitation did not reduce recidivism; this position was reinforced by the release of a widely read article, “What Works? Questions and Answers About Prison Reform” by Robert Martinson (1974), which in essence argued that when it comes to addressing crime in the prison system, “nothing works.” Martinson (1979) himself later clarified this position, stating that it was not the specific treatment programs designed for rehabilitating offenders that had the greatest predictive effect on recidivism, but rather the *conditions* under which these programs were delivered (p. 254).

We do know that there is a need to ensure effective practices in determining which offenders should be placed in more onerous conditions through effective risk assessment. We have the greatest success when we follow what Gendreau et al. (1996) refer to as the “What works” paradigm. While the use of standardized risk-needs-responsivity screening tools (discussed in Chapter 8) is now a fairly common practice, there are still unanswered questions about the most effective placement for individuals who are at medium to high risk of reoffending.

The empirical evidence demonstrates that placing low-risk, low-need offenders in intensive “rehabilitation” programs can do more harm than good. Such intensive treatments should be reserved for those offenders who pose serious threats to the larger society. This finding has led

some criminologists to propose that doing nothing at all (also known as radical non-intervention) is sometimes a more effective way of rehabilitating offenders and reducing crime than relying on the machinery of the criminal justice system. According to this argument, the more intervention and labelling of offenders who are at a low risk to reoffend, the more likely it is that the net of social control will be widened. Rather than having fewer offenders within the system, the criminal justice processing and subsequent labelling of those who are at a low risk to reoffend serve to increase the number of offenders coming into the system. You will learn in Chapter 11 that diverting young people out of the criminal justice system has dramatically reduced the number of young people who are serving a sentence in custody. Prior to the enactment of the *Youth Criminal Justice Act* in 2003, Canada had the dubious distinction of having the highest youth incarceration rate in the world. With the new legislation, which focuses on keeping low-risk offenders out of the system entirely through police cautions and warnings and diverting other low-risk offenders to community programs, the number of youth in custody has been dramatically reduced. There was a time in the summer of 2021 when there were no youth in custody for the whole province of New Brunswick!

There have been considerable strides made in the evidence-based practice literature, and assessment, treatment, and intervention programs are improved when they are based on the best evidence available (Taxman, 2018). However, there are still some unanswered questions related to how the criminal justice system should respond to crime. As pointed out earlier, many of the ideological preferences of key political leaders have a strong influence on the types of criminal justice policy that is supported. The next section will explore some theoretical models that are useful in understanding criminal justice policy and its underlying ideologies.

The Ideology of Criminal Justice: Theoretical Models

Earlier in this chapter we defined the term “ideology” and spoke about the importance of understanding the values that drive the development and explanation of criminal justice. Political belief systems serve as basic foundations for both law and its reform. Law is the basis for our criminal justice system, and therefore criminal justice operations cannot be understood without examining the role that ideology plays in writing and implementing the legislation and policies that shape our system of justice. Criminologists have long argued that criminal justice policy is influenced by public opinion, which is often misinformed and shaped by stereotypes of criminals rather than an understanding of the underlying causes of crime and the immediate situations that bring it about. In order to debunk and move beyond these myths, it is important to have some way of bringing together a framework to understand the various competing belief systems that affect how the criminal justice system operates.

One of the most influential models was developed by Herbert Packer (1964), which offered a systematic way to conceptualize the influence of ideology on criminal justice systems. He referred to criminal justice as a paradox, characterized by a gulf between how police, courts, and corrections *ought* to behave and how they actually behave in practice. Packer identified two main models of criminal justice (*crime control* and the *welfare model*) that fall on either side of this gulf. They have commonly been referred to as the “punishment–treatment dichotomy,” and they represent the two opposing positions on how the system should respond to crime and offenders.

Crime control is on the punishment side of the continuum. This model is largely concerned with assuring the public that crime will not be tolerated and that, once it has been discovered, it will be severely punished.

The *welfare model* sits on the other side of the spectrum and is focused on treatment. It stresses the importance of looking after the needs of the offender in order to ensure that the individual’s problems are addressed so that more crime will not occur in the future.

rehabilitation

the treatment of offenders in order to prevent future criminal activity; a planned intervention that targets some aspect about the offender that is thought to cause the offender's criminality (e.g., attitude, cognitive processes, social relationships, and employment)

The crime-control model is based on the philosophy of deterrence, while the welfare model is based on the tenets of **rehabilitation**, emphasizing a more medical model of treatment. Deterrence is a philosophical approach to crime that focuses on what forms of punishment are necessary to prevent crime from happening. It has two forms: specific and general. Specific deterrence seeks to punish the individual offender just enough that it acts as a disincentive to the offender for committing any future crimes. The assumption is that the offender will have learned the consequences of crime and will choose not to suffer them again. General deterrence, on the other hand, is about punishing offenders severely enough that the population at large views crime as undesirable and therefore chooses not to commit it. This approach aims to make an example of the offender, teaching everyone else the consequences of crime.

Additions to Packer's two models have been developed by criminal justice researchers over the years. A variation on the crime-control model emerged in the 1970s that adds a measure of accountability for human fallibility. Known as the *justice model*, it focuses on the protection of society through deterrence principles but also acknowledges the possibility for human errors in how the system operates. The justice model focuses on making sure that punishments are severe enough to deter crime but also that they are applied equally and fairly to everyone. This is an approach that is focused on the crime and not the individual who commits it, arguing that the criminal justice system should not apply differential treatment in any circumstances. Not surprisingly, the justice model is a strong proponent of mandatory minimum sentences (discussed in further detail in Chapter 7).

Variations to the treatment model of intervention have emerged from a great deal of work by criminologists about the strong positive correlation between poverty and crime (Daly et al., 2001; Tuttle, 2021). This has led many researchers to point out the need to consider the impact of external socio-demographic factors, known as the **root causes of crime**. The *community-change model* focuses on these root causes to identify how lack of access to resources and the disadvantages experienced by some members of society create the underlying factors that lead to crime. The community-change model believes that all members of the community have a responsibility for the ongoing prevention and rehabilitation of individuals who come in conflict with the law (Reid & Bromwich, 2019).

root causes of crime

social factors in our societies, cultures (family values), economy, and systems that are more likely to lead an individual to commit crime; examples include peer influence, poverty, unemployment, poor neighbourhoods, and poor literacy

The fifth model of criminal justice discussed in this book, **restorative justice**, is based on some of the tenets of the community-change model. Restorative justice is a model that fits within the treatment approach to crime, emphasizing the importance of healing those relationships that have been broken by conflict and crime. Viewed through this lens, crime is understood as a violation of people and their relationships, and a disruption of the peace of the community rather than an offence or injury suffered solely by the victim. Restorative justice encourages the participation of victims, offenders, and members of the community in finding solutions that will achieve reconciliation and restore harmony. This approach also recognizes that sometimes the use of measures outside the criminal justice system (e.g., victim-offender mediation, circle sentencing) can offer the best response to the crime. The restorative-justice approach focuses on the importance of engaging the community in a meaningful dialogue about what the most suitable way of repairing the harm done might be. This model aims to involve all those affected by the crime in its solution, working toward a mutually beneficial resolution for the victim and offender that will ensure that the offender understands how their behaviour has affected others (Reid & Bromwich, 2019).

restorative justice

a system of addressing conflict that acknowledges the injury suffered during the commission of a crime and strives to repair that injury through reconciling the offender with the victim and their community

A comparison of the approach of each of these models is found in Table 1.1.

TABLE 1.1 A Comparison of Theoretical Models

	Restorative Justice	Community Change	Welfare	Justice	Crime Control
Main tenet	When a crime is committed, it has an impact not only on the victim and the offender, but on the wider community as well.	Society is responsible for the promotion of the welfare of its citizens and must work to prevent crime and delinquency.	The treatment needs of the individual offender and their family must be attended to.	Interference with an individual's freedom is limited and procedures for criminal justice matters are based on consent by all parties as much as possible.	It is the responsibility of the state and the courts to maintain order in society.
Crime causation (free will vs. determinism)	All citizens have a role to play in the prevention of crime and repair of the harm done when a crime is committed.	Behaviour is seen as being determined by life consequences (e.g., poverty, lack of opportunity, social structure).	Behaviour is seen as being determined by social/psychological forces.	Freely determined: an individual chooses to commit offences.	Freely determined: an individual chooses to commit offences.
Individual or collective response	Collective: families, victims, and the community are involved to the greatest extent possible in rehabilitation, community safety initiatives, and holding offenders accountable.	Focus is on collective society rather than on the individual offender as being responsible for criminal conduct.	Individual: focus is on criminal conduct as being part of other social events affecting the individual, who needs rehabilitation and/or treatment (family dysfunction, alcohol/substance abuse, victim of family violence).	Individual: focus is on the repression of crime, but with a recognition that there is a high probability of error in informal fact finding (i.e., legal safeguards are needed to protect individual liberty and rights).	Collective: repression of criminal conduct through punishment, denunciation, and individual and general deterrence.
Criminal justice response	The individual is required to face the personal harm that their offending behaviour has done to the victim and the wider community; restitution, victim-offender mediation, and community service form part of the restoration of the victim, the offender, and the community.	Focus is on changing social processes that lead persons to engage in criminal conduct and to improve the quality of life for all citizens.	Focus is on evaluation of the whole individual and their life circumstances; the person is brought to court to be aided and assisted.	Focus is on formal adversarial system of justice; key is the protection of rights for the public and accused, legal safeguards, due process rights (e.g., right to a lawyer, right to appeal, and right to legal representation at all stages of proceedings).	Focus is on a screening process that diverts the innocent out of the courts (i.e., only the guilty go to court); no need for legal safeguards.

Source: Reid and Zuker (2005).

What Do You Think?

How do you think the case study that opened this book might fit within these theoretical models? When considering the facts of an actual case, it's possible to see how criminal justice theory meets criminal justice practice in ways that can complicate the issues. How does the sentence you selected for the offender in the case study fit within the punishment–treatment dichotomy identified by Packer? Did your decision take into account the offender's individual needs? Were these balanced with the public's concern for safety? How did the community's response to crime form part of your underlying reasons for the sentence you reached?

Throughout the remainder of this book, you'll have a number of opportunities to think about these five models of criminal justice and their ideological underpinnings. By including an analysis of the historical development of the structures and processes of the criminal justice system and an examination of the nature of the behaviour of criminals and the legislators, professionals, and others who manage the system, we believe that you will be equipped with the tools to reconsider any of your deeply held assumptions and beliefs about crime, and be open to new ideas and evidence.

Conclusion

As you read the upcoming chapters, it is important to remain inquisitive about what you read, keeping in mind the many different stakeholders within the criminal justice system. Throughout the text there will be a number of places where you can stop and “take a sidebar” and think critically about specific events, theories, or approaches to crime and punishment. Each part in this text opens with a case study, profiling a particular criminal event or case in Canadian history. Some of these may be familiar to you. Perhaps you will read them and immediately form an opinion about the people and events described. Try to take note of these initial thoughts and trace any changes or developments in these first impressions as you read the chapters that follow the case studies. Ideally, we would like you to leave this textbook thinking differently from when you first opened it up. The next time you hear a news story about an arrest or investigation, or about the government's latest “war” on crime or drugs, we hope you will be able to engage in the debate in a more informed fashion, with the perspectives you encountered in this text helping you to form your own criminal justice mind.

IN-CLASS EXERCISE

Understanding the Differences Between Criminology and Criminal Justice

How well do you understand the differences between criminology and criminal justice? Discuss these two related areas of study in small groups and try to identify the key areas of concern or major types of activity found in each field. When you have finished, compare your answers

with those of a neighbouring group. Did you miss any? Do you disagree with anything your colleagues said? What types of research interests or activities did not fit neatly into either area of study? Why do you think this might be?

DISCUSSION QUESTIONS

1. Take a moment to revisit your decision with respect to the case study that opened this book. Which of the five models of criminal justice discussed in this chapter best represents the goals you had when thinking about what sentence to give the offender? Does your sentence reflect more than one of the models? In which ways? Are there any models that clearly do not fit your sentence or that case? Why or why not?
2. Think about the issue of attrition of cases through the criminal justice system. Which analogy—the crime funnel or the crime net—do you think best defines why some people end up in jail while others do not? How might these analogies help explain how corporate crime is handled or the overrepresentation of some groups in Canada’s prison system? Compare your answers with a colleague. What are your major areas of agreement? Where do your assessments differ?
3. Given how much crime is left unreported, how helpful are national crime rates in gaining a picture of what crime occurs in Canada? Do you see value in victimization and self-reported surveys like the GSS? What other methods might help criminologists learn more about the “dark figure of crime”? How does knowing that so much unreported crime exists inform your views on what Canada’s approach to crime prevention should be?
4. What impact do you feel your childhood, adolescence, and emerging adulthood have had on your views about crime and criminal justice? What kinds of strategies will you use to reduce the impact of stereotypes on your understanding of crime? How will you share your new ways of thinking about crime with friends and others who are not so familiar with the criminal justice system?
5. You read about the Bard Prison Initiative where liberal arts education was provided to inmates. (If you have an opportunity, watch the documentary *College Behind Bars*.) Walls to Bridges is a Canadian version of the Inside Out Prison Exchange program in the United States where university students take their classes inside prison. As an undergraduate student, how interested would you be to take one of your courses alongside inmates within a prison?

