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Criminology and the Study of Class, Race, Gender, and Crime

The story of criminology is the story of three revolutions: the revolution of reason, the revolution of science, and the revolution of reflexivity. These classical, positivist, and critical revolutions, respectively, are spaced roughly one hundred years apart, at 1764, 1876, and 1976. Each of these schools of criminology still has its adherents and is expanding its ideas, methods, and research, and each of these schools still has its relevance to the varied practices of, respectively, equal, restorative, and social justice.

These revolutions in criminological thinking or theory may also be thought of as moving from supernatural to naturalistic to scientific to deconstructive (or critical) explanations of crime and justice. For most of early Western history the dominant theory of crime was the "demonic perspective" (Pfohl 1985) that saw crime as sinful behavior or an offense against God (or the gods). People engaged in crime because evil forces either possessed them or they had succumbed to the temptations of evil forces, such as Satan or demons. Crime was thought to be the result of supernatural forces and brutal methods, including torture, were used to discover and to punish those who were possessed or who had surrendered to the devil.

Up until the middle of the eighteenth century, the demonic perspective was dominant and focused on the supernatural. Then it was challenged by a group of individuals who would become known as classical criminologists. Characteristic of the Age of Enlightenment, classical theory argued that crime was the result of natural, observable, or "worldly" forces, such as the absence of swift, certain, and effective punishments. According to the classical perspective, all people were more or less equal, rational, and free-willed; they had self-control and chose to engage or not engage in crime because they were rationally pursuing their own interests, trying to maximize their pleasure and to minimize their pain. The response to

the pursuit of self-interested criminal behavior, therefore, became the rational employment of "swift, certain, and appropriate" punishment to deter potential offenders who calculated the pleasure of crime versus the pain of punishment. This criminology was developed in reaction to the harsh, corrupt, and often arbitrary nature of criminal justice in the 1700s and was inspired by a desire to bring about rational legal reforms. This classical perspective dominated criminology from the late 1700s until the late 1800s, when it was challenged by a more modern and scientific approach, influenced to varying degrees by the introduction of Darwin's theory of evolution.

The positivist school, with its divergent and yet related biological, psychological, and sociological orientations to the study of criminal behavior, argues that criminals are not in fact normal, rational human beings who choose to engage in crime to maximize their pleasure and minimize their pain. Instead, criminals are viewed as different than noncriminals—and it is their differences that compel them to engage in crime. Such "criminogenic properties" call for intervention, reform, treatment, and reconstruction to environmentally control crime and to socially engineer individual criminals away from deviance.

While still the dominant model or paradigm in criminology today, positivism has been successfully challenged by the emergence of the critical school of criminology in the 1970s, which was part of a larger philosophical critique of "value-free, objective, and neutral" social and behavioral science. Rooted in the sixties and in the crisis in American institutions, critical criminology (at least in the United States) reflected the reality that with racism, sexism, imperialism, and other types of inequality, social justice remained an American dream. This "newest" of criminologies stressed the fact that the traditional older criminologies, classical and positivist alike, both ignored and thus left unchallenged the powerful interests that benefit from both the attention paid to crime in streets rather than crime in the suites and the lack of concern about inequality. In contrast, critical criminologies—feminist, peacemaking, constitutive, etc.—turn their focuses not only to the social relations of crime and punishment but also to the very structural forces that sustain them. They examine, for example, the mean streets of American inner cities, complete with drive-by shootings, as well as the cutthroat operations of a deregulated Wall Street where the infamous boys of Enron, Arthur Andersen, and AIG were busy robbing people with very sophisticated Ponzi schemes and other financial manipulations.

Finally, the critical school of criminology focuses its attention on social, political, and economic justice rather than on retributive and therapeutic justice *per se*. The institutional and structural emphases of critical criminologists move away from policies and practices of adversarialism and toward those of mutualism. In general, critical criminology focuses on the "justice" part of criminal justice by striving to bring about more equitable and peaceful societies, locally and globally.



This chapter provides a foundation for criminology and the study of class, race, gender, and crime. It begins by elaborating on the opening narrative and reviewing the three main orientations to the discipline: classical, positivist, and critical. Following the overview of these perspectives are four sections: Class and Criminology; Race and Criminology; Gender and Criminology; and Intersectionality and Criminology. While there are many other types of inequality present, class, race, and gender are the main forms of oppression today. Subsequent chapters explore these variables in greater detail, and these first three sections help orient the reader to how each variable is important for the study of criminology. The fourth section addresses the field of criminology and the interactions (intersections) of class and race and gender, because in the real world all of these variables (and more) operate simultaneously. This chapter finishes with a brief discussion of some of the implications of criminology and its relations to class, race, and gender on the greater theory and practice of crime and justice.

CLASSICAL CRIMINOLOGY

Classical criminology emerged and developed during the second half of the eighteenth and first half of the nineteenth centuries in the midst of the Enlightenment period in Europe, especially in France and England because of their strong emphasis on rationalism and humanitarianism. As part of a reaction to the turmoil and disorder in many countries across Europe—to the harsh and barbaric punishments administered by a highly arbitrary state and to the many rebellions and fewer revolutions—the classical school of criminology set out to study the relationship of citizens to the state's legal structure. The emphasis was on reforming the state's antiquated, ineffective, and cruel systems of administering crime and punishment, which would result in increased legitimacy for the state and its rule of law. Influenced by a part of the related logic of two new doctrines, the *social contract* and *free will*, classical criminologists adopted the view that "reason and experience, rather than faith and superstition, must replace the excesses and corruption of feudal societies" (Beirne and Messerschmidt 1991, 286).

Classical criminology builds on the idea of the social contract, Thomas Hobbes's (1588–1679) notion that people create government and civil society rather than pursue their own narrow self-interests in a perpetual, unproductive "war of all against all." Other philosophers explored the idea of a social contract, not as a historic event but as a theory that citizens submit to government in exchange for social order, represented by the idea of an agreement that specified the rights and duties of both people and the government. For example, in the bargain that was struck, citizens were to "surrender some measure of their individuality so that government

[could] enact and enforce laws in the interests of the common good; the government, in return, [was to] agree to protect the common good but not to invade the natural, inviolable liberties and rights of individual citizens" (Beirne and Messerschmidt 1991, 287).

As part of the Enlightenment agenda, the doctrine of free will asserted that men, at least those who were free and who possessed property, rationally and voluntarily chose to participate in the social contract. Further, "those who challenged the social contract, those who decided to break its rules, and those who pursued harmful pleasures and wickedness were liable to be punished for their misdeeds" (Beirne and Messerschmidt 1991, 287). The two principal classical theorists were Cesare Beccaria (1738–1794) and Jeremy Bentham (1748–1832), both of whom applied the doctrines of free will and rational, pleasure-maximizing choices to the study of crime and punishment.

Reacting against the cruel and inhumane legal practices of the time, these two leading classical criminologists objected to the inequities in the administration of the criminal law. They proposed substantive and procedural reforms of penal justice consistent with their conceptions of human life that sought to balance the good of society with the rights of the individual. Human beings were to be viewed as responsible for their own actions because they were rational and free to engage in rightful or wrongful behavior. Accordingly, punishment was to fit the social harm caused by the crime, with the formal and institutionalized reactions to crime more important than the informal and individualized efforts to control crime. Throughout the twentieth century and into the present, classical theory has been an integral part of legal and economic thought, and it has influenced the nature of punishment and sentencing in this society, moving it toward and then away from treatment as a rationale for punishment. Recent related approaches would include "crime as rational choice" and "routine activity theory" developed in the 1980s and later (see Cullen and Agnew 1999, chapters 26 and 27).

POSITIVIST CRIMINOLOGY

In the late nineteenth century, the theoretical movement of positivism, which began to study crime as a social phenomenon, buttressed the emergence of a scientifically based criminology. Relying on the point of view of the natural sciences and borrowing from their methodology, positivists sought to analyze crime not by speculation and observation alone but also by the collection of scientific "facts" through systematic data collection and analysis. The positivist analyses of crime, following such disciplines as physics, chemistry, and biology, began a process that still continues of

uncovering, explaining, and predicting the ways in which observable facts occurred in regular patterns.

Positivist criminology turned its focus away from law and crime and toward behavior as a reaction to the failures of classical criminology to stem the rising tides of criminality through moral reformation (e.g., religious teachings) and humanitarian reform (e.g., incarceration rather than corporal or capital punishment), and to differentiate between delinquent and pathological inmates (who included the likes of syphilitics, alcoholics, idiots, vagabonds, immigrants, prostitutes, and petty as well as professional thieves). Based on a variety of determining forces or causal factors, positivist criminologists also began to assert that the "treatment should fit the criminal" rather than the "punishment should fit the crime." In effect, the positivist criminology maintained that criminal actions were not the product of free wills, but, rather, they arose as a result of biological, psychological, economic, and social forces that propelled individuals into engaging in them.

One of the most influential early positivists was the Belgian astronomer Adolphe Quetelet (1796–1874). Using scientific methods and social statistics, he set out to develop a "social mechanics" of crime in which he attempted to demonstrate that the same lawlike regularity existing in the world of nature also existed in society. Quetelet argued that there were many causes of crime that could be divided up into three categories: *accidental* (wars, famines, tsunamis), *variable* (personality), and *constant* (age, gender, occupation). Society, too, was a cause of crime, but he ultimately concluded that crime had biological causes.

Other influential theorists came from the fields of anthropology, medicine, and psychiatry in the early and middle nineteenth century, such as Francis Gall's work on phrenology (head shape), Gregor Mendel's work on genetics, Charles Darwin's work on the origins of species, and Benjamin Rush's work on the diseases of the mind. Biology found its criminological proponent in the father of modern criminology, Cesare Lombroso (1835–1909). Rounding out the Italian school of positivism was two of Lombroso's students, Enrico Ferri (1856–1929) and Raffaele Garofalo (1852–1934). The former argued for a sociopolitical criminality that emphasized the interrelatedness of social, economic, and political factors that contribute to crime; the latter argued for a doctrine of "natural crimes," a Social Darwinist approach that viewed crimes as offenses "against the law of nature."

Throughout the rest of the nineteenth and into the twentieth centuries, positivist criminologists debated the relative importance for crime of *nature* versus *nurture*, or heredity versus social environment. By the turn of the twentieth century, there had already been the rise and fall of biological determinism as exemplified by the discrediting of Herbert Spencer's "bioevolutionary"

model of society and Lombroso's "born criminal" who was an "atavistic throwback" to an earlier evolutionary stage. Rising to replace biology in popularity was the psychogenesis school of criminal causation, influenced by the psychiatrist Sigmund Freud (1856–1939), followed by the rise of sociology and the related influence of sociologist-criminologist Edwin Sutherland and his theory of "differential association" first presented in 1939.

During the twentieth century and into the early twenty-first century, the powers of positivism and the methods of quantitative science have dominated much of criminology. At the same time, each of the theoretical orientations or schools and disciplines of positivist criminology have continued to evolve and develop, including: individual traits and crime; social disorganization and crime; learning and crime; anomie/strain and crime; control and crime; and labeling and crime. The past several decades also witnessed the rise of integrated theories within (and without) positivist criminology. Among the shortcomings of positivism is its overemphasis on individual as compared to social or organizational analyses of criminality and on the belief that changes in behavior of offenders can occur without changes in social conditions, including political and economic structures.

CRITICAL CRIMINOLOGY

The newest school of criminology is the critical school. About thirty-five years old, this school first emerged as radical criminology, and now encompasses feminist criminology, left-realist criminology, peacemaking criminology, constitutive criminology, news-making criminology, integrated criminology, cultural criminology, postmodern criminology, and anarchist criminology. Despite the diversity of critical criminologies, what they have in common is agreement on the limitations of criminological knowledge and justice policy inherent in the classical and positivist criminologies.

For example, critical criminologists are skeptical of the rational and positivist belief that an orderly universe can be necessarily organized by knowledge and the manipulation of the external world. Critical criminologists are skeptical about objectivity and point out that there are no "value-free" standpoints—everyone has certain assumptions and values. Certain assumptions and points of view may seem "natural" or objective because they are widely shared by the dominant groups. Critical criminologists therefore acknowledge their subjectivity, that they are part of a moral and political endeavor. Finally, with their rejection of mechanistic conceptions about how facts are related and gathered, critical criminologists typically do not present causal models of crime; explanations and arguments about crime and justice revolve around both social and cultural interactions as well as

the structural relations of the political economy as these intersect with the everyday activities of people (Barak 2009).

The emergence of a critical criminology in part represents a departure from the traditional practices of criminology that have focused attention on changing the behavior of the lawbreakers either through punishment (classical criminology) or treatment (positivist criminology). Not that critical criminology is unconcerned with punishment and treatment or with reforming the administration of criminal justice. On the contrary, it is, but it prefers to locate these changes within the contexts of social, political, and economic justice. Critical criminology is thus concerned not so much with "law and order," but "whose law?" and "what order?" (Chambliss and Mankoff 1976)—that is, with the power relations involved in the law, the fairness of social order that law is protecting, and solutions that promote justice rather than simply repress criminals.

In sum, unlike classical and positivist criminologists, critical criminologists are also reflexive criminologists, meaning they question the privilege that goes with having one's viewpoint be seen as "objective" and how such privileged standpoints and "knowledge" contribute to inequality. They have turned the activity of explanation back upon itself: in the process of reflection and introspection, critical criminology asks about "first principles," like the basic assumptions and thought processes of criminological inquiry that generate our "knowledge" about crime. Morally and politically, critical criminology questions the status quo, official versions of reality, and prevailing ideologies about the "solutions" to crime control. Critical criminology represents alternative modes of analysis and better pathways to human liberation and crime reduction in all its forms, but it also remains committed to empirically supporting its scholarship and interventions into policy formation.

CLASS AND CRIMINOLOGY

Social and economic class are generally discussed less than race or gender. Indeed, the ideas that the United States is a classless society and "anyone can make it if they try hard enough" drown out analysis of the distribution of income and wealth. Unfortunately, both are unequally distributed and class mobility is more limited than most people would like to believe. These assertions are developed in chapter 3, and this section reviews some of the important ways that understanding class and economic power relate to criminology. For example, criminological theory is frequently based on an unquestioning acceptance of how the criminal law defines crime. But class is related to political power and lawmaking, so it is also deeply implicated in understanding what has been defined as crime and why almost

forty years of being "tough on crime" has hardly applied to white-collar crime. Economic resources also play a role in the working of a justice system to process those defined as criminal. The first part of this section provides an overview of these issues, followed by a discussion of the link between inequality and crime and the relative neglect of white-collar, corporate, and governmental crime.

Crime theory frequently assumes that criminal law is a direct reflection of consensus, or of folkways hardening into custom and finally law rather than the contingent outcome of a political process that includes class conflict and class biases. As Reiman notes, "criminology is in the unusual position of being a mode of social inquiry whose central concept is defined officially, by governments" so "politics openly, necessarily, insinuates itself into the heart of criminology. Political systems hand criminology a ready-made research agenda" (in Reiman and Leighton 2010a, 238). In other words, criminologists' focus on street crime, and thus the crimes of the marginally poor, become seen as a "natural state of affairs" rather than as an expression of inequality and privilege, so criminology develops theories about the criminality of the poor rather than examining harms of the rich. In turn, the criminal law's controlling of the offenses of the poor rather than the offenses of the rich appears to reflect the legitimacy of an agreed-upon definition of "dangerous" crime.

When crime theory unreflectively takes the criminal law as a given, the fiction of crime as neutral law sets in (Platt 1974). Working within the confines of "crime" as defined by the law cedes control of criminology to lawmakers and the political process that produces law. Thus, many social harms—from tobacco smoke to environmental pollution, from workplace injuries to defective products, and from neocolonialism to extraordinary crimes against humanity—are excluded from study even though they present more of a threat to people's well-being and security than much of what is officially designated as a crime (Barak 1991a; Robinson 1998; Reiman and Leighton 2010). If criminology makes

no moral judgment independent of criminal statutes, it becomes sterile and inhuman—the work of moral eunuchs or legal technicians. If moral judgments above and beyond criminal law were not made, the laws of Nazi Germany would be indistinguishable from the laws of other nations (in Simon 1999, 37).

Among the main theorists in exposing the myth of the neutral criminal law were the nineteenth-century philosophers and political economists Karl Marx and Friedrich Engels, who noted that the law, along with the order it upholds, is one based on very unequal distribution of property and resources. Marx and Engels thus "insisted that the institutions of the state

and law, and the doctrines that emerge from them, serve the interests of the dominant economic class" (Beirne and Messerschmidt 2000, 110). For them, crime was not about the defects of morality or biology, but rather about the defects of society and the product of the demoralization and alienation caused by the horrible conditions of industrial capitalism.

Subsequent Marxian analyses of crime and crime control in the United States can be subdivided into "instrumental" and "structural" models of crime and criminal control. Some of the earlier work, for example, of Richard Quinney (1977), is representative of the instrumental model. He argued that within the overall conditions of the capitalist political economy, two kinds of crimes emerge: *crimes of domination* and *crimes of accommodation*. Crimes of domination include "crimes of control" (i.e., acts by the police and the FBI in violation of civil liberties), "crimes of government" (i.e., political acts such as Watergate, Iran-Contra, or torturing suspected terrorists), "crimes of economic domination" (i.e., corporate acts involving price-fixing, pollution, planned obsolescence), and "crimes of social injury" (i.e., acts that may not be illegal but deny basic human rights, such as racism, sexism, and economic exploitation). The crimes of domination, according to the instrumentalist view, are necessary for the reproduction of the capitalist system itself.

In contrast, relatively powerless people of the lower and working classes commit crimes of accommodation. Quinney identified three crimes of accommodation, or of adaptation to the oppressive conditions of capitalism and to the domination of the capitalist class: "predatory crimes" (i.e., burglary, robbery, drug dealing), "personal crimes" (i.e., murder, assault, rape), and "crimes of resistance" (i.e., protests, sabotage). For Quinney, the real (greater) danger to society comes from the crimes of domination rather than the crimes of accommodation. However, the former acts are not criminalized (or minimally so) because they serve the interests of the ruling classes; the latter acts are criminalized and punished as they threaten the political and economic status quo. Hence, crime control becomes class control.

As an example, consider the following quote taken from one of the founding fathers of the classical school, Beccaria, in his book, *Essay on Crimes and Punishments*, first published some two hundred years ago and still in print today. In trying to reason through the appropriate punishment for an offender, he takes the imagined voice of the criminal:

What are these laws that I am supposed to respect, that place such a great distance between me and the rich man? He refuses me the penny I ask of him and, as an excuse, tells me to seat at work he knows nothing about. Who made these laws? Rich and powerful men who have never deigned to visit the squalid huts of the poor, who have never had to share a crust of moldy bread amid

the innocent cries of hungry children and the tears of a wife. Let us break these bonds, fatal to the majority and only useful to a few indolent tyrants; let us attack justice at its source. I will return to my natural state of independence; I shall at least for a little time live free and happy with the fruits of my courage and industry. The day will perhaps come for my sorrow and repentance, but it will be brief, and for a single day of suffering I shall have many years of liberty and of pleasures (quoted in Vold and Bernard 1986, 29).

The speaker points out the social injuries that are part of the crimes of domination that help secure the unequal distribution of resources. At the same time, the speaker advocates unspecified crimes of accommodation in response to oppression. Vold and Bernard (1986) note that the revolutionary implication behind the passage is obvious and that crimes of need could be better prevented by a more equal distribution of money than by the severity of the penal law. Instead, Beccaria argued that the death penalty is an ineffective deterrent that should be replaced by the more protracted suffering of life imprisonment.

William Chambliss (1988) articulated a structural-contradictions theory of crime and class control, in which recognition is given to the resistance and pressures from other classes besides the ruling classes. In his model, Chambliss identifies certain contradictions inherent within capitalism, such as those between profits, wages, and consumption—or between wages and the supply of labor. These contradictions ultimately culminate in crime as underclasses are formed that cannot consume the goods that they were socialized to want as necessary for being happy. One solution for these underclasses is to resort to criminal or illegitimate behavior. The state then responds to these acts in the name of crime control.

Although research on the link between social disadvantage and crime is no longer a priority as it once was for a brief period during President Lyndon Johnson's Great Society of the 1960s, criminologists have continued to explore it. An important finding is that poverty itself is not the key, because "if that was the case, then graduate students would be very dangerous people indeed" (Currie 1998, 134). The important theoretical concepts relate to inequality, relative deprivation, and blocked opportunities. As Currie (1998, 34) points out, the important contribution to crime and violence is "the experience of life year in, year out at the bottom of a harsh, depriving, and excluding social system [that] wears away at the psychological and communal conditions that sustain healthy human development."

Further, high levels of inequality mean that there are more poor and destitute than would exist under a more even or equal distribution. Thus, "there are criminals motivated by the need for a decent standard of living, where 'decent' can mean what they perceive most people in their community enjoy, what whites but not blacks enjoy, what they used to enjoy before they lost their jobs, or what they were led to expect to enjoy by advertising

and dramatization of bourgeois lifestyles on television" (Braithwaite 1992, 82). Inequality also produces more structural degradation, which Braithwaite argues is important because of the links among humiliation, rage, and violence. Ultimately, the "propensity to feel powerless and exploited among the poor and the propensity of the rich to see exploiting as legitimate . . . enable crime" (94).

Because most of criminology tends to be guided by the criminal law, the focus of crime theory is almost exclusively on the behavior of the poor. Notably, one of the first important mentions for criminology of "crime" in relation to the behaviors of the upper classes was in 1908 when E. A. Ross promoted the notion of a "criminaloid." Friedrichs (1996, 2) notes that Ross used this term to discuss "the businessman who committed exploitative (if not necessarily illegal) acts out of an uninhibited desire to maximize profit." Ross's discussion, however, did not immediately inspire sociologists to explore the topic, partly because criminology was attempting to establish itself as a "science," which meant distancing itself from the passionate outrage that characterized many of the journalists who were busy condemning robber-baron industrialists and pointing to the excesses of the capitalist system.

But this work did get the attention of Sutherland, who was interested in the criminality of the rich because of his attempt to develop a general theory of crime. He believed that a major deficiency of criminological theory was that it could not explain crime by the rich, which made for not only class-biased criminological theory but also for a practice and policy of criminal and juvenile justice steeped in class biases as well (Platt 1969). In 1939, Sutherland introduced the term *white-collar crime* in his presidential address to what is now the American Sociological Association. The key elements included that the perpetrator be an upper-class or white-collar person, the crime be committed in the course of one's occupation, the crime be a violation of trust, and the crime be processed through civil or administrative proceedings rather than a criminal court.

Once again, criminology was slow to follow up on Sutherland's research, and its primary focus still remains with street crime, although crimes by the upper class exact a far heavier toll in terms of dollars and lives (Clinard 1990; Reiman and Leighton 2010a; Simon 1999). Box 1.1 reviews many of the different types of white-collar crime, but much of the literature on this topic is devoted to explaining shoplifting or employee theft rather than the wrongdoing and violence by corporations. The most frequently discussed white-collar crimes are employee pilfering and credit card fraud, in which businesses, corporations, and financial institutions are the victims. The least frequently discussed are corporate and government crime, in which the powerful are the perpetrators who are victimizing employees, consumers, taxpayers, and/or the environment.

Box 1.1. The Diverse Types of White-collar Crime

Terms like *economic crime*, *financial crime*, *business crime*, and even categories like *technocrime* and *computer crime* should cover the range of possible victimizations, but they are frequently limited to acts against financial institutions or businesses. Criminologists and tough-on-crime politicians, however, rarely highlight the executive who harms employees by cutting corners on workplace safety, who knowingly markets unsafe products, or who causes environmental damage in order to help boost corporate profits. (The corporate scandals involving Enron and others are a special case that we discuss in chapter 8. Because the magnitude of the wrongdoing was so large that it threatened the integrity of the financial system, so the state was forced to get tough on this corporate crime.)

More specifically, *occupational crime* is done to benefit the perpetrator personally rather than the business. At times, the victim will be the business, although at others it may be consumers. In each case, the crime is linked to the perpetrator's occupational position. Examples include auto mechanics charging for unnecessary work, bank managers embezzling the institution's funds, or doctors fraudulently billing insurance companies.

Individuals in a corporation who act in its interests in violation of the law and benefit themselves individually through bonuses and promotions perpetrate *corporate crime*. The victims include workers, consumers, taxpayers, communities, the government, and the environment (Winslow 1999). Acts may include fraud against the government, taxpayers, or consumers, and anticompetitive practices that cause higher prices. *Corporate violence* refers to acts that inflict physical and emotional suffering rather than simply monetary losses, as in the case of dangerous or defective products, unsafe working conditions, and medical conditions caused by pollution or toxic exposure.

Public officials who are trying to perpetuate a specific administration, exercise general government power, or accomplish undue influence on behalf of large campaign contributors perpetrate *state crime*. The victims can be as widespread as all taxpayers who are forced to pay for corruption and fraud; victims can also be a specific political group—or even its leaders—who are denied basic political rights through surveillance and harassment (Barak 1991a).

Thus, even when criminology does engage the topic of white-collar crime, much of the time it does so with a blindness to important power dynamics. Indeed, also neglected within the sphere of the crimes of the powerful are state crime, including the denial of human rights, torture, surveillance, and other crimes of state domination. Or, in the terms of the class biases operating in the social construction of "perpetrators" and "victims," serial killers are a trendy topic of study for criminologists, but criminology

devotes little attention to trafficking in human beings or to mass murders involving genocide. Indeed, criminologist Margaret Vandiver noted that "if we had as much research and theory on genocide as we do on shoplifting, we would be far ahead of where we are now" in reducing human suffering (1999, personal communication).

RACE AND CRIMINOLOGY

Race is socially defined by a constellation of traits that include physical characteristics, national origin, language, culture, and religion. That is, while people have real differences, racial and ethnic categories are made up based on prevailing beliefs, political pressures, and a host of nonobjective reasons. Consider that the racial categories used in the United States have changed over time and that no other country uses them. "Hispanic" is an ethnicity rather than a race because of lobbying by the Mexican government, which did not want Mexicans categorized as nonwhite. These issues are further explored in chapter 4, and this section reviews some of the connections between criminology and the racial hierarchies that privilege some and disadvantage others.

Historically, research on crime has consciously and unconsciously reproduced the racism of prevailing social attitudes, while it has also been a site for resistance. For example, Lombroso wrote, "The white races represented the triumph of the human species, its hitherto most perfect advancement" (Quoted in Miller 1996, 185). This belief influenced his criminal anthropology and its implications that criminality was related to atavistic or evolutionary throwbacks. In contrast, Bonger's 1943 study, *Race and Crime*, was written as a critique against the growing fascist movement in Europe and arguments about the superiority of Nordic peoples (Hawkins 1995, 23). Today, many criminology texts do not mention Lombroso's early racism or his repudiation of such ideas as *Criminal Man* (1870) over the course of his career. Most texts without an interest in race and/or ethnicity ignore altogether the critical work of Bonger on race and crime, though they almost always mention his work on economics and crime.

American criminology and social science has generally been characterized by a "liberal political tone and assumptions" that document, for example, black disadvantage and attribute it to white prejudice rather than biological notions of inferiority (Hawkins 1995). Hawkins starts his analysis with some of the work of W. E. B. Du Bois (1868–1963), a prominent black intellectual and writer who is typically omitted from criminology texts. He is an important figure because "many of the most virulently racist, social Darwinist critiques of black life were published during the period he wrote [and] Du Bois was among the first to provide a retort to their argument"

(Hawkins 1995, 13). Du Bois seemed to accept the higher rates of black (street) criminality; he ascribed them to the social disruption and urban migration that occurred after the end of slavery as well as to the degradation and legacies of slavery.

Criminologists such as Sutherland and Thorsten Sellin shared some of Du Bois's analysis of crime, although they both urged much more caution in concluding, based on official statistics, that blacks had a higher rate of crime than whites. At the same time, Sellin (1928, 64) recognized that black crime rates might still be higher than whites, but he argued this was not a condemnation of blacks because "it would be extraordinary, indeed if this group were to prove more law-abiding than the white, which enjoys more fully the advantages of a civilization the Negro has helped to create." Sutherland and Sellin did recognize the salience of *culture* as relevant to criminality but argued that culture is somewhat different from nationality (based on political boundaries) and race. Important data for them included the observation that immigrants from the same culture would have different rates of criminality depending on the age at which they arrived in the United States and the number of generations their family had been here—data that cannot be explained by reference to biology or genetics.

Clifford Shaw and Henry McKay's study of social ecology in Chicago neighborhoods also raised questions about the importance of biology and genetics because "no racial, national or nativity group exhibits a uniform, characteristic rate of delinquents in all parts of Chicago" (Shaw and McKay 1942, 153). The key factor for them in explaining delinquency was social disorganization and community attributes rather than the racial traits of those who lived in certain areas. Marvin Wolfgang and Bernard Cohen (1970) later elaborated on the persistence of high rates of criminality among blacks while other immigrant groups had moved out of socially disorganized communities and zones of transition. In particular, they noted that blacks faced more blocked opportunities because of racism than white immigrants and that the legacy of racial oppression might make blacks less ambitious than immigrants, who would be more optimistic about achieving the American dream.

Wolfgang and Cohen's *Crime and Race* (1970) also critiqued biological determinism by noting that there could not be a genetic predetermination to general criminality because neither crime nor the definition of crime is stable in time and place. They noted that most criminals obey most of the laws and generally break laws carefully as to avoid drawing attention from the police. Like Bonger, they argued that criminality is not a specific trait like eye color:

According to Mendel's rule of inheritance of specific traits, if criminality were genetically determined, we should inherit specific tendencies for embezzle-

ment, burglary, forgery, etc. And if we inherited specific *criminal* forms of behavior, and some of us were genetically destined to be burglars or stock embezzlers, rapists or check forgers, we would also have to inherit specific *noncriminal* occupations, which would mean some of us would be genetically destined to become police officers or truck drivers or school teachers, as to have red hair (Wolfgang and Cohen 1970, 92, emphasis original).

The critique in the preceding paragraphs does not mean criminology should exclude the disciplines of biology, physiology, and genetics from a comprehensive and integrated approach (Barak 1998). Indeed, the emphasis here is that there are no genetic bases for race, which makes the link between race and crime problematic. The physical and other characteristics that are often used to create racial categories are socially constructed; they do not correlate with criminality but can mean that minority groups are subjected to greater social control because they are more involved with the criminal justice system.

Hawkins concludes his thoughtful overview of literature on race and crime by noting that the liberal tradition tries to balance a recognition that racial bias inflates the officially counted criminality of minorities with an awareness that minorities frequently live in criminogenic conditions. He is skeptical of efforts to find the "real" rate of crime and of attempts to get more accurate counts of real misconduct. Instead, he argues for the development of a conflict perspective, which examines official records of minority crime as an index of social control and an understanding of "how the criminal justice system is used by the dominant ethnic and racial groups to maintain their status" (Hawkins 1995, 34). This perspective is developed in chapter 7 and contends that contact with the criminal justice system has as much, or more, to do with social standing rather than with criminal conduct.

More recently, criminologists associated with the Racial Democracy, Crime, and Justice Network produced a volume for the Annals of the American Academy of Political and Social Science. This special edition of *The Annals* empirically examined (1) the structured *patterns*, (2) the socially constructed *processes*, and (3) the societal *consequences* of racial-ethnic inequality in crime and justice (Krivo and Peterson 2009). Although the specific findings from these studies will be incorporated in subsequent chapters where applicable, an important point is that it is well past time that social scientists, the mass media, and the public at large move beyond the traditional black-and-white dichotomies of American life. The range of consequences included how experiences with "injustice at the hands of criminal justice officials support existing societal inequalities" and the ways in which "ethnoracial inequalities in the United States in education, employment, and health are exacerbated by the disproportionate imprisonment of groups of color" (Krivo and Peterson 2009, 9-10).

GENDER AND CRIMINOLOGY

Sex generally refers to the biological components that characterize males and females. Gender typically refers to femininity and masculinity, or about the roles and behaviors dominant society encourages for males and females. Gender thus refers to the social expectations for how males should be masculine and how females should be feminine. While sex is a relatively fixed biological anchor, gender involves the social processes through which people learn and are socialized into acting according to the ever-changing notions of what is appropriate for men and women in our society. Women are a majority of the American population, but men are the dominant gender. These issues are further explored in chapter 5, and this section reviews some of the connections among criminology, gender roles, and male domination.

A wide variety of people (family, friends, coworkers) and institutions (schools, advertising, mass media) help create expectations about appropriate gender behavior and apply pressure for conformity. Further, "as an official agent of social control, the criminal justice system responds not only to crime but also transgressions against gender norms" (Flavin 2009, 4). One important way the criminal justice system achieves this end is by becoming involved in matters of reproductive choice. As Flavin explains in *Our Bodies, Our Crimes* (2009, 4):

By restricting some women's access to abortion and obstetric and gynecological care, by telling some women not to procreate and pressuring them to be sterilized, by prosecuting some women who use drugs and become pregnant, and by failing to support the efforts of incarcerated women and battered women to rear their children, the law and the criminal justice system establish what a "good woman" or "fit mother" should look like and how conception, pregnancy, birth and child care and socialization are regulated.

(Generally, the women prosecuted and subject to this type of control are poor and/or minority women, which highlights the importance of looking at intersections.)

Until recently, gender has not been important to criminology because men have been the vast majority of criminal offenders and have dominated the criminal justice system from lawmaking to parole officer. Women have made up a small percentage of offenders and have tended to commit less serious crimes than men. Until the mid-1970s, these and other factors (discussed more in chapter 5) contributed to a lack of interest in female criminals and their experience within the criminal justice system. However, over the past forty years, there has been an increasing interest in the study of women, gender, and crime. During this sustained period of criminological

interest, the areas of both gender and women's studies have evolved in their analyses and sophistication. A five-stage framework developed by McIntosh (1984) and others (Andersen 1988; Daly 1995; Goodstein 1992) provides an overview of the ongoing process by which the fields of criminology and criminal justice have considered, do consider, and could consider women (Flavin 2001; Daly 2006).

Stage One: The Intellectual Falklands

The Falklands are a series of islands whose total area is smaller than Connecticut and are located between South America and the Antarctic. Up to the nineteenth century, most researchers ignored women's criminality, and the study of female criminality was considered "an intellectual Falklands"; that is, "remote, unvisited, and embarrassing" (Heidensohn 1995, 124). Theorists who did consider women saw them as being particularly determined by their biology. Lombroso, for example, studied female offenders to support his theory that criminals were physically anomalous. His methodology involved extensive measurements of criminals to isolate the "born criminal." He found that female criminals were not significantly different from other women, a fact that he attributed to a lack of external differentiation in women generally. At the same time, Lombroso concluded that the born female offender was closer to a normal man than a normal woman. However, he also seemed to distinguish between female criminals, as Hart (1994, 23) explains:

unlike the "semi-masculine, tyrannical and selfish" born criminal who wants only to satisfy her own passions, the occasional [female] offender puts trust in her male protectors and regains confidence in men—especially her lawyer, and in some cases that Lombroso is fond of relating, her executioner.

Other positivist theorists, especially those with a psychological or psychoanalytic approach, perceived women's deviance as peculiarly sexual. For example, Otto Pollak (1950) argued that women's tendency toward deceit stemmed from their physiological ability to hide their true sexual feelings and the social expectation that they will conceal menstruation and menopause.

Stage Two: "Add Women and Stir"

In the twentieth century, criminologists moved away from viewing deviant behavior as inherently abnormal and pathological and toward seeing deviance as normal. Thus, models that examined external sources of crime, such as poverty, social structure, and racial discrimination, gradually replaced those older models that examined internal sources such as biology and

psychology. Once again, before the 1970s, most studies of crime continued to look exclusively at men and boys. In the mid-1970s, however, women insisted they be included in criminological research and analysis about crime and the criminal justice system. Unfortunately, the result was simply to "add women and stir" them into existing research rather than reconsider and challenge what was or is "known" about crime.

Eileen Leonard's work (1982, 1995) provides perhaps the most comprehensive attempt at using traditional positivist theories of crime such as anomie/strain, differential association, subcultural, labeling, and Marxism to explain women's low involvement in crime. Because these theories excluded consideration of women's criminality, Leonard developed hypotheses that the theorists might have constructed had they been so inclined or informed. For example, Merton's anomie theory holds that when people lack legitimate means (e.g., a job, a savings account) to achieve socially accepted goals (e.g., material and monetary success), they are more likely to innovate (e.g., steal, write bad checks) to achieve these cultural ends. Leonard points out that although women are overrepresented among the poor and thus arguably are subjected to more strain than men, women are less likely to deviate. Leonard also challenged whether monetary success is as salient a goal for women as it is for men. She further critiqued Merton for assuming that women's goals (and men's too) are shared across class, race, and ethnicity. Following her systematic review and analysis of traditional theories, Leonard concluded that these theories are unsuited for explaining female patterns of crime. She called upon scholars not to develop a separate "criminology of women" but to reconsider the understanding of women and men's criminal behavior.

Stage Three: Enter Feminism

The first of the feminist stages reflects some scholars' realization that women have been excluded from crime theories or that when women are discussed their behavior is distorted. This stage focuses more attention on crimes that adversely affect women more than they affect men, such as domestic violence. Also, increasing attention is paid to the ways in which women's experiences differ not just from men's but also from each other's based on characteristics such as race, ethnicity, class, age, and sexual orientation.

While this stage is a marked improvement over ignoring women altogether or "adding and stirring," it still has its shortcomings. Most notably, this stage reflects a tendency to treat men as the normative and women as the anomalies. Labeling one sex the "anomalies"—relegating them to a marginalized status—is incompatible with aims to achieve more equal opportunities for men and women on the professional golf circuits as well as

in a court of law. It reflects male privilege (discussed in chapter 5), and the implications of androcentric or male-centered thinking for the criminal justice apparatus are significant. For example, the historically male-centered legal system meant delays in recognizing marital rape and stalking as crimes, providing vocational programs for women prisoners, and addressing sexual harassment in the workplace.

The development of feminism has helped raise consciousness about the male biases reflected in criminology, and it has re-created its theoretical understandings and practice. While feminist theories of crime and justice do try to correct the exclusion or silences about women's beliefs, experiences, and achievements, most acknowledge that the understanding of women's lives also requires consideration of masculinity and male sex-role expectation. When neither males nor females are the hidden or invisible norm of criminological analysis, then the discipline is in a better position to understand the fact that men also have a gender, whites also have a race, the wealthy have a class, and straight people have a sexual orientation. These types of feminist insights help move criminology in the direction of describing gendered oppression in all of its forms, of identifying and explaining its causes and consequences, and of prescribing strategies for the political, economic, and social equality of the sexes (Rice 1990; Tong 1989).

Stages Four and Five: "An Emerging Whole New Pie"

The fourth and fifth stages are still at conceptual or imaginary levels because women and minority men do not currently form enough of our basis of knowledge, although that too has begun to change over the past decade or so. The current literature does reflect a growing willingness to reconsider what is "known" about women and crime and to examine racial and ethnic differences among women and men. In the fourth stage, scholars have begun not only to locate women with men at the center of research but they are also studying women on their own terms without reference to male norms. As an established body of feminist theory and research grows, it is becoming possible to build on feminist knowledge itself rather than merely dedicating time and attention to critiquing and evaluating traditionally male-dominated criminological theories and research.

During the fourth stage, rather than addressing how the study of crime and criminal justice contributes to our understanding of women's criminality, research has begun to emphasize how feminist insights contribute to our understanding of crime and men's high incidence of criminality. At this point, the research goes beyond a sociology or criminology of women. The work of such scholars as Jody Miller (2001, 2002, 2008) and James Messerschmidt (1993, 1995, 2004), for example, does in fact suggest that

we have crossed into the fourth stage where we are increasingly integrating our knowledge of masculinities and femininities.

In the fifth stage, our knowledge base will be fully transformed and feminist, and it will include a theoretical and analytical focus on multiple relations of class, race, and gender. Kathleen Daly (1995) has identified a number of challenges to be met in the process of reaching this stage (which will be taken up later in Part III of this book). Among these challenges is the fact that our inherited ways of thinking obstruct our ability to imagine alternative ways of viewing crime and punishment. In other words, the existing biases built into our knowledge bases make it difficult to imagine what a fully inclusive and transformed body of knowledge, gendered and otherwise, will be like.

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INTERSECTIONALITY AND CRIMINOLOGY

Discussions of intersections and intersectionality refer to efforts to combine the analysis of class *and* race *and* gender. While each is important in its own right, by themselves they provide an incomplete description of a person's life experiences and "social location." A person may be white, but multibillionaires are different from those considered "white trash"; rich and poor white women will have some different experiences than their male counterparts. While it may seem obvious to use class and race and gender and get a "fix" on a person's social location, it is also easier said than done. One of those dimensions may be more important than the others in a specific situation, but that factor will not always be most important—and theorists have not created good models to understand whether class or race or gender will be most important (and why). Further, the combination of factors does not work in a simple additive way like one plus one. Combining devaluation because of gender with devaluation because of race creates gendered racism, which can be far more powerful because of the interacting dynamics.

Intersectionality is further explored in chapter 6, and this section provides an overview of criminology's limited efforts to explore how class and race and gender all apply at the same time. Too frequently, researchers focus on one of these three social relations to the near exclusion of others. For example, the short-lived *radical* perspective in criminology that emerged in the late 1960s and early 1970s drew heavily from Marx's ideas about capitalism and the social relations of production, so it emphasized how class conflict was at the root of most crime. Subsequently, variations in this approach to class would incorporate race and gender but still treat them as subordinate to class relations of production.

Eventually, the almost exclusive focus on class would broaden to give greater and increasing importance to race and gender because they are

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independent structuring forces that affect, shape, and influence areas of criminological concern: how people act, how others respond to and define those actions, how certain actions are viewed as more or less serious or as more or less "criminal" and deviant, and how the law and legal systems are organized to control behavior in highly stratified and unequal societies (Lynch 1996). By the 1990s, race and gender had surpassed class in being viewed as key concepts of society, prompting Bohm (1998, 18) and others to call for a reemphasis of "class and class struggle in an understanding of crime and social control in market societies." Currently, *The Rich Get Richer and the Poor Get Prison* (Reiman and Leighton 2010a) is one of the few book-length treatments of class and criminal justice.

Today, there are a variety of race, gender, and hybrid analyses of crime and justice, such as those involving feminist perspectives, critical race theory, or critical legal studies. For example, building on critical sociology, neo-Marxism, and postmodern approaches, *critical race theory* assumes that racism is an ordinary ingrained aspect of American society that cannot be readily remedied by law. Developed in the late 1970s through the efforts of such scholars as Derrick Bell and Alan Freeman, who were discontent with the slow pace of achieving racial justice (Delgado 1995a), critical race theorists argue that the racism that permeates society is part of a socially constructed reality that exists to promote the interests of men and women in elite groups. Hence, not only do they expose the ways in which existing arrangements support racism but also they pursue alternatively constructed social realities.

Similarly, *critical race feminism* emerged from critical race theory to address the essentialism that had pervaded earlier feminist and critical race theories (Wing 1997). Specifically, critical race feminists have objected both to feminist approaches that presume white middle-class women's experiences are representative of all women's experiences and to critical race scholarship that presumes minority women's experiences are all the same and can be represented by the experiences of their minority male counterparts. The effect of essentialist perspectives has been to "reduce the lives of people who experience multiple forms of oppression to addition problems: 'racism + sexism = straight black women's experience'" (Harris 1997, 11). In other words, racial and ethnic minority women—as victims, offenders, and workers—are not simply subjected to quantitatively "more" disadvantage than white women; their oppression is of a qualitatively different kind.

Critical legal scholarship in the form of narrative or storytelling is used as one means of analyzing, challenging, and resisting the dominant myths, presuppositions, and "truths" that make up the mainstream culture's views of race, gender, and law. Too often, the scholarly accounts of dominant groups have suppressed, devalued, and marginalized the experiences and perspectives of women and minority men. Narratives are used to break the

silence and convey complex issues in a readily accessible form designed to promote understanding. For example, law professor and critical race theorist Richard Delgado (1995b [1993]) explains the debate surrounding essentialism with his fictional alter ego, Rodrigo Crenshaw. In one of his chronicles, Rodrigo has gotten "caught in the crossfire" at a Women's Law Caucus meeting:

The "debate about essentialism has both a political and a theoretical component," Rodrigo began. . . . "In its political guise . . . members of different groups argue about the appropriate unit of analysis—about whether the Black community, for example, is one community or many, whether gays and lesbians have anything in common with straight activists, and so on. At the Law Women's Caucus, they were debating one aspect of this—namely, whether there is one, essential sisterhood, as opposed to many. The women of color were arguing that to think of the women's movement as singular and unitary disempowers them. They said that this view disenfranchises anyone—say, lesbian mothers, disabled women, or working-class women—whose experience and status differ from what they term 'the norm.'"

"And the others, of course, were saying the opposite?"

"Not exactly," Rodrigo replied. "They were saying that vis-à-vis men, all women stood on similar footing. All are oppressed by a common enemy, namely patriarchy, and ought to stand together to confront this evil . . . [Black feminists' focusing] on their own unique experience contributes to a 'disunity' within the broader feminist movement . . . [it is troubling] because it weakens the group's voice, the sum total of power it wields. Emphasizing minor differences between young and old, gay straight, and Black and white women is divisive, verging on self-indulgence. It contributes to the false idea that the individual is the unit of social change, not the group. It results in tokenism and plays into the hands of male power" (Delgado 1995b [1993], 243–46).

In a similar fashion, *critical white studies* (Delgado and Stefancic 1997) is the most recent body of scholarship that considers what it means to be white in the United States. Far from being a safe haven for white supremacists, critical white studies prompt whites and nonwhites alike to consider the legacy of whiteness and to ask such questions as: How do whites as members of the dominant race benefit (or not) depending on their place in the social order of stratification? What does white privilege mean to the poorest whites—sometimes called "white trash"—and to the poorest white women especially? What part does the law play in defining who is white? How has our culture constructed "whiteness" and "blackness" such that they are not neutral descriptors but laden with meaning, value, and status?

Several more specific examples of analysis close out this section on intersections and criminology. As noted in the previous section, privilege may present itself in terms of the preferred masculinities or femininities. The form of femininity most valued and supported in U.S. culture, for example,

emphasizes marriage, housework, child care, fragility, and sociability (Connell 1987; Martin and Jurik 1996). More generally, this idealized femininity is based on white, middle-class, and heterosexual norms. In this respect, Lynda Hart's work (1994) on depictions of lesbianism and female killers suggests that the category "woman" is reserved for white, upper-class, heterosexual females. This categorization serves a disciplinary function, patrolling the boundaries of "normal" femininity by creating an "othered" (not woman) category onto which women's deviance can be displaced. Thus, "the ultimate violation of the social instinct, murder, and the perversion of the sexual instinct, same-sex desire, was linked as limits that marked the boundaries of femininity" (Hart 1994, 30). Lesbians and killers (and women of color) reside together in the "not woman" category.

Three noteworthy studies of crime that have captured various nuances in the interactions between class, race, and gender are Esther Madriz's (1997) examination of women's fear of crime, Mark Totten's (2000) investigation into adolescent girlfriend abuse, and Jody Miller's (2008) detailed excavation of the multiple dimensions of violence experienced by black, inner-city girls. In these ethnographies, the authors are able to encapsulate the qualitative differences in the life experiences of men and women, boys and girls, majorities and minorities, in relation to class, crime, and the administration of justice. They demonstrate that there is no standardized "class" experience, "race" experience, or "gender" experience, but rather there is a repertoire of interacting class, race, and gender identities. Figure 1.1 illustrates the social location of the intersection of these forming identities.

In *Nothing Bad Happens to Good Girls* (1997), Madriz explored the fear of crime among young and old, African American, Latina, and white upper-, middle-, and working-class women. In the process, she is able to demonstrate how fear of crime perpetuates gender inequalities and contributes to the differential social control of women by class and race/ethnicity. For

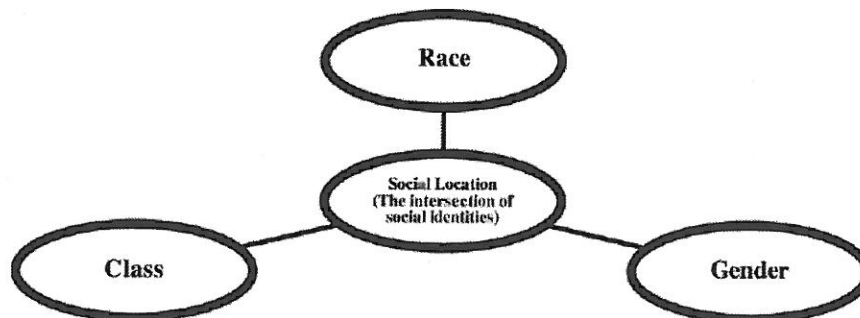


Figure 1.1. An Integrated Illustration of Class, Race, and Gender as It Shapes Crime and Experiences with the Criminal Justice System.

example, Madriz was able to capture the differential responses of informal social control that were in play where women of lower socioeconomic class or of color were more inclined to restrict their movement and activities in the public sector than middle-class white women.

In *Guys, Gangs, and Girlfriend Abuse* (2000), Totten explored the relations between early childhood abuse, family and gender ideologies, and the construction of masculinity on the one hand and the marginal male socialization experiences of straight, gay, white, black, and Asian teenagers on the other hand. In his integrated analysis, Totten is not only able to make sense out of the patterned differences of girlfriend abuse with respect to the physical, sexual, and emotional violence meted out by boyfriends but he is also able to explain how the reproduction of violence and social control in these young people's lives is related to the abuse of gays and racial minorities. Adolescent males' bashing of girlfriends and gay people is related to feelings of powerlessness, despair, and humility regarding their economic future prospects and living up to the masculine ideal of "breadwinner" as well as their anxieties about and fears surrounding their heterosexuality.

Finally, in *Getting Played: African American Girls, Urban Inequality, and Gendered Violence* (2008), Miller captures the ways in which gender, class, and race inequality exposes many disadvantaged African American girls to sexual harassment, sexual assault, dating violence, and even gang rape. Miller points out that "urban violence" is exclusively about African American men, and women's victimization in that context tends to be invisible. She explains how gendered victimization, racial discrimination, and the perpetuation of violence toward these adolescent females, by boys and men alike, are linked to structural inequality. Miller's analysis also significantly demonstrates how young African American women struggle to navigate this dangerous terrain where those who do not stand up for themselves against the daily "testing" of men can become targets for assault, but deflecting male attention in the wrong way can get them labeled as a "bitch" deserving of assault.

IMPLICATIONS

The criminal law furnishes the basis for much of criminology and criminal justice, but it is created by people who have conscious and subconscious interests in maintaining privilege and who are responsive to the needs of large campaign donors (like corporations). Reiman asserts that criminology needs philosophical reflection on the nature of crime "to establish its intellectual independence of the state" and thus declare "its status as a social science rather than an agency of social control, as critical rather than servile, as illumination rather than propaganda" (in Reiman and Leighton 2010a, 238).

Similarly, criminology also needs reflection on and independence from class, race, and gender constructs if it is not to become simply another tool of social control and propaganda for the status quo in these areas, too.

This reflection on the nature of crime and crime control—which is related to critical criminology and explored throughout this book—is especially important because the definition of crime drives the resources of policing and the rest of the criminal justice system. It also becomes the basis for theorizing about crime as well as the collection of official data that is used for research about crime and presented in criminology books to explain crime. Without critical reflection, the criminal law appears neutral and above question because its values seem reinforced by police activity that is focused on street crime rather than white-collar crime and by criminological theory, data, and books that also have the same emphasis or focus as the criminal law.

Class, race/ethnicity, and gender are each important in understanding the production and social construction of crime and the administration of justice. Understanding that some groups are privileged because of their class, race/ethnicity, and gender is also important because privilege is the unifying concept underlying these three variables. In the United States, each of these variables has been involved in many of the laws that are selectively made (or not made) or that are differentially applied to offenders. These variables are both implicit and explicit in the theories used to explain behavior and provide direction for criminological investigation. In the processes of crime and crime control, however, separating these variables out from each other is as difficult as separating the ingredients out from a person's identity. For example, when minorities are disproportionately poor, separating class from race can be problematic.

However, it is relatively easy to identify the class, race, and gender biases at work in the study of crime and crime control. For example, for a brief period in the 1960s, the President's Commission on Crime and Law Enforcement identified the roles of inequality and discrimination as contributing to the "breakdown" in law and order. Some thirty years later, at a retrospective sponsored by the U.S. Department of Justice, criminologist Todd Clear was one of the few speakers that mentioned the issue of inequality and crime and crime control. Clear also discussed the backlash to President Johnson's Great Society ideas that had been the backdrop for the Commission's report, *The Challenge of Crime in a Free Society*. The commission advocated government taking a lead in crime prevention through social programs and opportunities for disadvantaged citizens. The subsequent rise of the law-and-order mentality and the bipartisan war on crime policies led to a different and more limited "get tough" proincarceration role for the government because crime was seen more as the result of individual failings rather than of discrimination and structural inequality and privilege.

It is also relatively easy to see how privilege is reflected differently in the two prevailing legal interpretations—the *jurisprudential model* and the *sociological model*—of class, race, and gender on “justice” outcomes. The jurisprudential model of criminal justice is an ideal, not a reality per se. It is based on “rationality, equality before the law, and treating of like cases alike” (Agozino 1997, 17). To consider such factors as class, race, and gender, then, is to violate the due process rights of the involved individuals. Because social characteristics are not *supposed* to influence the handling of a case, the jurisprudential model assumes that they do not; it regards law as constant and universal, with the same facts resulting in the same decisions. Consequently, when class, race, or sex discrimination occurs, it is considered the exception, not the rule.

In contrast to the jurisprudential model of justice, the sociological model assumes that political, economic, and social characteristics influence the administration of justice. Far from being constant from one case to another, law is assumed to be variable, changing with the social relations of the parties. Whereas the jurisprudential model is concerned with how the system *should* work, the sociological model examines how it actually *does* work. Sociological models, then, are interactive models of the administration of justice as they incorporate both the ideal and real representations of law and order, involving a variety of extralegal characteristics, including class, race, and gender.

REVIEW AND DISCUSSION QUESTIONS

1. What are the key points of the classical, positivist, and critical revolutions of criminology? How are all three still relevant to contemporary discussions on crime and justice?
2. What are the strengths and weaknesses of classical, positivist, and critical criminologies?
3. Why do the authors believe that reflection and critique of the criminal law is so important for criminology and criminal justice?
4. Briefly explain how the authors define class, race, and gender. What is one example of how each is important for criminology?
5. What is the basic idea of intersectionality? Why is intersectionality difficult to apply, and why would criminology benefit from the effort?

2

Criminal Justice Work and the Crime Control Enterprise

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Federal laws barring workplace discrimination do not cover the U.S. Supreme Court. The lack of diversity among law clerks reflects this omission in the law as it raises the question of "supreme hypocrisy." For example, between his appointment to the Supreme Court in 1972 and the beginning of 1999, former Chief Justice William Rehnquist had eighty-two law clerks. During that time, he had only one Hispanic clerk and only eleven women clerks. Not once did he hire a black clerk. Overall, only 1.2 percent of his clerks had been members of minority groups.

The track record of his colleagues had not been much better. Of the 428 law clerks hired during the respective terms of the current justices, only seven were black, five were Hispanic, eighteen were Asian, and not a single one was Native American. Despite the fact that over 40 percent of law school graduates in the 1990s were women, they made up only one quarter of all clerks hired by current justices.

These figures prompted Rep. Gregory Meeks (D-NY) to conclude: "If the court were a Fortune 500 company, the statistics alone would demonstrate illegal discrimination." In an article, "Does the Supreme Court Need Affirmative Action for its Own Staff?" Meeks (1999, 24) criticized the Supreme Court's hiring practices. He reasoned that becoming a clerk is a stepping-stone to other legal positions, including that of a Supreme Court justice. Thus, the hiring practices of the highest court in the land create a structural barrier to obtaining those positions. Moreover, Supreme Court law clerks wield considerable power, playing an extremely influential role in the Court's functioning.

As Meeks wrote: "Clerks have the ear of the justices they serve. They have input on which cases the justices choose to consider. They write the initial drafts of most

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decisions. The Supreme Court's decisions are the law of the land and thus affect lives, determine how government resources are allocated, [and] force legislatures to reformulate public policy choices." In other words, the influence clerks have on both the cases heard and the opinions the court renders should not be underestimated.

For example, recent Supreme Court decisions have narrowed opportunities for people of color as a result of limiting or ruling unconstitutional critical affirmative action programs or by diluting the application of the Voting Rights Act. The fact that clerks preview and review these cases means that they have had an impact on rulings involving civil rights, access to education, workplace discrimination, religious freedom, voting, welfare reform, immigrant rights, school desegregation, sexual harassment, police brutality, and death penalty appeals. Many of these cases have a disproportionate impact on minorities or women. Diversity in the background and experience of clerks can help sensitize the justice to difference.

Court observers note that virtually all the Supreme Court clerks are chosen from clerks for the United States Courts of Appeals. Thus, the lack of diversity of judges on the Court of Appeals influence the pool of clerks for the Supreme Court. Table 2.1 breaks down the race, ethnicity, and sex of Court of Appeals judges appointed between 1981 and 2007 (with lifetime appointments, some of the appointees of President Reagan are still serving). While the data do not allow for the analysis of intersections, the clear implication is that judgeships are very much male and white. To the extent judges seek clerks they are comfortable with because the clerks are "like themselves," judges re-create the pattern set by the white, male presidents who appointed them.

With the election of Barack Obama, the first biracial president, some of these patterns will start to change. His first appointment to the Supreme Court was Sonia Sotomayor, the Court's third woman and first Hispanic woman. But more generally, "Whites still comprise a full 84 percent of the federal judiciary. Women constitute only one in five federal judges. African Americans make up only 8 percent of the bench" and less than 1 percent are Asian Americans (Tobias 2009). As of August 30, 2009, there were 876 federal judgeships, of which ninety were vacant; President Obama has appointed sixteen people—not all of who are minority and/or female—and none have yet been confirmed (uscourts.gov 2009). The pace of change for federal judgeships will be slow, and thus clerks will be important for helping give the justices a broader, more rounded, and varied perspective on critical issues. In sum, only by setting a proactive example of inclusion can the Supreme Court fulfill the ideal of justice that it purports to protect. Indeed, the same argument, more or less, can be applied to virtually all careers associated with the administration of justice in America.



The opening narrative discussed the two highest federal courts, which are important but make up a small part of the criminal justice system.

Table 2.1. Sex, Race, and Ethnicity of Presidential Appointees to the U.S. Court of Appeals

	Reagan 1981–1988	Bush 1989–1992	Clinton 1993–2000	Bush 2001–2007
Sex				
Male	95%	81%	67%	75%
Female	5	19	33	25
Race, Ethnicity				
White	97%	89%	74%	85%
Black	1	5	13	10
Hispanic	1	5	12	5
Asian	0	0	2	0
Number of Appointees	78	37	61	59

Totals may not add to 100 percent because of rounding. *Sourcebook of Criminal Justice Statistics*, table 1.81.2008.

Indeed, the system employs almost 2.5 million people and spends about \$20 billion in payroll (see table 2.2). That figure does not include people in private security, private detectives, or other related work not funded by government. Thus, jobs within the criminal justice enterprise are diverse (see box 2.1), and different occupations have unique dynamics with respect to the diversity of class, race, and gender. The first part of this chapter describes the roles and functions of the principal occupations in the three primary areas of criminal justice practice—law enforcement, courts, and corrections—and provides an overview of the relevant breakdowns according to race, gender, and class. In addition, for each of the subsystems of the administration of criminal law, other characteristics such as the number of workers, working conditions, educational requirements, and salaries are provided. The second part of this chapter briefly examines how globalization, privatization, homeland security, and militarization are changing the nature of the criminal justice enterprise—and the jobs and careers within it.

Table 2.2. Criminal Justice Expenditures, Payroll and Employees, 2006

	Total Expenditures	Employee Payroll	Total Employees
CJ System Total	\$214.5 billion	\$10.2 billion	2,427,452
Police	\$98.9	\$5.1	1,154,193
Judicial and Legal	\$46.9	\$2.3	507,793
Corrections	\$68.7	\$2.8	756,466

Detail may not add to total because of rounding. Payroll as of March 2006. Source: BJS, *Justice Expenditure and Employment in the United States, 2006*. NCJ224394, tables 1 and 2.

Box 2.1 Careers in Criminal Justice

<i>Law Enforcement/ Security</i>	<i>Courts/Legal</i>	<i>Corrections/ Rehabilitation</i>
BATF Agent	Arbitrator	Activity Therapist
Border Patrol Agent	Attorney General	Business Manager
Campus Police Officer	Bailiff	Case Manager
Crime Prevention Specialist	Clerk of Court	Chaplain
Criminal Investigator	Court Reporter	Chemical Dependency Worker
Criminal Profiler	Jury Coordinator	Child Care Worker
Customs Officer	Juvenile Magistrate	Classification Officer
Deputy Sheriff	Law Clerk	Clinical Social Worker
Deputy U.S. Investigator	Law Librarian	Community Liaison Officer
Drug Enforcement Officer	Legal Researcher	Correctional Officer
Environmental Protection Agent	Mediator	Dietary Officer
FBI Special Agent	Paralegal	Drug Court Coordinator
Fingerprint Technician	Public Defender	Fugitive Apprehension Officer
Forensic Scientist	Public Information Officer	Home Detention Supervisor
Highway Patrol Officer	Trial Court Administrator	Job Placement Officer
INS Officer	Victim Advocate	Juvenile Detention Officer
Insurance Fraud Investigator		Juvenile Probation Officer
Laboratory Technician		Medical Doctor
Loss Prevention Officer		Mental Health Clinician
Military Police Officer		Nurse
Park Ranger		Parole/Probation Officer
Police Administrator		Postal Inspector
Police Dispatcher		Presentence Inspector

Law Enforcement/ Security	Courts/Legal	Corrections/ Rehabilitation
Police Officer		Prison Industries Supervisor
Polygraph Examiner		Programmer/Analyst
Private Investigator		Psychologist
Private Security Officer		Rehabilitation Counselor
Recreation Coordinator		Residence Supervisor
Researcher		Secret Service Agent
State Trooper		Sex Offender Therapist
		Social Worker
		Teacher
		Vocational Instructor
		Warden/ Superintendent
		Youth Service Worker
		Youth Supervisor

CRIMINAL JUSTICE WORKERS

Law Enforcement Workers

In 2006, the United States had almost 18,000 public law enforcement agencies and about 1.2 million sworn law enforcement officers at the municipal, county, state, and federal levels of government (Bureau of Labor Statistics 2008–2009). A breakdown of occupational police types and the employment data for 2006 and projected for 2016 are presented in table 2.3. While this section does try to paint a general picture, Bohm and Haley (2005, 160) point out that virtually no two police agencies in America are

structured alike or function in the same way. Police officers themselves are young and old; well-trained and ill-prepared; rural, urban, suburban; generalists and specialists; paid and volunteer; and public and private. These

differences lead to [at least three] generalizations about law enforcement in the United States:

1. The quality of police services varies greatly across the nation.
2. There is no consensus on professional standards for police personnel, equipment, and practices.
3. Expenditures for police services vary greatly among communities.

Starting salaries and median annual earnings for nonsupervisory sworn personnel in 2002 and 2003 across local, state, and federal law enforcement agencies were in the low to high \$40,000 range. However, supervisory salaries for the federal law enforcement workers topped out at between \$85,000 to \$106,000 compared to a range of \$50,000 to \$85,000 for local and state supervisory law enforcement workers (Bureau of Labor Statistics 2004–2005). In 2006, police and sheriff's patrol officers had median annual earnings of \$47,460, up from \$42,270 in 2002 (Bureau of Labor Statistics 2004–2005; 2008–2009). Minimum to maximum annual salary bases (not including overtime) for police supervisors for 2002 and 2006 are listed in table 2.4.

Educationally, just 1 percent of municipal police departments required new recruits to have a four-year college degree and only 9 percent required at least a two-year degree in 2003. A high school diploma or higher edu-

Table 2.3. Police Types and Employment, 2006 with Projections for 2016

Projections Data from the National Employment Matrix

Occupational Title	Employment 2006	Percent Employment, 2016	Change, 2006–2016	
			Number	Percent
Police and Detectives	861,000	959,000	97,000	11
First-line Supervisors/ Managers of Police and Detectives	93,000	102,000	8,500	9
Detectives and Criminal Investigators	106,000	125,000	18,000	17
Fish and Game Wardens	8,000	8,000	0	0
Police Officers	654,000	724,000	70,000	11
Police and Sheriff's Patrol Officers	648,000	719,000	70,000	11
Transit and Railroad Police	5,600	5,900	400	6

Note: Data in this table are rounded. *Occupational Outlook Handbook, 2008–2009*. U.S. Bureau of Labor Statistics, 2008–2009. Retrieved from www.bls.gov/oco/ocos160.htm#earnings.

Table 2.4. Minimum to Maximum Annual Salary Bases (Not Including Overtime) for Police Supervisors for 2002 and 2006

Title	2002	2006
Police corporals	\$39,899 to \$49,299	\$44,160 to \$55,183
Police sergeants	\$46,899 to \$55,661	\$53,734 to \$63,564
Police lieutenants	\$52,446 to \$63,059	\$59,940 to \$72,454
Police captains	\$56,499 to \$70,177	\$65,408 to \$81,466
Deputy chiefs	\$59,790 to \$75,266	\$68,797 to \$87,564
Police chiefs	\$68,337 to \$87,037	\$78,547 to \$99,698

Source: Bureau of Labor Statistics 2004–2005; 2008–2009.

cational achievement was required by 81 percent of local police agencies across the nation (Bureau of Justice Statistics 2006c, 9).

At the federal level, in 2004 there were about sixty-five law enforcement agencies employing about 105,000 full-time personnel authorized to make arrests and carry firearms (BJS 2006b). Agencies include the Federal Bureau of Investigation, the Drug Enforcement Administration, the U.S. Secret Service, and the Bureau of Immigration and Customs Enforcement (formed in 2003 as a part of the Department of Homeland Security). In these and other federal law enforcement agencies, women and minorities are underrepresented, but they fare better than at the local levels of law enforcement. For example, in 2004, women accounted for 16 percent of federal officers; almost 18 percent were Hispanic, 11 percent were African American, 3 percent were Asian, and 1 percent were Native American (BJS 2006b, 1, 6). Total minority representation at the federal level was thus about 33 percent, compared to almost 24 percent at the state and local level. The Bureau of Justice Statistics does not publish data broken down by race and gender, which would reveal the number of minority women employed as federal officers.

Local law enforcement activities constitute the bulk of police work and are carried out primarily by municipal (i.e., city, township) police departments that typically (94 percent) employ fewer than fifty sworn officers. The larger the police agency, the more likely it is to employ women and minority officers. While white males are still highly overrepresented, the overrepresentation has been declining. For example, in 2000, "70.9 percent of full-time sworn officers were white men, down from 78.4 percent in 1997" (Bohm and Haley 2005, 162). From the early 1900s until 1972, when the Equal Employment Opportunity Commission (EEOC) began to assist women police officers in obtaining equal employment status with male officers, policewomen were responsible for protection and crime prevention work with women and juveniles, particularly girls. Today, women engage in virtually all of the duties that men do, but according to the National Center for Women in Policing (2002, 6), the number of women

within large police agencies declined from 14.3 percent in 1999 to 12.7 percent in 2001—a trend they attribute to a reduced number of consent decrees in effect because of lawsuits. (Representation in top positions is less in smaller police agencies.) They also note women hold only 7.3 percent of top command positions (chiefs, deputy chiefs, and captains) and 9.6 percent of supervisory positions (lieutenants and sergeants); women of color hold 1.6 percent of top command positions and 3.1 percent of supervisory positions (2002, 4, 7).

Like most municipal police departments, most sheriffs' departments are small. In addition to enforcing the criminal and traffic laws of the state, sworn and not sworn personnel of sheriffs' departments perform functions that range from investigating crimes to supervision of jailed inmates. Unlike municipal police departments, sheriffs are directly elected, so they operate in the context of partisan politics and have the authority to appoint special deputies and to award patronage jobs. Generally, they have a freer hand in running their agencies than police chiefs who usually serve as mayoral appointees, but they are also subject more to local politics than they are to attributes of police professionalism. The first year a woman was elected sheriff was in 1992, when two women were elected—one in Georgia and the other in Arkansas.

In making sense of the statistics and the overall environment, a number of points are important. First, all women and racial minorities interested in working in most areas of criminal justice share the challenge of entering overwhelmingly white male work environments, with women of color being doubly disadvantaged. For example, Susan Martin (1992) concluded that white patrolmen tended to be protective of white women but not black women. Moreover, black men could not be counted on to support and assist black women, and some (as with some white men) were opposed to women on patrol. Further, white female officers tended to view gaining acceptance by male officers as more important and valuable than being accepted by other women, leading one black female supervisor to conclude that "getting unity is like pulling teeth."

Second, sexual and racial discrimination acts to preserve some criminal justice professions, especially law enforcement, as disproportionately white male domains. These forms of harassment can be separate and unrelated or combined, for example, in the form of "racialized sexual harassment" that serves to keep some women of color from entering, advancing, or remaining in a predominantly white male occupation. In general, women of any color and minority males must try to fit into the world of the white male cop. Both of these groups may also lack access to the "old boy" networks in law enforcement, a situation that can be conducive to a catch-22 state of affairs, especially for women. On the one hand, if men of color or women in general do not socialize (either by choice or exclusion), they risk not learn-

ing information related to their job or promotion opportunities and may be labeled as aloof or "cold." On the other hand, if women in particular socialize with male colleagues, they may be perceived to be sexually available, which reflects negatively on women's professionalism (Belknap 1995; Fletcher 1995; Martin and Jurik 1996). Gay and lesbian officers, white or of color, have another set of issues to be addressed by law enforcement (see box 2.2). (The situation is still better for them than in the military, where "don't ask, don't tell" denies their equal civil rights and discriminates against them for their sexual identities.)

Third, The National Center for Women in Policing (2002, 3) notes that "once on the job, women often face discrimination, harassment, intimidation, and are maliciously thwarted, especially as they move up the ranks." When such behavior is on the basis of gender discrimination alone, women may encounter sexual harassment in a variety of forms. Such harassment may contribute to a hostile working environment in which submission to unwelcome sexual advances and comments becomes a condition of employment. Women who complain may be ostracized by their colleagues (see chapters 5 and 9).

Fourth, women of color have additional barriers even though some people believe that they receive a double benefit because of their underrepresentation as both women and people of color. In reality, cases like the *United States v. City of Chicago* are more typical (Martin 1992). There, the judge imposed quotas for promotion to encourage the hiring of more racial and ethnic minority officers and women. Initially, black women were called from the promotion list as blacks. When the white women officers realized the black women officers were being promoted ahead of them, the white women filed a claim asserting that all women should be treated as one single minority group—as women. The judge ruled that black women could not be given double benefits and that they had to be judged against other women and not men, with the approval of the lawyer from the African American league (which was representing all black officers) who failed to consult the black women involved in the case. This decision advantaged the black males and disadvantaged the black females, as black women had to compete with white women whose test scores were better than theirs rather than with the black men, whose test scores were not. Of course, the ruling could have placed black women in the minority category of black rather than that of female, wherein the result would have been that black women would have been promoted over black men. Interestingly, when the black female officers filed a lawsuit protesting the decision, the judge agreed that they had a valid complaint but deemed their concerns "not timely."

Fifth, racial/ethnic minorities, blacks and Hispanics in particular, not only have to deal with fitting in and being accepted by their white male counterpart majorities but they often, especially in impoverished ethnic

Box 2.2. Gay and Lesbian Police Officers

The presence of women and gay men on the police force challenges the traditional heterosexually masculine definition of the occupation. Just as being a competent female officer challenges assumptions that policing is a masculine occupation suited only for masculine men, so too does being a competent gay male officer. Many straight male police officers are against anything feminine, be it a female police officer or a male police officer they perceive to be effeminate.

Homophobic attitudes in society and with law enforcement in particular create problems for the gay or lesbian officer. In most states an employer is perfectly within its right to fire (or refuse to hire, or refuse to promote) an employee solely because of his or her sexual orientation. Thus, the gay or lesbian officer who is being mistreated on the job lacks legal protection to confront the problem, much the same as a homosexual has no rights in the armed services (they are prohibited from service, and thousands have been discharged).

Unlike race or sex, officers can choose to try to conceal their sexual orientation. Thus, some officers may experience the stress of staying closeted. Gay officers may try to present a heterosexual image by playing along with the macho sexual bravado. A lesbian officer may tolerate flirtations from male officers in order to protect her sexual identity or dispel rumors that she is a lesbian. Some lesbian officers report harassment on the basis of their gender or their sexual orientation, or a combination of both. Male officers are expected to be masculine or risk being labeled a "faggot." Women officers are expected to be feminine—or at least not masculine—or risk being labeled a "bulldagger" or a "dyke."

Beyond the verbal insults is offensive and harassing conduct by fellow officers, including being assaulted, forced into lockers, and handcuffed (King 1998). Some gay and lesbian officers fear for their safety. A lesbian officer observed, "If I were a gay man, I don't know if I'd be out. . . . I can see where a gay man would really be in fear for his life every single day from his fellow officers" (quoted in Buhrke 1996, 110). For some officers, the torment and ridicule may be severe enough to cause them to seek early retirement or psychiatric treatment.

Recognizing the need of gay and lesbian police officers and other criminal justice professionals to have an arena to discuss their concerns in an atmosphere free of job-related reprisals, the Gay Officers Action League (GOAL) was established in 1981. GOAL continues to provide a safe environment for people who have been, and continue to be, victims of harassment and discrimination in the workplace, while at the same time attempting to change homophobic attitudes in the workplace and in the community at large. Other organizations, such as Law Enforcement Gays and Lesbians (LEGAL), also offer support for gay, lesbian, bisexual, and transgender workers in criminal justice.

communities, find that their community identities or loyalties are subject to questioning. In cases of police brutality or when excessive force is used by black police officers against those in the black community, some see it as evidence that the incident was about brutality and excessive force, not race. But people should not jump to that conclusion without considering that black officers are capable of holding prejudices about black offenders. Ronald Hampton of the National Black Police Association observed, "Success [in a department] is defined in white male terms. So these guys internalize the racist, oppressive culture of the police department in order to succeed" (Ripley 2000). Finally, undercover work requires the involvement of detectives whose dark skin permits them to blend into certain neighborhoods, but they sometimes fear that a white officer will accidentally shoot them (Winerip 2000).

For all the problems, there are some who say that sexism and racism in the workplace is declining. However, affirmative action myths, such as that police or corrections departments must meet quotas in hiring women and minority men, regardless of whether or not they are qualified, seems to be unevenly fading away. In reality, affirmative action programs were designed to determine the percentage of qualified women and minorities available to an organization (such as a police department) and to set flexible goals to be reached in good faith. The courts, in short, imposed quotas only in the case of blatant discrimination against clearly qualified minorities, and this system disappeared after the Supreme Court decided quotas were unconstitutional when used in college admission in *University of California v. Bakke* (438 U.S. 265 [1978]).

In conclusion, there are significant limitations on essentializing gender relations or police-race relations in an occupational setting. Statements such as "all white officers engage in racial profiling" or generalizations about the behavior of female officers are too simplistic. The social reality is that people are influenced not only by their personal attitudes and experiences but also by the context in which they live and work. Whites are capable of recognizing the problems of racial profiling and brutality, and racial and ethnic minority officers are capable of succumbing to them. Women must both adapt to the masculine values in policing even as they also resist and seek to change some aspects of the organization. To suggest otherwise is to diminish everyone by treating people as if their actions are solely dictated by their racial categorization rather than by a variety of individual, occupational, organizational, situational, and other contexts. However, this should not mask some underlying dynamics of privilege, because when it comes to harassment based on gender, sexual orientation, or race/ethnicity in law enforcement, women, gays and lesbians, and people of color each experience the status of "outsider." They are all subjects of police

subordination in an occupation that punishes them for entering male only or white male only domains (Martin and Jurik 1996).

Judicial Workers

The number of judicial workers involved in criminal tribunals, from the charging to the sentencing stages, is considerably smaller than the number of workers involved in law enforcement. Further, law enforcement workers are essentially working class and middle class (except those involved in *contract security* as private security officers or "guards" whose average full-time annual salary in 2000 was \$17,570 [Bohm and Haley 2005, 180] and those managers either in charge of private security officers or employed in *proprietary security*, with annual salary ranges from the middle \$50s to the low six-figure incomes). But judicial workers can be divided by profession and class into two distinctive categories of workers.

First, there are the members of the legal bar—attorneys and judges—who have overwhelmingly graduated from a four-year college or university as well as a three-year law school, passed a state bar examination, and been certified to practice law. The *Sourcebook of Criminal Justice Statistics* indicates that in 2005, the median salary of prosecutors was \$85,000, although this figure includes part-time offices. Full-time prosecutors had a median salary of \$95,000 to \$149,000 depending on the size of the jurisdiction (*Sourcebook Online*, table 1.87.2005). For states, the median salary for judges in 2009 was about \$130,000 for a general trial court up to a median of \$145,000 for the highest court (*Sourcebook Online*, table 1.90.2009). However, salaries varied widely by state, so that general-level judges in Montana made about \$99,000 while their counterparts in California made almost \$179,000. The *Sourcebook* does not provide any data on public defender salaries.

Second, there are the nonlawyers, primarily bailiffs and stenographers but also including the much less frequent occupations of victim-witness or domestic violence advocates. With the exception of bailiffs, the other nonlawyers (especially stenographers) are primarily women and white. The educational backgrounds of these nonlawyers vary greatly, from those with a high school diploma or GED to those with undergraduate and postgraduate degrees. These judicial workers' annual incomes place them in the working and middle classes. For example, the average annual 2006 salary for paralegals and legal assistants was \$43,040; court reporters was \$45,610; and law clerks in 2008 were earning \$40,580 (Bureau of Labor Statistics 2008–2009).

The rest of this discussion on judicial workers focuses on the three key actors in the criminal court process: the prosecutor, the defense attorney, and the judge. These positions influence some of the direct actions taken

by police and correctional personnel in the name of crime control, and they also indirectly influence some behavior of general citizens as they conform to the "rule of law." Despite the relative power of these legal actors, they are still captives of a legal order and rigid judicial processes that are, for the most part, well beyond their control.

Prosecutors

Violations of federal law are prosecuted by the U.S. Justice Department, headed by the U.S. Attorney General, and staffed by ninety-three U.S. attorneys (one assigned to each of the federal district court jurisdictions), all nominated by the president and confirmed by the Senate. Within states, district attorneys are generally employed by a county to prosecute violations of state laws. Most chief prosecutors for each county are elected, and they select their assistant or deputy prosecutors who carry out the day-to-day work of the prosecutor's office in all but the small and rural offices. Since most crimes violate state law, these offices receive most of the attention in this section.

In 2005, according to a national survey of prosecutors, there were 2,344 prosecutors' offices in the United States, employing more than 78,000 attorneys, investigators, victim advocates, and support staff (Bureau of Justice Statistics 2006a, table 1). The combined annual budgets in 2005 for state (\$4.9 billion) and federal (\$3.2 billion) prosecutors came to \$8.1 billion (Perry 2006, 1, 4). State prosecutors' offices closed more than 2.4 million felony cases and nearly 7.5 million misdemeanor cases in 2005. This amounted to about ninety felony cases per assistant prosecutor. The median number of felony jury trial verdicts per office was only six, and these represented approximately 3 percent of the total felony cases. The Bureau of Justice Statistics notes "felony trial verdicts were relatively rare" (2006a, 6), underscoring the importance of the plea-bargaining system (DeFrances 2002). The real life of prosecutors and defense attorneys is that of private negotiations rather than the emotionally charged trial that is featured prominently on many television dramas.

Depending on the state, the prosecutor may be called the district attorney, the county attorney, the state's attorney, or several other variations. Whatever the name,

the prosecutor is the most powerful actor in the administration of justice. Not only do prosecutors conduct the final screening of each person arrested for a criminal offense, deciding whether there is enough evidence to support a conviction, but in most jurisdictions they also have unreviewable discretion in deciding whether to charge a person with a crime and whether to prosecute the case. In other words, regardless of the amount (or lack) of

incriminating evidence, and without having to provide any reason to anyone, prosecutors have the authority to charge or not with a crime and to prosecute or not prosecute the case (Bohm and Haley 2005, 278).

Like all attorneys, prosecutors are officers of the court. In addition, although police typically recommend that a suspect be charged with a crime, the final decision rests with the prosecution. To charge or not to charge and what to charge are all decisions within prosecutorial discretion, which is what gives prosecutors their formidable power. The only check on the power of the prosecutor's arsenal of legal weapons are the "rules of discovery" mandating that a prosecutor provide defense counsel with any exculpatory (favorable) evidence on behalf of his or her client.

Once the decision to prosecute has been made, prosecutors are then involved in virtually all stages of criminal adjudication, including whether or not to plea bargain a case (and the negotiated punishment to be doled out) or to take it to trial, the trial itself, and the sentencing phase as well. Other duties, depending on jurisdiction, that add to the power of prosecutors are recommending the amount and/or whether a person should receive bail; acting as legal advisers to other local governmental agencies; and managing a legal and political bureaucracy.

With few exceptions, partisan politics play a controlling role in the recruitment of prosecutors, both country and federal. For attorneys with any political aspirations or ambitions, choosing to work as a district attorney is a wise decision. As a political office engaged in the "war on crime" and as a political springboard to higher governmental posts, appointed or elected, the only office to rank higher is the mayor's. In short, it's not the money but the power, status, and political potential that attracts persons to prosecutors' offices, often cementing their allegiances to the political status quo and state-legal apparatuses in the process (Jacob 1980 [1973]).

Breakdowns of prosecuting attorneys by gender and/or race/ethnicity were not available; however, the number of chief and assistant prosecutors in 2005 belonging to the National Black Prosecutors Association was 800. Historically, women, blacks, Hispanics, and other minorities have been highly underrepresented. Although there are certainly more women prosecutors today compared to three decades ago (when there were virtually none), the presence of persons of color is still statistically marginal. In other words, the cultural gap between the majority of white, middle-class prosecutors and the overwhelmingly indigent majority of defendants, non-white or white, remains wide. Also, those who become assistant and chief prosecutors are not traditionally of the same class backgrounds as those members of the bar who take cases against big business and corporate America. As Herbert Jacob, the political legal scholar, pointed out (1980 [1973]) in one of his classic works:

There are substantial indications that in many cities, most of the assistant prosecutors come from local law schools. In Chicago, for instance, more assistants come from DePaul and Chicago Kent than from the University of Chicago or Northwestern University law schools. They are likely to come from more modest backgrounds than students in elite law schools; they are often graduates of local high schools and colleges and come from families that have lived a long time in the city. The backgrounds of prosecutors suggests that they are particularly sensitive to political implications of their work; they are usually part of the political clique that dominates their locale and, therefore, may be more protective of their fellow officeholders than others would be.

Little has changed about these fundamental political, social, and economic realities of prosecuting criminal defendants in contemporary America.

Defense Attorneys

Backgrounds of defense attorneys are similar to those of prosecutors, working class and middle class. Both groups of attorneys are usually homegrown and typically attended nonelite law schools within their native states. Unlike prosecutors, however, defense attorneys are generally not connected to the local political scene. It is also safe to assume that if prosecutors closed 2.4 million felony cases in 2005, then defense attorneys of some kind were present in each of these cases, although some of the 7 million misdemeanors might have been closed without the benefit of a defense counsel.

Criminal defense work is done by privately retained lawyers, court-appointed lawyers, public defenders, and contract lawyers. Regardless of the type of lawyer that one has, the Sixth Amendment to the U.S. Constitution as well as several twentieth-century Supreme Court decisions guarantee the right to "effective assistance" of counsel to people charged with a crime (Barak 1980; Loftus and Ketcham 1991). Besides the right to representation at trial, the right extends to several other critical stages in the criminal justice process where the "substantial rights of the accused" or convicted may be affected. These stages may include: police lineups, custodial interrogations, preliminary hearings, plea-bargaining sessions, first appeal of a negotiated or postconviction sentence, and probation and parole revocation hearings. The Supreme Court has also extended the right to counsel to minors in juvenile court proceedings.

Defense attorneys often receive a "bad rap" from the public for defending obviously guilty clients or for getting them off through legal loopholes or technicalities. However, the defense attorney is playing a part as an officer of the court by making sure the prosecutor can prove guilt beyond a reasonable doubt while playing by the accepted rules of procedure. The constitutional

right to effective assistance of counsel and the adversarial nature of the adjudicative process would become meaningless if lawyers refused to defend their clients on the grounds that they knew (or believed, or the community generally believed) that a defendant was guilty. Hence, their jobs are to provide the best possible legal counsel and advocacy within the ethical standards of the profession and the limits of the law in order to compel the state to legally prove its case beyond a reasonable doubt.

On the whole, defense attorneys differ markedly from both prosecutors and judges. First, defense attorneys come on the stage after prosecutorial discretion has engaged in its gatekeeping functions, deciding which cases to drop, to negotiate, or to take to trial. In effect, prosecutors initiate cases and defenders respond. Similarly, though defenders may influence the decisions to plea or to try a case, they exert no systematic impact over the courtroom flow of criminal cases unless they are members of a large public defenders' office (Barak 1980). Moreover, unlike prosecutors and judges, criminal defenders are not elected public officials. They are all private citizens whether they are self-employed or salaried employees of local government.

Second, as a group, criminal defense attorneys are alienated and isolated from local politics; their chief alliances are with the vagaries of the legal marketplace and/or the civil service system to which they belong. In other words, not only are defense attorneys not part of a political patronage system, they are also generally not centrally located in one downtown office building, as prosecutors and judges are. Nor do they wield comparative influence with that of prosecutors with either bar associations or legislators.

Third, unlike prosecutors, not all lawyers who represent criminal defendants are adequately trained or prepared to specialize in the practice of criminal law. Most lawyers while in law school have typically taken one or two courses in criminal law and criminal procedure. Like most of the other law courses and like most practicing attorneys, the areas of law they specialize in relate to such lucrative fields as corporate, tax, or tort law or to the less remunerative, yet still financially secure, areas of the law such as probate, divorce, custody, or real estate. Comparatively speaking, the practice of criminal law provides its practitioners, with some notable exceptions such as Alan Dershowitz, Gerry Spence, or the late Johnnie Cochran Jr., less income, prestige, and status in the community.

This discussion provides some of the reasons why both academics and the U.S. Department of Justice estimate that about 34,250 persons are wrongfully convicted each year in American courts (Bohm and Haley 2005, 286). The wrongful convictions generally involve defendants who had public defenders or assigned counsel, and not the few who can afford nationally prominent, highly paid lawyers. Such high-end attorneys, however, are generally retained for one or more of three reasons: (1) the crime is sensational or highly publicized, (2) there are large legal fees involved, or

(3) the chance to make new law, usually in the area of criminal procedure, is a distinct possibility.

If defendants are upper-middle class, they may still have access to privately retained competent counsel. In most large cities, there is another small group of criminal lawyers who make very comfortable livings by defending professional criminals, such as gamblers, pornographers, drug dealers, and members of organized crime. Other defendants of the middle classes or working classes, who may or may not be able to afford private counsel, have access to the vast majority of criminal lawyers who practice predominantly in the large cities across this country. By and large, these solo criminal practitioners or small partnerships of two or three attorneys struggle to earn a decent living, often practicing other kinds of law to make ends meet.

The majority of criminal defendants who are too poor to afford to retain their own counsel must rely on one of three types of criminal attorneys: a court-appointed lawyer, a public defender, or a contract lawyer. Nearly 70 percent of state prison inmates had attorneys appointed by the courts; blacks (77 percent) and Hispanics (73 percent) had slightly higher rates (Bohm and Haley 2005, 287–88).

In sum, most practitioners of criminal defense work can be described as either "those who have failed to establish a successful practice and therefore accept criminal cases as a way of enlarging a legal practice, or those who relish the excitement in criminal work and feel that their practice secures some justice for the accused" (Quinney 1975, 213). However, in terms of the relatively few who fall into the latter category, most practice for many years as career civil servants in the public defenders' offices, justifying their roles "as mediators between the poor and the courts, resigned to seeking occasional loopholes in the system, softening its more explicitly repressive features, and attempting to rescue the victims of blatant injustices" (Platt and Pollock 1974, 27). As for most young defense attorneys who are busy learning and developing their litigation skills, they sooner or later become bored, cynical, and burnt out fighting for "justice for all," whereupon, if they have become competent in their trade, they leave the field of criminal law altogether for middle-class clients and the greener pastures of civil law.

Judges

The vast majority of judges at the state level oversee trial courts of general jurisdiction, with substantially fewer sitting on intermediate appellate courts or courts of last resort (state supreme courts). Judges who oversee most felony cases sit on the benches of what are variously called "district," "superior," or "circuit" courts (depending on jurisdiction). These trial

courts, of which there are more than 3,000 across the nation, have the authority to try both civil and criminal matters and to hear appeals from the "lower courts" or trial courts of limited jurisdiction (i.e., city courts, municipal courts, county courts, justice-of-the peace courts, magistrate courts) that primarily handle misdemeanors, traffic violations, and ordinance offenses.

In several states, judges of the lower courts are not required to be lawyers or have any formal legal training. In other jurisdictions, before being elected or appointed to office, the judges will have been practicing lawyers, but many of them will have no background in criminal law before joining the judiciary. In jurisdictions where judges are elected to office, these may be partisan or nonpartisan elections. Where judges are appointed by city councils, mayors, legislatures, or governors, they are subject to the politics of local and state bar associations. Like prosecutors, then, whether elected or appointed, judges are also sensitive to the political process that generally serves the status quo rather than social change.

Like prosecutors and criminal defenders, most judges in the United States are overwhelmingly white and male. Judges tend to come from upper-middle-class families, average more than fifty years of age, attend college and law school in their home states, and are typically born in the communities in which they preside (Satter 1990). Better educated than the average citizen, a majority of these judges were previously in private legal practice, making more money than they usually do as judges. (In 2004, the average lawyer made \$110,590 annually, while the average judge made \$92,100 [Bureau of Labor Statistics 2004b].)

Compared to prosecutors and defenders, trial judges command more respect, status, and deference from citizens at large. According to imagery, judges are presumed to have enormous power over the adjudication or criminalization processes. Actually, though, judicial discretion is far more circumscribed than prosecutorial discretion because judges are subject to appeal and legal review by higher courts. Sentencing guidelines are established by legislators, and even when they are technically "advisory" they exert a great deal of control over the outcome. In effect, while trial judges do in fact possess a great deal of power, discretionary and otherwise, they are still less powerful in the administration of criminal justice than prosecutors are.

Since more than 90 percent of criminal cases are resolved by plea bargains, a judge's principal role becomes that of a "bureaucratic stamp" for negotiated deals worked out between prosecutors and defenders rather than one of an interpreter of complex legal matters. What Jacob (1980 [1973], 67) wrote about judges and criminal adjudication more than thirty years ago is just as accurate today as then:

The massive flow of cases through their courts precludes anything but a cursory examination of the issues brought to their attention. Judges, like many factory

workers, sit on an assembly line. They repeatedly perform routine tasks, with each task consuming only a fraction more than a minute. For such judges, the role is exactly the opposite of the intellectual challenge a judgeship is presumed to pose; it is a mind demeaning, stupefying post.

Corrections Workers

When it comes to prisons and imprisonment, correctional officers represent the vast majority of workers. They are generally responsible for the security of the institution and have the most frequent and closest contact with inmates. As Hawkins and Alpert (1989) have observed, correctional officers experience a number of conflicts in their work, often become bored (tower workers) or overstimulated (cell block workers) depending on the nature of their jobs, and are subject to role ambiguity or role strain resulting primarily from the contradictions between custody and treatment objectives. Overall, these "officers generally have considerable discretion in discharging their duties within the constraints of rules, regulations, and policies. Yet, because they lack clear and specific guidelines on how to exercise their discretion, they feel vulnerable to second-guessing by their superiors and the courts" (Bohm and Haley 2005, 405).

Gresham Sykes's classic study, *The Society of Captives* (1958), pointed to some ambiguities in correctional officers' power and discretion because they are outnumbered by prisoners and depend on their compliance to keep the daily routine of prison, a situation he referred to as one of the "defects of total power." Hawkins and Alpert (1989) have identified three responses of officers to their working conditions. First, officers may become alienated and cynical and withdraw into some relatively safe niche within the prison. Second, some officers in their efforts to control inmates become overly authoritarian, confrontational, or intimidating. Finally, there are those officers who adopt a human-services orientation, seeking to make prisons a constructive place for themselves and for inmates. This latter orientation is not about waiting on the inmates and "serving" them in that sense, but a community policing type of orientation within the cell block rather than out on the streets (Johnson 2002).

While correctional officers are most directly engaged with inmates, there is a larger prison bureaucracy that accounts for many jobs. In 2001 adult correctional agencies employed about 440,000 people, about 220,000 were correctional officers (Bohm and Haley 2005, 404). By 2006, correctional agencies employed about 500,000 people. About three of every five jobs were in state correctional facilities, about 18,000 in federal institutions, and about 16,000 in privately owned and managed prisons. Median earnings in 2006 for correctional officers and jailers was \$35,760, with the federal government paying more, local government paying less,

and private prisons paying much less (\$25,050) (Bureau of Labor Statistics 2008–2009). Salaries at both levels of government were subject to increases after completion of preservice training and/or a probationary period (Camp and Camp 2002, 168–69).

Although corrections workers for the federal bureau of prisons are required to have a bachelor's degree and some related work experience, paid or volunteer, applicants for state correctional systems only have to be eighteen or twenty-one years of age and possess a high school diploma or the GED. Slightly more than one-third (35 percent) had at least some college and about 10 percent of all correctional workers have a bachelor's degree or higher (Sumter 2008). At the same time, there are efforts to upgrade prison work from that of a mere job into that of a professional career. However, low pay, the nature of the work, the lack of prestige associated with it, and the remote or rural location of many prisons makes recruitment of better-educated officers difficult if the economy presents other opportunities. Conover (2000) sums up the situation from a discussion he had with a fellow guard:

"officer after officer will tell you: there's no way in hell you'd want your kid to be a [correctional officer]." He said that probably ninety percent of the officers he knew would tell a stranger they met on vacation that they worked at something else—carpentry, he liked to say for himself—because the job carried such a stigma. Sure it had its advantages, like the salary, the benefits, the job security, and with seniority, the schedule: starting work at dawn, he had afternoons free to work on his land . . . but mainly, he said, prison work was about waiting. The inmates waited for their sentences to run out and the officers waited for retirement. It was "a life sentence in eight-hour shifts."

Some have argued that other obstacles to professionalizing corrections work have allegedly come from the backlash to affirmative action, tensions between the genders and races, and unionization of correctional workers (Owen 1985; American Correctional Association 2003).

In terms of gender and race, "77 percent of uniformed staff, including correctional officers, were male (though 35.5 percent of correctional officers hired in 2000 were female), and about 66 percent were white" (Bohm and Haley 2005, 404). When looking more broadly at all employees in state and federal prisons, about 33 percent are female (*Sourcebook* 2003, table 1.104, 96). And, while it is commonplace for women correctional officers to work in federal and state high-security institutions today, the first woman to do so was in 1978. Interestingly, women make up a greater percentage of employees in state facilities than they do in federal facilities, and there are a higher percentage of female employees in the South than in other regions.

The greater diversity in the workplace has also lead to greater tensions at times. As noted in chapters 5 and 9 especially, all groups can hold prejudices about others, but the dominant group has greater power to discriminate and harass. Women in a majority-male environment—especially one imbued with masculine values because of the quasi-military hierarchical organization—can be subject to both nonsexual putdowns as women and to offensive sexual comments or behaviors. Such comments or behaviors come from male inmates as well as a woman's fellow officers. As Conover (2000) has noted, "inmates sometimes tried to ejaculate on female officers," a common inmate rule violation and masturbatory fantasy portrayed on the popular MSNBC series *Lockup* during the 2009 season. All people of color, regardless of gender, can be subject to racial and ethnic slurs and stereotypes, similar to the dynamics discussed in the law enforcement section above. Women of color can be subject to all these forms of discrimination simultaneously. In addition, minority sexual orientations can also result in harassment of gays and lesbians, regardless of gender or race/ethnicity (Belknap 1995).

Finally, this discussion of corrections workers has focused its attention mainly on workers in prison. However, there are also probation and parole officers working in the field of "community corrections." Indeed, as inmate populations have soared over the past several decades, so have the number of persons on probation and parole. For example, between 1980 and January 2007, the increases for the number of offenders subject to probation have risen from 1.1 million to 4.2 million and parole has increased from 250,000 to almost 800,000 (Bohm and Haley 2005; BJS 2008b, tables 2 and 3). Statistics on employment, including race and gender breakdowns, are not available.

THE CHANGING NATURE OF THE CRIMINAL JUSTICE ENTERPRISE

Both the nature and context of criminal justice work continues to change because of changes in the nature of crime, perceived risk, and social trends like technological evolution and the changing worldwide political economy. This chapter closes with a brief review of four major developments that will continue to drive changes in the criminal justice enterprise: globalization, privatization, militarization, and homeland security. These developments are related to class, race, and gender not only because they are related to themes like diversity, otherness, inequality, and masculinity, but also because they represent the development of an emerging "security-industrial complex" (Klein 2007).

Globalization

Globalization refers to the growing interdependency among events, people, and governments around the world that are increasingly connected through trade, expanding communications, transportation, and computer networks. With a globalizing political economy, goods, labor, and money move more freely around the world, a situation that leads to some benefits but also intensified inequality of wealth and income. The chief economist of Wall Street investment bank Morgan Stanley noted: "Billed as the great equalizer between the rich and the poor, globalization has been anything but." Indeed, "only the elite at the upper end of the occupational hierarchy have been spared the pressures of an increasingly brutal wage compression. The rich are, indeed, getting richer but the rest of the workforce is not" (Roach 2006). Today, globalization emphasizes "free trade" and deregulation as corporations look for locations with the cheapest labor and fewest labor and environmental restrictions. Even after the 2009 economic crisis and pressure at the Global Economic Summit from the European Union, China, and India to establish international regulatory agencies, President Obama and the Wall Street and banking institutions he represented rejected the idea.

Globalization policies lead not just to inequality between countries but can lead to inequality within a country because of job losses, stagnating wages, and/or greater benefits to those at the top (through greater profits because of low wages and fewer restrictions) (Faux 2006; Klein 2007; Perkins 2007). In some countries, globalization has led to an expansion in pain and social injustice as measured by higher rates of disease, poverty, and hunger. Studies carried out by the United Nations reveal that the top 20 percent of those living in high-income countries account for 86 percent of all the world's private consumer spending. At the same time, tens of millions of people succumb annually to famine and preventable diseases. For hundreds of millions of others, life has become a daily preoccupation with obtaining safe water, rudimentary health care, basic education, and sufficient nutrition (Barak 2007). Nations around the world are shrinking their welfare states while governments have been busy deregulating, downsizing, privatizing, contracting out, reducing taxes, and cutting social spending.

Ultimately, globalization and inequality create expanding opportunities for "legitimate" capitalists as well as criminals because the need for both licit and illicit goods or services grows in tandem. "Free trade" does not explicitly include the sexual trafficking of women and children, but encouragement of the "free flow" of goods also makes it easier to traffic persons, drugs, intellectual property, and weapons. It also encourages

the fraudulent and unfair trade practices in commerce, the laundering of unauthorized drug and arms trade profits, the smuggling of illegal immigrants into

and out of nations, the dumping of toxic waste and other forms of ecological destruction, the acts of terrorism committed by and against various states, and the behavior of multinationals to move capital and technology to exploit cheap labor (Barak 2001, 66).

Meanwhile, the developing contours of some criminality are currently undergoing fundamental change as these become part of the growing transnational character of organized, financial, sex-related, immigration, and computer crime (Travis 1999; Edwards and Gill 2003; Sheptycki and Wardak 2005). As crime becomes transnational, crime control must do the same, requiring workers who are fluent in different languages and have an understanding of other regions of the world where the United States must collaborate with the crime control agencies in other nations.

An important aspect of globalization is immigration, which is also considered a security issue. A *New York Times* editorial noted that the Bush administration conducted "mass raids to net immigrant workers while leaving their bosses alone," using heavy weapons, dogs, and helicopters "to spread the illusion that something was getting fixed" (2009b, wk. 9). In eight years these policies netted 6,000 undocumented immigrants out of about 12 million and 135 employers out of who knows how many. In the process, they managed to destroy families, tearing parents and grandparents from children, many of whom are citizens of the United States. Raids, no matter how sensible or tactfully designed, will not fix the problems of immigration in a global economy. On the contrary, such policies have proven themselves to be counterproductive as the "fear they caused went viral in immigrant communities, driving workers further into the arms of abusive employers" (*New York Times* 2009b).

During the spring of 2009 the Obama administration issued new guidelines for Immigration and Customs Enforcement that emphasized prosecuting employers who knowingly hire illegal immigrants. Homeland Security secretary Janet Napolitano asserted during a CNN appearance that illegal immigration or "crossing the border is not a crime per se." She argued accordingly, "What we have to do is target the real evil-doers in this business, the employers who consistently hire illegal labor" as well as "the human traffickers who are exploiting human misery" (Quoted in Meyers 2009). However, the proposed shift on immigration policy is unlikely to have much of an impact on altering the lives of illegal immigrants or the working conditions of U.S. citizens. What these policies do not fix are the long backlogs in legal immigration.

The extended delays in processing paperwork and cases often extend years or decades, "forcing people who want to follow the rules to make an agonizing choice between intolerable separation from their families or lawbreaking" (*New York Times* 2009b). Nor do these policies protect illegal

immigrants who are captured from the arbitrary cruelties of the detention and deportation system, in which due process is limited at best and unacceptable risks of sickness, injury, and death at worst prevail as a condition of confined imprisonment. As the editorial of the *New York Times* (2009b) succinctly articulated the situation:

the new enforcement regime, like the old might lead employers to purge their payrolls of people they merely suspect are here illegally, to avoid the hassle and expense of a raid. . . . Without a path to earned legalization, undocumented workers who lose their jobs will have nowhere to go—except to endure ever-lower wages and worse abuse from bottom-feeding employers.

While modifying raiding policies seem sensibly motivated and slightly more humane, the new guidelines as a whole are a smarter version of a bad idea that does not address the underlying problems of immigration. Far better, critics argue, would be for government to redouble its efforts to enforce the minimum wage, the right to organize, and health and safety protections. Such policies would have the effect of reducing the incentive to hire the undocumented while raising conditions for all workers.

Militarization

Although law enforcement has always been a quasi-military organization, the civil unrest of the 1960s led to the modern escalation in the militarization of the American police (Strauss 2007). Militarism is “a set of beliefs, values, and assumptions that stress the use of force and threat of violence as the most appropriate means to solve problems. It glorifies the use of military power, hardware, operations, and technology as its primary problem-solving tools” (Kraska 2007, 164–65). Accordingly, the militarization of law enforcement includes the processes of arming, organizing, planning, training for, and sometimes pursuing violent conflict.

Kraska argues that assessing the degree to which crime control in general and police behavior in particular have become militarized hinges on the clarity of its concepts. He has also argued that the “similarities between a police paramilitary drug raid [at home in the U.S.] and the latest Iraq war” represents “the cultural, organizational, operational, and material blurring of the line between war and law enforcement, on the one hand, and between U.S. military and civilian criminal justice, on the other hand” (Kraska 2007, 166). Certainly police departments across the United States have experienced dramatic growth and use of specialized units like Special Weapons and Tactics (SWAT) and Special Response Teams (SRT) that are based on similar units within the military. By 1995 more than 77 percent of police departments had specialized units, an increase of almost 48 percent from 1985 (Kraska 1999). Between 1980 and 2004, these units, mostly in

the war on drugs, increased from 2,884 deployments to 45,000 per year (Kraska 1999, 2007).

Further, these units were once thought of primarily as *reactive* units for handling hostage standoffs and other unique situations, but in an "age" of zero tolerance policing these units have become *proactive* forces. In fact, by 2004, 85 percent were no-knock and quick-knock contraband raids inside private residences. Twenty-five years ago, these police paramilitary raids and "forced investigatory searches using the military special operations model, employed during hostage rescues, was almost unheard of and would have been considered an extreme and unacceptable police tactic. Today, it defines the bulk of activity most police paramilitary teams are engaged in, and this is true of both very small and large police departments" (Kraska 2007, 163).

Military personnel train and assist these specialized units, and they also arm local police with the latest in military technology, surveillance equipment, body armor, less-than-lethal use of force devices, "various gases, and explosives to breach doors" (Strauss 2007, 456). Most visible are the adoption of military weapons and devices including the 9mm Heckler, Koch MP5 submachine gun, and the M4 Carbine. The M4 Carbine is a smaller, modified version of the U.S. military's M16 assault rifle. "Other devices that are currently used by both the military and the police include thermal imaging technology, night vision goggles, body armor technology, and various modes of transportation including boats, armored personnel carriers, and helicopters" (Strauss 2007, 456).

The militarization of policing has been accompanied by an escalation in violence, lethal and otherwise. No-knock or quick-knock paramilitary raids—used to collect evidence, such as drugs, guns, or money—naturally surprise citizens and put both citizens and police in potentially volatile situations. Dealing with these potentially dangerous situations justifies further extraordinary measures:

These include conducting searches during the predawn hours, usually in black military battle-dress uniforms, full body armor, ninja-style hoods, and an array of enhanced listening and seeing devices—sort of a twenty-first century cyborg style. It also includes a rapid entry into the residence using specialized battering rams or sometimes entry explosives, the use of flash-band grenades designed to temporarily disorient the occupants, a frantic room-by-room search of the entire residence where all occupants are expected to immediately comply with officers' screamed demands to get into the prone position. If a citizen does not comply immediately because he or she is confused, dazed, obstinate, or doesn't know that the people raiding the house are police, more extreme measures are taken. Finally, the police ransack the entire residence for contraband (Kraska 2007, 167).

The adverse affects from these raids includes situations like deaths of Branch Davidians in Waco, Texas, in 1993; the killing of children; unintentional (but still lethal) gun discharges; raids on the wrong house; and college students shot because of quick entry for violations of marijuana laws. The commonality of these types of tragedies is not known because data on SWAT teams gone wrong are not officially recorded. Kraska (2007), however, collected more than 300 cases between 1999 and 2004 of the same type of paramilitary deployment that resulted in similar tragedies, albeit on a smaller scale. The National Center for Women in Policing also notes that "many women are discouraged from applying to law enforcement agencies because of policing's aggressive and authoritarian image, an image based on the outdated paramilitary model of law enforcement" (2002, 3). This, in turn is detrimental to public safety because "women police officers utilize a style of policing that relies less on physical force and more on communications skills." Thus, when it comes to policing in general, "women are substantially less likely to be named in a citizen complaint, sustained allegation, or civil lawsuit" that results in a payout (2002, 3).

Privatization

Privatization refers to the process of government outsourcing certain tasks to for-profit businesses. While prisons have frequently contracted out food service and health care, privatization escalated in the 1980s with the creation of businesses that built, owned, and managed prisons. A number of private prison companies later had initial public offerings in which they raised money by selling shares to the public and became traded on the stock exchange (Selman and Leighton 2010). Indeed, in the opening of his book *The Perpetual Prisoner Machine*, Joel Dyer comments on the sign hanging outside the Northeast Ohio Correctional Center that reads, "Yesterday's closing stock price." The stock price is for the prison's owner, the Corrections Corporation of America (CCA), the leader in the private prison business. To Dyer, what the sign means "is that anyone—anyone with money, that is—can now profit from crime" (2000, 10). Dyer's concern with "turning the administration of justice into a free-market experiment" (2000, 12) is that "by placing a call to a broker, any American with a few bucks can begin to build wealth so long as the prison population continues to grow" (2000, 10).

The movement to private prisons started as a way to offset the high costs of correctional expenses, due to the incarceration binge in the United States. With the expansion of prison, jail, parole, and probation, Dyer's concerns are increasingly relevant because the number of companies involved in delivering services has expanded and they have diversified into providing more services (see chapter 10). For example,

the privatization of punishment is not just the construction and management of prisons but also: housing illegal immigrants (including families), juvenile offenders, and the mentally ill; contracting to provide health care and food services for incarcerated persons; contracting to provide community-based forms of surveillance, including electronic monitoring; and, most recently, contracting for reentry services for the formerly incarcerated (Selman and Leighton 2010). Indeed, some local governments are considering using taxpayer money for private police as well—a notable departure from the historical situation where the clients of private security companies were private businesses.

The reality of contemporary corrections is that it includes several multinational prison businesses with billions of dollars worth of stock and billions more in debt to Wall Street banks. The money from investors and banks allowed private businesses to build many facilities and thus continue the unprecedented expansion of the prison population—an example of understanding the political economy of punishment, or how politics and economics exert influences on punishment more significant than arguments about retribution, deterrence, and sentencing guidelines (Rusche and Kirchheimer 1968 [1939]). Killingbeck (2005, 169) summarizes how at each stage of history, the reliance on imprisonment in its different forms was tied up in a political economy of punishment:

When society was manual-labor based and dependent on the production of goods and cheap labor, imprisonment included prison labor. It was not until the use of prison labor was no longer economically viable and politically advantageous that reforms were instituted . . . With the advent of new technologies that reduced the demand for manual labor, imprisonment served to warehouse the surplus labor supply. As capitalism became more service oriented, imprisonment became a *service* to be provided. As capitalism becomes a combination of technology, service and information, so too does punishment, in the forms of electronic monitoring and GPS tracking (emphasis in the original).

With outsourcing and globalization, wages of most workers go down while those at the top do much better, leading to an overall situation of greater inequality. With private prisons, guards tend to be paid less and have fewer benefits than government workers, and the antiunion stance of private prisons makes it difficult for workers to substantially improve work conditions. As noted above, median earnings in 2006 for all correctional officers and jailers was \$35,760, but private prisons paid \$25,050 (Bureau of Labor Statistics 2008–2009). Meanwhile, the Chief Executive Officer (CEO) of private prison companies make more than the average head of a Department of Corrections who manages substantially more inmates. For example, the CEO of CCA had total compensation of almost \$3.1 million

for 2008 (CCA 2009), and the CEO of GEO made \$3.8 million that year (GEO 2009; Selman and Leighton 2010).

The free-market ideology suggests that business will be more efficient and cheaper than government. But the research does not support the contention of cost savings. The argument about efficiency sounds plausible based on beliefs about government inefficiency, but private prison companies have substantial overhead because of executive pay, payment for the compensation committee to set executive pay, and executive compensation consultants; they also pay money to Wall Street banks and corporate attorneys for activities such as Securities and Exchange Commission filings, mergers, acquisitions, shareholder lawsuits, advertising, lobbying, campaign donations, and so on. In order to be competitive and turn a profit given all their overhead costs, they use cheaper, nonunion labor. The end result is staff turnover, apathy, and poor judgment—which combined in one case to precipitate a riot (Carceral 2005; Greene 2002; Selman and Leighton 2010). The other result is increasing inequality as states pay private prison companies, which pay their top leadership way more than the head of a department of correction would make and pay their employees in the prison less than what a state would pay.

In a larger sense, the issue is not just privatization but a prison- and criminal-justice-industrial complex. These terms were taken from the idea of a military-industrial complex that President Eisenhower warned of in his Farewell Address. He was concerned that the businesses with which the military contracted, increasingly outside of public scrutiny and accountability, were driving defense policy. He warned that "we must not fail to comprehend its grave implications. Our toil, resources, and livelihood are all involved. So is the very structure of our society" (Eisenhower 1961). Eisenhower saw the military-industrial complex as a new phenomenon because of WWII defense spending, and he warned that allowing it to acquire too much influence could "endanger our liberties or democratic processes." Similarly, while prisons and the criminal justice system have had contracts with businesses for supplies and consultants for much of their history, the nature of these relationships and the amount of money involved have reached a critical mass because of the war on crime that started in the 1970s. Table 2.2 notes that the United States spends upwards of \$68 billion on corrections and \$214 billion on criminal justice each year, which has created Las Vegas-style conventions for businesses selling goods and services. The increases in spending from the wars on crime and drugs have created a new type of permanent crime control industry with "grave implications" for criminal justice policy (Selman and Leighton 2010).

As more companies generate revenue from corrections, there is more potential for misplaced power in the multibillion-dollar prison-industrial

complex to distort sentencing and criminal justice (and mental health and immigration) policy: the interests of corporate shareholders become increasingly important, causing increasing corporate lobbying and campaign donations, while public safety and public accountability become less relevant. Basic free-market principles dictate that companies with shares traded on a stock exchange have the duty to make money for shareholders. Thus, businesses involved in incarceration have no duty to balance their desire for ever-increasing profits with the larger public good that would come from, say, crime-prevention funding or money for schools. Indeed, sentencing reform and declining crime rates are "risk factors." Eric Schlosser summarizes the issues:

Three decades after the war on crime began, the United States has developed a prison-industrial complex—a set of bureaucratic, political, and economic interests that encourage increased spending on imprisonment, regardless of the actual need. The prison-industrial complex is not a conspiracy, guiding the nation's criminal-justice policy behind closed doors. It is a confluence of special interests that has given prison construction in the United States a seemingly unstoppable momentum. It is composed of politicians, both liberal and conservative, who have used the fear of crime to gain votes; impoverished rural areas where prisons have become a cornerstone of economic development; private companies that regard the roughly \$35 billion spent each year on corrections not as a burden on American taxpayers but as a lucrative market; and government officials whose fiefdoms have expanded along with the inmate population (1998).

The open question at the moment is whether the financial crisis will accelerate privatization—and thus lower-wage jobs—or whether it will cause a reduction in criminal justice spending and the size of the criminal justice-industrial complex. The complex will certainly not disappear, and Eisenhower stated that "We should take nothing for granted. Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together" (1961).

Homeland Security

Immediately after the terrorist attacks of 9/11, a common expression was that "everything is different now." In many ways, everything is different now for criminal justice, even though the FBI did not include the victims of 9/11 in its usual tabulations of homicide in the Uniform Crime Reports (UCR) (Leighton 2002). Local law enforcement is now engaged in fighting terrorism and the FBI—originally devoted to domestic law enforcement—now has field offices in places like Afghanistan, Indonesia, and Uzbekistan.

Indeed, large portions of criminal justice, the military, intelligence, and security institutions have been reorganized to fight a war on terror that has no clear time frame or goals.

While terrorism is not new, international terrorism and the potential for cyberterrorism have emerged as serious new risks with the growth in globalization. The primary domestic response to these threats came after the terrorist attacks of 9/11, with the passage of the Homeland Security Act of 2002, which established the Department of Homeland Security (DHS). The creation of the DHS "represents the most dramatic transformation of the U.S. government since 1947, when President Harry S. Truman combined the various branches of the U.S. military into the Department of Defense. On an even grander scale, President Bush has combined 22 previously separate domestic agencies into the new department to protect the country from future threats" (Bohm and Haley 2005, 174).

The new department, whose development is ongoing, has five major "directorates" or divisions, including: Border and Transportation Security; Emergency Preparedness and Response; Science and Technology; Information Analysis and Infrastructure Protection; and Management (for budget and personnel matters). In addition to the directorates, several agencies have been reassigned to or especially created for the DHS, including the U.S. Coast Guard, the U.S. Secret Service, the Bureau of Citizenship and Immigration Services, the Office of State and Local Government Coordination, and the Office of the Private Sector Liaison.

Because DHS is a "work in progress," it is too soon to make pronouncements about all the effects of these changes that include jurisdictional modifications, conflicts, and integration of the separate, yet overlapping, responsibilities of those charged with law enforcement and homeland security. It is important to note, however, that the Homeland Security Act stipulates that "primary responsibility for investigating and prosecuting acts of terrorism shall be vested not in the Department, but rather in Federal, State, and local law enforcement agencies with jurisdiction over the acts in question" (DHS website). Even though law enforcement retains primary responsibility, the legislation has changed the nature of law enforcement in America.

Before the creation of the DHS, the FBI was primarily a federal police agency whose responsibilities for terrorism were limited to locating terrorist groups and preventing terrorist acts within the United States. Now, they have multiple international field offices, and with the establishment of the Directorate of Information Analysis and Infrastructure Protection—charged with analyzing the intelligence and information from other agencies—the FBI reorganized itself from a law enforcement agency whose top priority was policing crime to one whose top priority was intelligence gathering and counterterrorism. As part of this transformation, local field offices of

the FBI are no longer allowed to establish their own distinct crime-control agendas. Other related changes at the FBI include:

- Restructuring the management hierarchy in Washington, D.C., to support counterterrorism efforts;
- Reassigning about one-fourth of the Bureau's 11,000 agents to work on counterterrorism;
- Establishing a National Joint Terrorism Task Force to include staffers from federal, state, and local agencies;
- Addressing directly the global terrorist threats by the opening of FBI offices in such places as Kabul, Afghanistan; Sarajevo, Bosnia and Herzegovina; Jakarta, Indonesia; Uzbekistan; London; Moscow; Seoul, South Korea; Ottawa, Canada; etc.

The consequences of these developments and changes in priorities has already had a detrimental effect on efforts of the FBI to combat white-collar and corporate crime at home, which ironically contributed to the current economic crisis, even though one main responsibility of DHS is to "ensure the overall economic security of the United States" (see box 2.3).

With the change from the Bush to Obama administration, the role of the bureau is changing because of the emerging "global justice" initiative of President Obama, which reverses some of the Bush administration's use of covert CIA actions and reinforces the expanded role of the FBI in the fight against terrorism (Meyer 2009). The new "approach effectively reverses a mainstay of the Bush administration's war on terrorism, in which global counterterrorism was treated primarily as an intelligence and military problem, not a law enforcement one. That policy led to the establishment of the prison at Guantanamo Bay, Cuba; harsh interrogations; and detentions without trials" (Meyer 2009). By contrast, the "global justice" approach begins with the premise that virtually all suspects should end up in either a U.S. or foreign court of law (and not be subject to military tribunals). Under the new guidelines, FBI agents will "expand their questioning of suspects and evidence-gathering to try to ensure that criminal prosecutions are an option" (Meyer 2009). Thus, on one hand, the shift in U.S. policy replaces the CIA-dominated system of clandestine detention and interrogation with one built around transparent investigations and prosecutions carried out by law enforcement agencies. On the other hand, under the new policy, the FBI and Justice Department will continue their already expanded role in global counterterrorism operations, leaving less resources and fewer agents to fight domestic crime.

In addition, President Obama brought some of the functions and responsibilities for the nation's digital security to the White House when he announced in late May of 2009 that he would appoint the "the nation's first

Box 2.3. Economic Crisis and the War on State-Corporate Crime?

Immediately after the terrorist attacks of 9/11 a common expression was that "everything is different now." In fundamental ways, many things are different in relation to counterterrorism strategies and the enforcement and administration of criminal justice both at home and abroad. More importantly, what has fallen below the radar are the connections between these changing legal-crime fighting operations and their effects on the missing war on white-collar and state-corporate crime. It is these omissions in controlling many financial practices from Wall Street to Main Street that may be linked to this country's current economic crisis. In the midst of an imminent worldwide recession, or even worse, a global depression occurring, this economic crisis of tsunami proportions will presumably last three to five years. Many people are calling for a new world economic order or global restructuring.

Whether such a fundamental change in international economic relations happens now or in the future, the primary response to 9/11 and to the larger war on terrorism by the United States had been the passage of the Homeland Security Act of 2002, which created the Department of Homeland Security (DHS). According to the legislation, the DHS was created for seven purposes, and the one that is most often ignored by public and private conversations alike is the legal charge that the DHS will "ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland."

Although the DHS in its short history has certainly had its share of failures (the recovery in New Orleans in the wake of Hurricane Katrina), Homeland Security's most serious failure to date has been to bulk up its war on terror and remain heavily invested in a war on drugs while failing to replace those agents engaged in the fight against white-collar crime. The issue is not a choice between fighting terrorism or white-collar crime but placing a higher priority on a questionable drug war while white-collar and corporate crime control became "nonpriorities."

For example, following the September 11 attacks, the FBI shifted more than 1,800 agents, or nearly one-third of all agents, from law enforcement to terrorism and intelligence duties. So depleted were the ranks of the investigators in the areas of white-collar and corporate crimes that many executives in the private sector were complaining that they had been having difficulty attracting the bureau's intervention into even those cases that potentially involved frauds in the hundreds of millions of dollars. Moreover, since late 2003 and early 2004, the FBI had been requesting additional resources to the tune of \$1 billion dollars as well as 800 more agents so that they could go after the perpetrators of mortgage fraud and other economic crimes that they viewed at the time as posing a looming threat to the financial markets.

While the agency did receive 50 million, or 5 percent, of their request for the "war on white-collar crime," the current number of investigators for these

crimes is down 625 agents, or 36 percent from 2001. Finally, after trying to acquire the necessary resources and person power for more than four years, the FBI has recently launched more than 1,500 criminal investigations into this nation's mortgage-related business practices, including those financial and institutional transactions of such corporate giants as Fannie Mae, Freddie Mac, the American International Group, and Lehman Brothers.

Before there is another economic crisis of global proportions, perhaps the United States will learn, once and for all, the powerful lessons of the adverse effects of antiregulation policies and nonenforcement of upper-world white-collar and corporate crime on the wider society and world as a whole. Historically, that was not the case with either the savings and loans' scandals of the late 1980s or the corporate frauds perpetrated early in the twenty-first century by those CEOs in charge of Enron, HealthSouth, Adelphia, WorldCom, Global Crossing, Xerox, and Waste Management, to name the most conspicuous offenders. And, when the U.S. Congress has acted to reform the situation by passing legislation such as Sarbanes-Oxley in an attempt to control and regulate "corporate fraud gone wild," it was only a matter of time before those legal efforts were stripped of their enforcement teeth by lobbyists working on behalf of powerful antiregulation forces.

Even Alan Greenspan has finally come to the realization that "free enterprise" without regulation is no way to run the economy. In fact, it is criminal to run an economy that way, for which it is now costing the American taxpayers almost a trillion dollars as part of a plan to rescue the nation's financial system from a Wall Street-orchestrated, federally enabled, multibillion-dollar pyramid scheme.

Source: Adapted from Barak (2008)

cyber security czar to help protect the nation's telecom infrastructure and information systems that have grown so crucial to industry, the military and individual citizens" (*Denver Business Journal* 2009). On the heels of President Obama's declaration of a new security czar, the Pentagon announced "the formation of a Cyber-Command to both defend against cyber attacks and wage cyber warfare against our enemies" (*ChattahBox.com* 2009).

While many criminology students will find employment in the increased opportunities in security and related fields, the discipline of criminology—those who research and study crime—has done little to build on its understanding of violent crime and hate crimes to develop a better understanding of the mass murders of terrorists. Before 9/11, criminology as a field of study had a "grudging acceptance of terrorism" (Rosenfeld 2002, 1), and criminologists have written few books on terrorism. Among students, serial killers are popular, with much interest in psychological profiling and "mind

hunting," so getting inside the head of Bundy, Gacy, or Dahmer is still more popular than understanding Osama bin Laden (who has killed far more people than those serial killers put together) (Leighton 2005, 2004).

The issues go well beyond the simplistic slogan about how terrorists are crazy or hate us because we're free, which does a profound disservice to the cause of understanding the political worldview of terrorists (see Barak 2004a; Leighton 2005). Indeed, Benjamin and Simon—both former directors of the National Security Council—write in *The Age of Sacred Terror* about the "root causes" of terrorism:

The United States is resented for its cultural hegemony, global political influence, and overwhelming conventional military power. Its cultural reach threatens traditional values, including the organization of societies that privilege males and religious authority. It offers temptation, blurs social, ethical, and behavioral boundaries, and presages moral disorder. America's political weight is seen as the hidden key to the durability of repressive regimes that fail to deliver prosperity while crushing dissent. Its support is cited to explain the power of Israel to oppress Muslims and degrade Islam. American military prowess is used to kill Muslims, as in Iraq, or is withheld to facilitate their extermination, as in Bosnia. The American cultural challenge to Islamic societies stands for a broader Western commitment to secularization, the relegation of religion to the private sphere, and a focus on the here and now instead of on either a hereafter for individuals, or a messianic era in which the righteous as a collective will partake (2002, 407–8).

For some Muslims, the Crusades were not just a historic event but a term that captures the ongoing battles between Islam and Christianity—a battle that has many more fronts because of globalization. While a small minority participates in actual violence, bin Laden is a "terrorist hero" similar to the Western outlaws and urban gangsters that Kooistra writes about in *Criminals as Heroes* (1989). Reeve, for example, notes that "scores of Pakistanis have named their newborn sons Osama," highlighting that the terrorists may be on the fringe "but those who applaud are the disenfranchised Muslims everywhere" (Reeve 1999, 203).

Kooistra suggests that hero status occurs when people find "some symbolic meaning in [an outlaw's] criminality" (1989, 152)—or his political violence, in the case of bin Laden. With criminals, support for the symbolic meaning happens when substantial segments of the public feel "'outside the law' because the law is no longer seen as an instrument of justice but as a tool of oppression wielded by favored interests" (1989, 11). In terms of terrorism, the message sent by the political violence finds support when large segments of the population are not just in poverty but feel disenfranchised within the social, political, and economic order in the global village (see also Armstrong 2005).

IMPLICATIONS

This chapter has provided a brief overview of some of the main categories of workers within the criminal justice system and highlighted some factors likely to change the criminal justice enterprise in the future. In examining workers, the overall conclusion is that while criminal justice work is becoming more diverse, it is still a white man's world. But proportional representation of women and people of color working in the administration of justice seems important for at least two reasons. The first issue is of fairness and confidence in the system: the more closely the criminal justice labor force represents the distribution of diverse groups in society, the more the system appears to represent "we the people." The second issue is of incorporating substantively different group backgrounds into the criminal justice process: women and people of color are more likely to bring experiences and insight into the field that a group of white males may not (Williams 1991 [1982]).

For example, the National Center for Women in Policing (2002) suggests that women have a positive impact on policing by helping to reduce police brutality, increasing the efficacy in police response to domestic violence, and more generally by promoting an emphasis on the use of conflict resolution over the use of force. Similar arguments are made about women correctional officers, emphasizing interpersonal communication and reducing the conflict and violence behind bars. The presence of women prosecutors and judges can challenge the patriarchal and paternalistic attitudes of the judiciary, and in the process, impact the treatment of women lawyers, victims, and defendants (Spohn 1990). Likewise, although the presence of women or people of color may result initially in "affirmative action" tensions and even backlash, over time the cognitive dissonance between the "in" and "out" groups dissipates and mutual identification sets in.

Nevertheless, scholars disagree on the extent to which a profession is changed by the increased presence of women or other minorities. Some hold that it is simply a white-male-dominated profession that forces women to adapt to a "man's world" or nonwhites to a "white world," not the other way around. Others maintain that it is simply the nature of the work people do and the working subculture that evolves from it that shapes the "working personality" or attitudes and values of workers. Certainly, when women and minority are token hires or represent a small portion of the workforce, they are less likely to be agents of change than when their numbers are greater. Thus, a third position argues that occupational roles and working subcultures are subject to modification, resistance, or negotiation by the substantial infusion of gender and racial/ethnic differences.

Even while the criminal justice system is slowly changing because of the infusion of more women and minorities, it is also being changed by forces

of globalization, privatization, militarization, and homeland security. One aspect of globalization and privatization is outsourcing to the lowest bidder and moving where costs are cheapest. The result in both cases is the "increasingly brutal wage compression" as mentioned by Morgan Stanley's economist, Stephen Roach (2006). In other words, just as the United States is likely to continue to lose jobs because of globalization, it is also likely that more services of the criminal justice system will be privatized. The result will be more low-wage, contingent, nonbenefit employment for those at the bottom and greater wealth for those at the top. Additionally, the large increases in criminal justice expenditures have attracted the interest of many businesses, which want to find ways to tap into an expanding source of potential revenue brought about by the new securitization. As they do so, many of these penal-surveillance entrepreneurs also become advocates for "tough on crime" policies that lead to more expenditure—and potentially more business. Ironically, as more of criminal justice is directed by private-public enterprise for profits, concern for public safety and taxpayers becomes secondary.

Globalization creates issues related to immigration, terrorism, and cybersecurity (as anyone in the world with a computer can attack the United States). Robert Johnson offers a poignant reminder that "we forgot that our Global Village was a stepchild of technology, not the flowering of community" (2001). People around the world did not consciously decide they all wanted to be closer and set out to invent telecommunications technology and systems to easily move money around. Rather, "technology happened," and people are still catching up with its effects, good and bad. Likewise, the criminal justice system is playing catch up with homeland security and cybersecurity czars. Like with the military, it is not clear whether the criminal justice system is still fighting the last war or preparing for the future ones. But it is clear that the war on terror and emphasis on homeland security will lead to further militarization of the criminal justice system, even though the militarization accompanying the war on drugs has not lead to increased justice. Indeed, it may very well aggravate many existing concerns about racial profiling and other forms of discrimination such as disproportionate minority contact throughout the apparatus of criminal justice.

REVIEW AND DISCUSSION QUESTIONS

1. In the section on law enforcement, what do you think were the two most important points the authors made about the situation of women and minorities?
2. What are the similarities and differences between prosecutors, defenders, and judges?

3. In terms of adapting to the working conditions of prisons, what are the three common responses employed by correctional officers?
4. Define globalization, privatization, and militarization. What is one way that each is having an impact on the criminal justice system?
5. Since the Department of Homeland Security was created in 2002, how has the mandate and roles of the FBI changed?

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