

RACE, ETHNICITY, AND CRIME:

American's Continuing Crisis

LEARNING OBJECTIVES

After you have read this chapter:

1. You will understand the basic goals of the book as a whole.
2. You will have an understanding of how race and ethnicity are central to understanding crime and criminal justice in America.
3. You will be able to discuss recent trends in criminal justice, the current crime situation in America, emerging problems in the criminal justice system, and how all of these factors affect race, ethnicity, and justice.
4. You will be familiar with the difference between race and ethnicity. You will also understand whether or not these are really scientific categories, and how they are used by the U.S. Census Bureau and by criminal justice agencies.
5. You will understand the quality of commonly used criminal justice data (e.g., arrests) and whether they provide an accurate picture of what actually happens in the justice system.
6. You will be able to discuss the difference between disparities and discrimination with regard to race and ethnicity.

THE NATIONAL RACE CRISIS, 2014–2016

On August 9, 2014, police officer Darren Wilson of the Ferguson, Missouri, police department shot and killed Michel Brown, an unarmed 18-year-old African American. The shooting touched off protests, which eventually

escalated into looting and violence. Missouri authorities mobilized military equipment that only inflamed the protests. Sympathy demonstrations occurred around the country, and the events in Ferguson were carried live on cable television stations.

The tragic events in Ferguson touched off a two-year period of events that escalated into a national crisis over policing and race relations, to a degree not seen since the urban riots of the 1960s. The other events included:

- Three weeks before the shooting of Michael Brown, on July 17, 2014, New York City police officers arrested Eric Garner, an African American, on Long Island for selling illegal cigarettes. Officers sat on him and held him down, not responding to Garner's repeated cries, "I can't breathe!" Garner died of suffocation. The events were captured on a cell phone video, which was broadcast over national television.
- On April 4, 2015 in North Charleston, South Carolina, Walter Scott, a 50-year-old African American, was shot in the back and killed by a police officer as he was running away from the officer. The shooting was captured on a cell phone video and clearly showed the lack of any justification for the shooting.
- A week later, on April 12, 2015, Freddie Gray, a 25-year-old African American, died in a Baltimore police van of neck injuries. Scott's death touched off protests and then arson and looting. Six officers were indicted for crimes related to his death (although three were acquitted and charges were dropped against the other three).
- On the evening of June 17, 2015, Dylan Root, a 21-year-old avowed white racist, walked into the Emanuel African Methodist Episcopal Church, an African-American church, during a prayer meeting, opened fire, and shot and killed nine members of the church. Root later confessed that he hoped to start a "race war."

The sequence of events provoked a national race crisis. Civil rights activists protesting deaths at the hands of the police organized around the slogan "Black Lives Matter." President Barack Obama in December 2014 appointed a President's Commission of 21st Century Policing.¹ It was the first-ever presidential commission or task force devoted exclusively to the police. After a series of hearings around the country, the Commission's *Final Report* contained a sweeping set of recommendations for improving policing and addressing the police-race relations crisis.

In response to the Charleston, South Carolina, church shooting and Dylan Root's goal of starting a "race war," the state of South Carolina on July 10, 2015, removed the Confederate flag from in front of the state Capitol Building. For African Americans, the Confederate flag is a symbol of slavery. Soon after, Walmart announced that it would no longer sell items bearing the Confederate flag. Amazon.com and Ebay followed suit. And the four largest flag makers in the United States said they would no longer produce the flag.²

The Confederate flag controversy dramatized the significance of flags and other symbols in conveying social and political messages. Particularly important, when

a government agency displays a particular symbol, it conveys the message that the meaning behind that symbol is approved by the state or federal government.

Race, Ethnicity, and Justice in America

More than 100 years ago, the great African-American scholar W. E. B. Du Bois declared, "The problem of the twentieth century is the problem of the color line."³ Racism and racial discrimination, he argued, were the central problems facing modern society.

As the events of 2014–2016 clearly indicate, issues of race and ethnicity continue to be volatile issues today. Criminal justice is one of major focal points of those issues. Nearly every problem in the criminal justice system involves matters of race and ethnicity: Who gets stopped by the police? Who gets arrested? Who goes to prison? Who gets the death penalty? Some of the bare facts of the administration illustrate these issues.

- In 2014, the incarceration rate for African-American males in state and federal prisons was six times the rate for white males (2,724 vs. 465 per 100,000 respectively). The incarceration rate for Hispanic American males was 2.3 times greater than that for non-Hispanic white males (1,091 vs. 465 per 100,000).⁴ There were also disparities in the incarceration of white and African-American females, but not as great as for males.
- The unemployment rate for African Americans in late 2014 was twice the figure for white Americans: 11.3 percent vs. 5.20 percent. The figure for Hispanic Americans was 7.4 percent.⁵ As we will explain later in this chapter, criminologists have always recognized unemployment as a risk factor for involvement in crime. Long-term or even periodic unemployment contributes to poverty and unstable families, both of which are also risk factors for crime.
- The National Congress of American Indians reported in 2013 that Native Americans and Alaska Natives are 2.5 times more likely to experience violent crime and "at least two times more likely to experience rape or sexual assault crimes" than other racial or ethnic groups.⁶
- The Innocence Project reported that as of January 2016, 336 people convicted of crimes had been exonerated by DNA evidence: 61 percent were African American; 31 percent non-Hispanic white; 7 percent Hispanic; and 0.5 percent Asian American.⁷

Public Attitudes about Race, Ethnicity, and Criminal Justice The American people are deeply divided along racial lines on issues of crime, race, and ethnicity. A 2016 Pew Research Center report found that blacks and whites were "worlds apart" in their view of race in America, including the criminal justice system.⁸ The survey found that 84 percent of African Americans believed that "blacks are treated less fairly than whites in this country ... in dealing with the police", compared with 50 percent of white Americans. The divide was almost the same with respect to the courts, with 75 percent of African Americans believing that African

Americans were treated less fairly by the courts, compared with 43 percent of whites.⁸

Fear of crime is an extremely complex subject, and there is an important difference between actual victimization and the fear of crime. The National Crime Victimization Survey found that in 2014 African Americans were far more likely to be the victims of a "serious violent crime" (defined as rape, robbery, and aggravated assault) than whites or Hispanics (African Americans, 10.1 per 1,000; Hispanics, 8.3 per 1,000; whites, 7.0 per 1,000).⁹ Serious violent crimes are particularly destructive, inflicting far more personal and social harm than property crimes, in terms of personal injury and psychological trauma, and in creating fear of crime in the neighborhood.

Yet, fear of crime among whites has been politically very powerful for over 50 years. Fear of crime has been the driving force behind harsher criminal sentences and the enormous increase in the American prison population since the mid-1970s. Michelle Alexander has labeled this policy "mass incarceration."¹⁰ In fact, the prison population continued to rise in the 1990s even though crime rates experienced a historic decline that has lasted for two decades in many cities (although a number of cities experienced significant increases in crime in 2015).¹¹

The subject of immigration and crime has been a particularly volatile political issue. Many Americans believe that immigrants, particularly undocumented immigrants, are involved in high rates of crime. Yet, as we will discuss later in this chapter, research has consistently found that immigrants have lower involvement in crime than nonimmigrants.

For many whites, "crime" is a political code word for fears of social change, and fears of racial change in particular. A study of community crime control efforts in Chicago, for example, found that neighborhood organizations usually were formed in response to perceived changes in the racial composition of their neighborhoods.¹²

In short, crime and fear of crime pervade virtually every aspect of American society, from the day-to-day lives of people in their neighborhoods to national politics.

IS DISCRIMINATION JUST A MYTH?

Some commentators argue that the criminal justice system is not racist and that allegations of systematic discrimination are based on myth. One of the most forceful advocates of this position is Heather MacDonald, a fellow at the Manhattan Institute. She argues that the primary cause of the high rate of incarceration of African Americans is involvement in criminal behavior, not discrimination by the criminal justice system.¹³

MacDonald's argument helps to frame the issues we will examine in *The Color of Justice*. What are the facts regarding criminal behavior and the performance of the criminal justice system? Does discrimination exist? If so, how serious is it? Is it *systematic* discrimination, or not? If discrimination exists but is not systematic, how do we characterize it? What accounts for racial and ethnic disparities in

arrest rates and imprisonment rates? If discrimination does not exist at all, what accounts for the disparities in arrests and imprisonment?

In her article, "Is the Criminal-Justice System Racist?" MacDonald makes the following arguments:

- African Americans represent 81 percent of all homicide victims, and 90 percent of the offenders in those cases are also African Americans.¹⁴ Since murder is the crime most likely to result in incarceration (98 percent sentenced to prison; 2 percent to jail in 2009), MacDonald and others argue that this explains part of the imprisonment disparity.¹⁵
- African Americans represent 56 percent of all robbery arrests (2014 FBI data).¹⁶ Robbery is also a crime that usually results in incarceration (86 percent of all convicted offenders sentenced to either prison or jail in 2009), and this also contributes to the imprisonment disparity.¹⁷
- The National Crime Victimization Survey finds that victims' reports of the race of robbers and offenders committing aggravated assault are roughly equal to the race of persons arrested for these crimes. This suggests that there is no discrimination in arrests for these crimes.¹⁸

MacDonald's points are based on good criminological data, and for that reason they must be taken seriously. But are they the last word on the subject? After all, statistics can be interpreted in many different ways. One of the main issues we will deal with in this book is that "facts" do not speak for themselves. On all of the most important issues, there are often conflicting data and legitimate differences of opinion among experts about how data should be interpreted.

Marc Maurer, director of The Sentencing Project, argues that there are four important factors that contribute to racial disparities in the criminal justice system. They include: (1) disproportionate involvement in crime (which is MacDonald's principal focus); (2) disparities in criminal justice processing (which she ignores, and which is a major focus of this book); (3) the "overlap of race and class effects" (which we discuss in detail in Chapter 3); and (4) "the impact of 'race neutral policies' of criminal justice agencies." A "race neutral" policy, we should explain, is a policy that does not refer specifically to race or ethnicity, but which has a disparate effect on people of a certain race or ethnicity. An extreme example would be a police department that had a policy of stopping young men with very baggy pants. The effect would be many stops of young African-American men. (We will discuss this issue in more detail later.)¹⁹

There are some important issues that MacDonald ignores, and which present a very different picture. They include:

- With respect to drugs, the National Survey on Drug Use and Health found only slight differences in illicit drug use by race and ethnicity in 2013. Among people 12 years and older, 9.5 percent of whites had used an illicit drug in the previous 12 months, compared with 10.5 percent of African Americans, and 8.8 percent of Hispanics.²⁰ Yet, an ACLU report on marijuana arrests found that African Americans were 3.73 times more likely to be arrested for marijuana possession than whites.²¹ In addition to the punitive

suffering of an arrest itself, the collateral consequences of an arrest impose further harm, including inability to go to work while in jail, possible loss of that job, inability to get future jobs, and so on. The Sentencing Project points out that “a criminal conviction creates a barrier to securing steady employment, and those with felony drug convictions are disqualified from public assistance and public housing in many areas.”²²

- The Justice Department investigation of Ferguson, Missouri, found that the city was using the police department to generate revenue for the city’s budget, by pressuring it to make traffic stops. The city’s “law enforcement practices,” it found, “are shaped by the City’s focus on revenue rather than by public safety needs.” These practices, moreover, “both reflect and exacerbate existing racial bias, including racial stereotypes.”²³
- The fact that African Americans arrested for felonies are less likely to be prosecuted and less likely to be convicted at trial than whites may be explained by the fact that they may be arrested on weaker evidence. Joan Petersilia’s examination of racial disparities in the justice system found that the apparent “leniency” at the prosecution stage of the system occurred in part to correct for inappropriate arrest decisions.²⁴
- Perhaps most important, the higher rates of offending among African Americans and Latinos can be explained by inequalities in the American social system that are criminogenic: disparities in education, employment, health care, and so on. We will discuss the major theories of crime later in this chapter, and we will examine social and economic inequalities in detail in Chapter 3.

The issue of social and economic inequalities raises a point that is central to this book. *The Color of Justice* takes a big picture view of race, ethnicity, and crime, looking at all the social and economic factors that criminologists know to be risk factors in criminal behavior. What criminal justice agencies do is important, but it is only one part of the larger picture.

OBJECTIVES OF THE BOOK

Race, ethnicity, and criminal justice are in the news week after week. But what are the facts behind the headlines? *The Color of Justice* looks beyond today’s news events and the myths surrounding race, ethnicity, and criminal justice and provides an accurate picture of the situation.

First, *The Color of Justice* offers a *comprehensive treatment* of all the issues on crime and the administration of criminal justice, which no other book does. There are many excellent articles and books on particular topics (e.g., the death penalty, police use of deadly force), but none covers the full range of topics in a complete and critical fashion. As a result, there is usually no discussion of whether there is more discrimination exists at one point in the justice system than at others. Our comprehensive approach allows us to link the different parts of the criminal justice system: connecting issues of arrest decisions by the police with

prosecutors' decisions to charge offenders. Is there discrimination at both points? How do they reinforce each other?

Second, *The Color of Justice* examines both race and ethnicity in criminal justice. As this chapter will explain later, race and ethnicity are not the same, and differences are very important to understanding how the criminal justice system works. Most criminal justice textbooks do a very poor job in their treatment of race and ethnicity.²⁵ Most do not identify race and ethnicity as a major issue, or clarify the difference between race and ethnicity. *The Color of Justice* makes race and ethnicity central to understanding criminal justice in America.

Additionally, this book covers all racial and ethnic groups. We have chosen to title this book *The Color of Justice* because it covers all people of color. Most other books focus entirely on African Americans. Coramae Richey Mann points out that "the available studies focus primarily on African Americans and neglect other racial minorities."²⁶ Although research on Hispanic Americans has been growing in recent years, there are still major gaps in our knowledge. There is still little good research on Native Americans or Asian Americans. *The Color of Justice* includes material on all groups, including Native Americans and Asian Americans. Our examination highlights the significant differences between the experiences of various racial and ethnic groups with respect to crime and justice.

As we will learn, non-Hispanic whites, African Americans, and Hispanics have very different experiences with the police. The experience of Native Americans who live on reservations, where the nearest police officer may be many miles away, is completely different from that of most other Americans.

Third, *The Color of Justice* offers a critical perspective on the available evidence, something that few other books on the subject do. Is there systematic discrimination in the criminal justice system? Or are there simply disparities that can be explained by factors other than race or ethnicity? Can patterns of discrimination be explained better in terms of contextual discrimination? What does that term mean? If this pattern exists, where do we find it? How serious is it? What are the causes? Have any reforms succeeded in reducing disparities and discrimination? Data on arrests and sentencing, for example, are extremely complex. Interpreting traffic stop data to determine if there is racial profiling presents a major challenge for criminologists. Later in this chapter, we discuss the crucial distinction between disparities and discrimination.

Fourth, this book presents the best and most recent research on the relevant topics: the patterns of criminal behavior and victimization, police practices, court processing and sentencing, the death penalty, and prisons and other correctional programs. New research continually deepens our understanding of important issues, and this book stays current with the best new research.

Fifth, this book is up-to-date, incorporating important recent developments in criminal justice. As a result of the national police crisis of 2014–2016, we learned that the official FBI data on the number of persons shot and killed by the police every year count only about half of the actual number. The FBI data reported in 2014 that police shot and killed 444 people. Yet, the *High on Crime*, in a study using all available sources (e.g., news media accounts, social media), found that the annual figure is actually twice what the FBI reports (890 in 2015). Also, beginning in 2011, the American prison population began to decline for the

first time in 40 years.²⁸ The decline is still small, but compared with the explosion in incarceration since the mid-1970s, it is a historic shift. *The Color of Justice* reports these and other recent changes, which have important implications for a complete and up-to-date picture of race, ethnicity, and crime in America.

Sixth, *The Color of Justice* takes a *contextual approach* to crime and criminal justice and emphasizes the unique historical, political, and economic circumstances of different crimes, different parts of the justice system, and the different experiences of each racial and ethnic group. Alfredo Mirandé, author of *Gringo Justice*, argues that historically “a double standard of justice” has existed, one for Anglo Americans and one for Chicanos. Marianne O. Nielsen, meanwhile, argues that the subject of Native Americans and criminal justice “cannot be understood without recognizing that it is just one of many interrelated issues that face native peoples today,” including “political power, land, economic development, [and] individual despair.”

Regional and local variations in crime and criminal justice also exist. Serious crime has fallen sharply over the past 15 years in New York City and San Diego, but not in Baltimore. The death penalty is most widely used in just a few states. In 2013, Texas (16), Florida (7), and Oklahoma (6) conducted 29 of the 39 executions in the entire country.²⁹ The federal sentencing guidelines prescribe very harsh sentences, while the Minnesota sentencing guidelines result in a very low incarceration rate. All of these variations complicate the overall picture of criminal justice in America.

Finally, building on the importance of contextual factors, *The Color of Justice* offers a contextual theory of race, ethnicity, and criminal justice. We have already rejected Heather MacDonald’s argument that the idea that the criminal justice system is racist is a “myth.” We also argued that it is simplistic to say that the system is completely racist in every decision all the time. Our view is that racial and ethnic *disparities* exist throughout the criminal justice system (even after taking into account all the variations we have discussed). It is a mistake, however, to view disparities in particular parts of the criminal justice system in isolation from the larger criminal justice process. As Kimberly Kempf-Leonard persuasively argues in a review of 20 years of juvenile justice reform, an arrest can have “a cumulative effect that may grow like a downhill snowball to disadvantaged minority youths”; it can “create an inequity,” which “can influence decisions at subsequent stages” in the justice system.³⁰ Arrests and confinement of juveniles can affect later decisions when someone is an adult. The cumulative effects of disparities in policing, plea bargaining, sentencing, incarceration, and the use of community-based corrections result in a larger *pattern of injustice* based on race and ethnicity. Later in this chapter, we will explain in greater detail the important difference between disparities and discrimination.

THE COLORS OF AMERICA: RACIAL AND ETHNIC CATEGORIES

The United States is increasingly a multiracial, multiethnic society. In 2014, according to a mid-census estimate, the composition of the American population by race and ethnicity in households was 62.2 percent non-Hispanic white, 17.4 percent Hispanic,

	Percentage of the total U.S. population				
	White	African American	Hispanic	American Indian	Asian
1990	83.9	12.3	9.0	0.8	3.0
2000	82.1	12.9	11.4	0.9	4.1
2010	80.5	13.5	13.8	0.9	5.1
2020	79.0	14.0	16.3	1.0	6.1
2040	76.1	14.9	21.7	1.1	7.9

FIGURE 1.1 Changing Composition of the U.S. Population, by Race and Ethnicity, 1990–2040

SOURCE: Bureau of the Census, *Population Projections of the United States by Age, Sex, Race, and Hispanic Origin: 1995–2050* (Washington, DC: Department of Commerce, 1996), Table J, p. 13.

13.2 percent African American, 6 percent Asian or Pacific Islander, 1 percent Native American, and 2 percent who reported being of two or more races. By 2040, the census estimates that the population will be 76.1 percent non-Hispanic white, 21.7 percent Hispanic, 14.9 percent African American, and 7.9 percent Asian.³¹ These figures represent significant changes from 30 years ago, and demographers are predicting steady changes in the immediate future. As Figure 1.1 indicates, Hispanics and Asians are the two fastest-growing racial or ethnic groups in the United States, increasing from a combined 12 percent of the population in 1990 to an estimated 29.9 percent by the year 2040. As we will discuss later in a section on “The Geography of Justice,” racial and ethnic groups are unevenly distributed, with important effects on crime and justice.

The Official U.S. Census Categories

Race and ethnicity are extremely complex and controversial subjects, and we do not always have accurate data on important issues. The commonly used categories for race and ethnicity are those developed by the federal Office of Management and Budget (OMB) and are used by the U. S. Census Bureau and other government agencies.³² Unfortunately, these categories are extremely problematic and do not necessarily reflect the social reality of American life: the reality of how people define themselves; how they are defined by other people; and how they interact with other people on a day-to-day basis. Let's sort our way through this complex issue.

It is very important to understand that *the census is based on self-reported identity*. Are you “African American” or “white”? For the census, it depends on what you tell the census. Are you “Hispanic” or not? It depends on your own self-identity and what you tell the census. The census allows people to identify themselves by race and ethnicity. A person can, for example, self-identify as “white” [race] and “Hispanic” [ethnicity], or as “American Indian” [race] and “Hispanic” [ethnicity]. A person can also identify himself or herself by race with no ethnic identification.

A Pew Center report, *Who's Hispanic*, explains the self-reporting process used by the U.S. Census works through a series of questions and answers.

For example: "Q. My mom is from Chile and my dad is from Iowa. I was born in Des Moines. Am I Hispanic? A. You are if you say so."³³

In short, a person who is very dark-skinned can tell the census that he or she is "white." And that is how that person will be recorded in the census. Another person who is very light-skinned can tell the census that he or she is "African American," and that is what the census will record.

Now let's take a closer look at the different racial and ethnic classifications used by the U.S. Census.

Race

Traditionally, race has referred to the "major biological divisions of mankind," as distinguished by color of skin, color and texture of hair, bodily proportions, and other physical features.³⁴ The traditional approach identifies three major racial groups: Caucasian, Negroid, and Mongoloid.

Anthropologists and sociologists, however, do not accept the traditional strict biological definition of race. Because of intermarriage and evolution over time, it is virtually impossible to find people who are entirely within one racial category. Also, scientists have not been able to determine meaningful differences in behavior, intelligence, or other capabilities among people who are commonly referred to as "white," "black," or "Asian." J. Milton Yinger maintains that "we cannot accept the widespread belief that there are a few clearly distinct and nearly immutable races. Change and intermixture are continuous."³⁵

Experts regard the concept of race as "primarily a social construct." That is to say, groups define themselves and/or have labels applied to them by other groups. Traditionally, the politically and culturally dominant group in any society defines the labels that are applied to other groups. At times, however, subordinate groups assert themselves by developing their own labels. As we will discuss shortly, racial designations have changed over the centuries as a result of changes in both political power and racial attitudes. In short, the commonly used terms for different races are socially and politically constructed. This includes such terms as "colored," "Negro," and "Oriental." They have no scientific basis, however. Yinger argues that the critical categories for social analysis are the "socially visible 'racial' lines, based on beliefs about race and on administrative and political classifications, rather than genetic differences."³⁶

The cultural designation of who is an African American in American history was driven by the racist "drop of blood" principle. It held that if a person is even of a slight African-American heritage—a great-grandfather, for example—that person was considered an African American. The principle was racist because it did not work the other way around: one "drop" of white blood did not make someone white.³⁷

The term *nonwhite* was once widely used and is still used by some people. The census now forbids the use of the term. "Nonwhite" implies that people in this category lack something important and are "less than" the majority or the ideal. In a subtle way it is demeaning, and the Association of MultiEthnic Americans and related groups are particularly concerned about the impact of classifications and labels on children.³⁸

A brief look at a few families highlights the problems with traditional racial categories. Many people have mixed ancestry. What, for example, is the "race" of the child whose father is African American and mother is of Irish-American descent? Or the child whose mother is Japanese American and whose father is of European background? Or the child whose maternal grandmother was Native American, paternal grandfather was English, and whose father is Hispanic? Many "white" Americans have some ancestors who were African American or Native American. Few African Americans have ancestries that are purely African.

The Different Census Categories of Race and Ethnicity The OMB has over the years revised the categories (and the names) used for some of the racial and ethnic groups. The current categories are (1) American Indian or Alaska Native; (2) Asian; (3) black or African American; (4) Hispanic or Latino; (5) Native Hawaiian or Other Pacific Islander; and (6) white. Previously, OMB used only the term black; the new category is black or African American. Persons may also identify themselves as Haitian or Negro. Previously, only the term Hispanic was used. The new guidelines use Hispanic or Latino. The OMB considered, but rejected, a proposal to use Native American and retained the old term American Indian.

The OMB defines a black or African-American person as anyone "having origins in any of the black racial groups of Africa." It defines a white person as anyone "having origins in any of the original peoples of Europe, the Middle East, or North Africa." Accordingly, a person who is from Morocco or Iran is classified as "white," and someone from Nigeria or Tanzania is classified as "black." (But, as we have pointed out, the choice of race is up to each individual.) The category of American Indians includes Alaska Natives and "original peoples of North and South America (including Central America)." Asian includes people from the Far East, Southeast Asia, or the Indian subcontinent. Pacific Islanders are no longer in the same category with Asians and are now included with Native Hawaiians in a separate category.³⁹

The OMB explains that the racial and ethnic categories it created "are not anthropologically or scientifically based." Instead, they represent "a social-political construct and should not be interpreted as being primarily biological or genetic in reference."⁴⁰

Ethnicity

Ethnicity is not the same as race. Ethnicity refers to differences between groups of people based on *cultural customs*, such as language, religion, foodways, music, family patterns, and other characteristics. Among white Americans, for example, there are distinct ethnic groups based primarily on country of origin: Irish Americans, Italian Americans, Polish Americans, and so on. Yinger uses a three-part definition of ethnicity: (1) The group is *perceived by others* to be different with respect to such factors as language, religion, race, ancestral homeland, and other cultural elements; (2) the group *perceives itself* to be different with respect to these factors; and (3) members of the group "*participate in shared activities built around the actual or mythical common origin and culture*" [italics added].⁴¹

Box 1.1 Who Is "Juanita"?

With respect to race and ethnicity. Who or what am I? Am I white? Black? Latino? How would I know? Is it just what I say I am? Or is it what someone else calls me? Or what label the government places on me? These questions are fundamental to an intelligent discussion of race, ethnicity, and justice in America. We cannot begin to discuss whether or not there are inequalities or whether discrimination exists unless we have accurate data on how people of different races or ethnicities are treated in the justice system.

Many people mistakenly think the answers to these questions are easy. They are not. Consider, for example, the case of "Juanita," as discussed in the report *Donde esta la justicia?* Her father is Puerto Rican and her mother is African American. How would she be classified if she were arrested? In Arizona, she would define her own race or ethnicity. In California, she would be counted as African American. In Michigan, she would be classified as Hispanic and then be assigned to a racial group. In Ohio, she would be recorded as biracial.

In short, we have a serious problem. This chapter is designed to help navigate our way through this very complex but very basic issue.

SOURCE: Adapted from Building Blocks for Youth, *Donde esta la justicia?* (East Lansing, MI: Michigan State University, 2002).

The terms Hispanic and Latino refer to ethnicity, not race. As we mentioned earlier, the U.S. Census is a self-report system, and a person may identify as Hispanic and then also as a member of a racial category. Someone, for example, can identify himself or herself as "white" and "Hispanic," or "Native American" and "Hispanic."

The census is a self-report system. The practices of criminal justice agencies, however, are mixed, and different agencies use their own systems of classification. Historically, most have classified Hispanics as white but have not also collected data on ethnic identity. As a result, most criminal justice data sets do not provide good longitudinal data on Hispanics. We will discuss this issue in more detail later.

The Hispanic American population is extremely diverse in several respects. Hispanics are divided among native-born Americans and foreign-born. Foreign-born may be naturalized citizens, permanent residents with a Green Card, immigrants with a visa, or undocumented. Hispanics often identify themselves primarily in terms of their country of origin. The Pew Hispanic Research Center found that in 2013, of the 53.9 million Hispanics in the United States, 64 percent were of Mexican background. ("Background" in this analysis does not mean immigrant; it includes people whose family arrived in the United States from Mexico two or three generations ago, but were from Mexico.) The next largest group was Puerto Ricans, who represented 9.5 percent of all Hispanics. People of Cuban and Salvadoran background were tied at 3.7 percent of all Hispanics.⁴²

Classifying Middle Eastern, Arab Americans, and Muslim Americans Arab Americans are an extremely diverse group. The Arab American Institute estimated that there are about 3.5 million people in the United States of Arab descent and describes them as an ethnicity. About 82 percent are U.S. citizens. The national origins of Arab Americans include Lebanon, Egypt, Syria, and other countries of

North Africa and southwestern Asia. The census classifies most Arab Americans as "Caucasian," but that label does not adequately describe the diversity of the community. With respect to the physical features that are popularly (but incorrectly) used to define "race," such as skin color or hair texture, Arab Americans are as diverse as are "white" and "black" Americans. The term *Arab Americans* is, in fact, a social construct that includes people of many different national origins, religions, and ethnicities.

Many people assume that Arab Americans are religiously all Muslim, but this is not true. Arab Americans include Muslim, Christian, Druze, and other religions. Even Christian Arabs are divided among Protestant, Catholic, and Greek Orthodox. In terms of national origins, Arab Americans trace their heritage to Lebanon, Syria, Iraq, Kuwait, Morocco, Algeria, and other countries. (Many people assume that Turkish people are Arabs. In fact, Turkish is a national identity referring to people who are citizens of Turkey, and they consist of several different ethnic identities.) Finally, with regard to ethnicity, Arab Americans may be Kurds, Berbers, Armenian, Bedu, or members of other groups.⁴³

We do not know exactly how many Muslims there are in the United States because the U.S. Census does not collect data on religious affiliation. Religious affiliation is regarded as a highly personal and sensitive issue, about which the government should not collect information. There are, however, private surveys and estimates of religious affiliation and observance. Estimates of the total number of Muslims in the United States range from 1.3 million (the 2008 American Religious Identification Survey, a private and not a governmental survey) to 7 million (the Council on American-Islamic Relations). About 25 percent of all Muslims in the United States are converts, most of whom are African Americans. Malcolm X is probably the most famous person to have fallen in this category. Religious services are sometimes given in several languages: Urdu, Arabic, or English.⁴⁴

Problems with Traditional Racial and Ethnic Categories

Understanding the basic racial and ethnic categories used in the United States is only the beginning. We also need to look at some important problems associated with these categories.

Multiracial Americans Many Americans do not fit into the strict racial categories of race that have been traditionally used because they are multiracial or mixed-race. Beginning in 2000 the census allowed people to identify themselves as being of two or more races. In the 2010 census, 2.1 percent of all respondents identified themselves as multiracial.

The Pew Research Center challenges to Census Bureau's 2.1 percent estimate. Their own survey estimated that the real figure was 6.9 percent. (The survey involved 21,224 adults. While far smaller than the census, the sample was large enough to make reliable estimates.) The Pew Survey reached the larger figure by asking questions the census does not. It asked people first how they identified themselves. Then it asked about the respondent's parents and whether they were of different races. Finally, it asked about the respondent's grandparents. The survey found that 1.4 percent chose two or more races to describe themselves.