

## Constructing Difference

### SOCIAL DEVIANCE

*Defining Deviance*

*Explaining Deviant Behavior*

*Linking Power, Deviance, and Social Control*

In 1984, 22-year-old Kelly Michaels moved to New York to pursue her dream of becoming an actress. She was a mild-mannered, devout Catholic who loved children. To support herself, she began working at the Wee Care Preschool in a New Jersey suburb. By all accounts, the kids there loved her (Hass, 1995).

Two weeks after Michaels left Wee Care for a better-paying job at another preschool, a 4-year-old boy who was enrolled at Wee Care was taken to a doctor. A nurse rubbed his back and explained that she was going to take his temperature rectally. He said something like, "That's what teacher [Michaels] does to me at nap time." Although it was unclear exactly what he meant by this—Michaels sometimes rubbed children's backs to get them to sleep and did take their temperature with a plastic forehead strip—the boy's alarmed mother, who happened to be the daughter of a local judge, called the school and the police (Michaels, 1993). The police questioned the child, as well as other children at Wee Care, searching for evidence that Michaels had sexually abused them. As word spread of the investigation, worried parents phoned other parents to share stories about the latest allegations. The police encouraged parents to seek state-funded psychological help for themselves as well as their children. In turn, the therapists encouraged the parents to cooperate with authorities in investigating Michaels.

That casual comment made by one little boy in a doctor's office touched off a 16-month investigation by the Division of Youth and Family Services, which eventually ended in a 235-count indictment against Michaels. During the investigation, scores of parents became convinced that Michaels had raped their children with silverware, wooden spoons, Legos, and light bulbs; that she had played "Jingle Bells" on the piano while naked; and that she had licked peanut butter off children's genitals, made them drink her urine, and forced them to eat excrement off the floor (Hass, 1995). By the time the trial began, Kelly was already being called the "most hated woman in all of New Jersey."

From the start, the case was filled with a host of inconsistencies and questionable legal tactics. For instance, an analysis of interview transcripts found that investigators manipulated the children by introducing suggestive information, providing them with praise when they said things that implicated Kelly Michaels, expressing disbelief when they said good things about her, and inviting them

to pretend or speculate about alleged events (Schreiber et al., 2006). Prosecutors never provided any substantiated evidence of abuse, yet they portrayed Michaels as “actressy” and “deviously charming.” Everything she did was interpreted from the assumption that she was a “monster.” For instance, if she was kind and patient with the children, that meant she was trying to seduce them.

None of the other teachers at the day care center had heard or seen anything, even though most of the alleged abuse supposedly took place during the children’s naptime in a room set off only by a plastic curtain. The judge in the trial allowed the children to testify on closed circuit TV while seated on his lap and denied the defense attorneys the opportunity to cross-examine them. One of the prosecution’s witnesses—a child therapist—testified that the children who denied being molested by Ms. Michaels suffered from something called “child sexual abuse accommodation syndrome,” a psychological condition that made them deny the abuse. In fact, the more the children denied it, the more certain the child therapist was that the abuse had actually happened.

Michaels was found guilty on 115 counts of assault, sexual abuse, and terrorist threats and sentenced to 47 years in prison. As if to add insult to injury, while in prison she received a bill from the Essex County public defenders office charging her \$800,000 in legal fees (L. Manning, 2007). In 1993, after she had spent 5 years in prison—including an 18-month stint in solitary confinement ostensibly for her own protection—a state appellate court overturned the conviction. Later, the New Jersey Supreme Court upheld the appellate court’s decision, decrying the original conviction with outrage. The court wrote that all 20 children who testified against Michaels had been led, bribed, or threatened (Hass, 1995).

You might think that a formal declaration of innocence from such a powerful body as a state supreme court would change people’s feelings about Kelly Michaels. Yet she remained a target of hate. Several civil suits were filed against Michaels by parents who still believed their children had been sexually abused. One mother said she would try to kill Michaels with her bare hands if she had the chance. To date, no Wee Care parents have ever publicly retracted their accusations against their child’s former teacher (L. Manning, 2007).

Why was it so hard for people to admit that Michaels was innocent? For one thing, at a time when child molestation was becoming a national obsession, the case reflected our darkest collective fears. The terrifying message was that our children could be hurt not only by creepy, middle-aged men but also by seemingly safe, 22-year-old college women. In the frenzy over children’s safety, no one seemed willing to protect the principle that a defendant is presumed innocent until proven guilty.

Even more striking about this case is what it says about the way people think. Once members of the community concluded that Kelly Michaels had committed these horrible acts, no amount of conflicting evidence was going to sway them to believe otherwise. Deviant labels and what they imply in people’s minds can overshadow everything else about that person. When Michaels was convicted and formally tagged a criminal, the public degradation acquired legal legitimacy. From that point on, she would never again be able to reclaim a normal life and in many people’s minds would forever be a “child molester.” Long after Michaels’s conviction on sexual abuse charges had been overturned, the media continued to identify her as a criminal. An Associated Press news release about her thwarted attempt to sue the county and the state was titled “Sex Offender’s Case Denied in Court” (2001).

Few of us have spent 5 years in prison as a wrongly convicted child molester. But people are unjustifiably tagged as deviant all the time. Perhaps there have been times in your life when you acquired some sort of unflattering but inaccurate reputation that you couldn’t shed. In this chapter, I examine several questions related to this phenomenon: What is deviance? How does society attempt to control deviant behavior? Who gets to define what is and is not deviant? And what are the consequences of being identified by others as deviant?

## DEFINING DEVIANCE

In its broadest sense, *deviance* is socially disapproved behavior—the violation of some agreed-on norm that prevails in a community or in society at large. Staring at a stranger in an elevator, talking to oneself in public, wearing outlandish clothes, robbing a bank, methodically shooting dozens of children in an elementary school, and setting off two bombs at the finish line of the world's most famous marathon can all be considered deviant acts. If we define deviance simply as any norm violation, then most deviance is rather trivial—even “normal”—like driving over the speed limit or walking across an intersection when the light is red. Most of us, at some point in our lives, occupy statuses or engage in behaviors that others could regard as deviant. But most sociologists focus on deviant acts that are assaults on mores, the most serious of a society's norms. It's this type of deviance to which I will devote most of my attention in this chapter.

The determination of which behaviors or characteristics are deviant and which are normal is complex. We usually assume there's a fair amount of agreement in a society about what and who is deviant. For instance, no one would challenge the notion that child abuse is bad and that child abusers ought to be punished. But the level of agreement within a given society over what specific acts constitute child abuse can vary tremendously. Spanking may be a perfectly acceptable method of discipline to one person but be considered a cruel form of abuse by another.

To further complicate the issue, some sociologists who are identified with structural functionalism (e.g., Durkheim, 1895/1958; Erikson, 1966) argue that deviance, as a class of behaviors, is not always bad for society and may actually serve a useful purpose. As you recall from Chapter 4, norm violations help define the cultural and moral boundaries that distinguish right from wrong and increase feelings of in-group togetherness among those who unite in opposition to deviance from group norms. At the surface level, individual acts of deviance disrupt everyday life and generate varying degrees of social condemnation, but at a deeper level, they can contribute to the maintenance and continuity of society. Deviance can also create needed change (Durkheim, 1895/1958). During the 1950s and 1960s, civil rights protestors purposely disobeyed laws they considered discriminatory, such as those that prevented Blacks from entering certain establishments or attending certain schools. These acts of deviance eventually helped convince many voters and politicians to support legislation ending legal segregation.

As you may have guessed, sociologists usually don't judge whether a given behavior should or shouldn't be considered deviant. Instead, they examine how deviance comes about and what it means to society. One of their primary concerns is whether people respond to deviance from the perspective that all human behavior can be classified as essentially good or bad (absolutism) or from the perspective that definitions of deviance are socially constructed (relativism).

### Absolutist Definitions of Deviance

According to *absolutism*, there are two fundamental types of human behavior: (1) that which is inherently proper and good and (2) that which is intrinsically improper, immoral, evil, and bad. To those who subscribe to such a position, the distinction is clear and identifiable. The rightness or wrongness of an act exists prior to humanly created rules, norms, and customs and independently of people's subjective judgments (Erich Goode, 1994).

Absolutist definitions of deviance are often accompanied by strong emotional reactions toward those considered deviant. Speaking about the issue of same-sex marriage, the televangelist Jimmy Swaggart once expressed these sentiments:

I'm trying to find the correct name for it . . . this utter absolute, asinine, idiotic stupidity of men marrying men. . . I've never seen a man in my life I wanted to marry. And I'm gonna be blunt and plain; if one ever looks at me like that, I'm gonna kill him and tell God he died. (Brutally Honest, 2004, p. 1)

Such extreme reactions might seem at odds with what appears to be a growing cultural acceptance of homosexuality. Homosexuals have gone from being criminalized and closeted in the 1960s to being granted the right to legally marry in all 50 states in 2015. There are more openly gay characters on television—most notably on shows like *Glee* and *Modern Family*—than ever before. The NBA player Jason Collins made headlines in 2013 when he disclosed his homosexuality, becoming the first male athlete in a major team sport to come out while still an active player. In 2014, Michael Sam became the first openly gay football player to be drafted by an NFL team. In addition, a majority of Americans now favor allowing gays and lesbians to serve openly in the military, and opposition to gay adoption has decreased significantly in the past decade (Pew Research Center, 2006; Talbot, 2010). Gay couples appear on mainstream television commercials for products ranging from e-readers to painkillers. Major cruise lines, tour companies, and hotel chains offer (and openly advertise) vacation packages for gay, lesbian, bisexual, and transgender travelers. Marketing researchers estimate that the annual economic impact of LGBT travelers is around \$70 billion a year (Rosenbloom, 2014). In 2015, the World Economic Forum addressed global gay and lesbian rights, the first time this issue has ever been a part of the organization's formal agenda.

A recent nationwide survey found that an overwhelming share of lesbian, gay, and bisexual people (92%) say that society has become more accepting of them in the past decade. About the same proportion expect such acceptance to grow even more in the next decade (Pew Research Center, 2013a). In 2015, a New Jersey court ruled that groups offering “gay conversion therapy”—an intervention program designed to “cure” men of their homosexual urges—violated the state's Consumer Fraud Act and could no longer be practiced (Eckholm, 2015b).

But many people still see homosexuality as absolutely deviant. According to the International Lesbian and Gay Association, 2.7 billion people today live in countries where homosexuality is a crime punishable by imprisonment, beatings, or even death (cited in Ball, 2014). Consider these examples:

- In 2012, legislators in the Ukraine introduced a bill that would make it a crime punishable by imprisonment for producers of television shows and movies to depict homosexuals sympathetically (“Ukraine Bill Proposes Prison,” 2012).
- In Nigeria, people who “directly or indirectly” make a “public show” of same sex relationships, participate in gay clubs, societies, and organizations, or who simply support those organizations can be thrown into prison for as long as 10 years (Nossiter, 2014).
- Iran, Mauritania, Saudi Arabia, Sudan, and Yemen have a statutory death penalty for homosexuality (Ball, 2014).
- The Sultan of Brunei recently signed into law a new penal code that prescribes death by stoning for gay sex (Garcia, 2014).

Closer to home, gay men and lesbians in the United States still face many obstacles stemming from absolutist attitudes:

- Now that same-sex marriage is legal, gay couples who obtain a public marriage license in a state that doesn't provide non-discrimination protection could still be at risk in other aspects of their lives, like losing their job or being denied credit or housing (T. S. Bernard, 2015). In 16 states, gays and lesbians lack virtually any explicit legal protections (Stolberg, 2014).
- According to the Human Rights Campaign (2014a), 91% of Fortune 500 companies provide explicit non-discrimination protections based on sexual orientation. But corporate policies don't always translate into individual behavior. In many areas of the labor force, open homosexuality is still considered a liability. Despite the corporate protections, over half of gay, lesbian, and bisexual employees nationwide hide their sexual orientation at work and 35% lie about it. And one in four open LGBT employees feel that coworkers become uncomfortable when the topic of sexual orientation comes up or report hearing negative comments about LGBT people at work (Human Rights Campaign, 2014b).
- Twenty states have laws (called "Religious Restoration Acts") that allow business owners to deny service to gays and lesbians if such actions impose a "substantial burden" on their religious beliefs. As one Oklahoma state senator put it, "[Homosexuals] don't have the right to be served in every single store. People need to have the ability to refuse service if it violates their religious convictions" (quoted in Fausset & Blinder, 2015, p. A18).
- Gay and lesbian travelers are still advised to prepare for trips by consulting with travel agents or websites about tolerance and safety issues associated with particular destinations. Said one columnist, "the last thing you want to do [on a vacation] is lie awake at night feeling unwanted or even afraid" (McElroy, 2014, p. 5).
- A 2014 Harris poll found that almost half of heterosexuals would be uneasy bringing a child to a same-sex wedding; over a third said they feel uncomfortable when they see a gay couple holding hands in public (cited in Bruni, 2015).
- In December of 2014, the Food and Drug Administration announced plans to lift its lifetime ban on blood donations from all gay and bisexual men. This policy was instituted in 1983 in the early days of the AIDS crisis, before tests for HIV in donated blood, which could easily identify the presence of the virus, became standard. However, the FDA will continue to prohibit donation of blood from gay and bisexual men who have had sex with another man within the past 12 months. Hence, an HIV-negative, married, monogamous, gay man would have to abstain from sex with his spouse for one year to be eligible to donate blood.

Absolutist definitions of deviance imply something about society's relationship with the person who is considered deviant. Many people consider "deviants" to be psychologically, and perhaps even anatomically, different from ordinary, rule-abiding people. The attribute or behavior that serves as the basic reason for defining a person as deviant in the first place is considered pervasive and essential to his or her entire character (Hills, 1980). Respectable, conventional qualities become insignificant. It doesn't matter, for instance, that the "sexual deviant" has an otherwise ordinary life, that the "drug addict" no longer uses drugs, or that the violent act of the "wife batterer" was completely atypical of the rest of his life. In short, the deviant act or trait determines the overall worth of the individual

(Katz, 1975). Being defined as deviant means being identified as someone who cannot and should not be treated as an ordinary member of society.

There's another element of unfairness involved in the absolutist approach to deviance. People routinely make judgments about deviants based on strongly held stereotypes. If you ask someone to imagine what a typical drug addict looks like, for instance, chances are she or he will describe a dirty, poor, strung-out young man living on the streets and resorting to theft to support his illegal habit. The image probably wouldn't be one of a middle-class, stay-at-home mother or clean-shaven, hardworking physician hooked on prescription drugs, even though these groups constitute a higher percentage of drug addicts than any other in U.S. society (Pfohl, 1994).

Absolutist images of deviants are often oversimplified and fall short of accounting for every individual. The vast majority of African Americans do not commit crimes, just as the vast majority of Latino/as are not in gangs, the vast majority of Italians are not involved in the Mafia, and the vast majority of Muslims are not terrorists. Nevertheless, the degree to which an entire group is characterized by an absolutist stereotype is important, because it determines individual and societal responses. If affluent housewives and businesspeople who abuse drugs are not considered typical drug addicts, they will never be the focus of law enforcement attention, collective moral outrage, political rhetoric, or public policy.

### Relativist Definitions of Deviance

Reliance on a strict absolutist definition of deviance can lead to narrow and often inaccurate perceptions of many important social problems. This shortcoming can be avoided by employing a second approach to defining deviance, *relativism*, which draws from symbolic interactionism and the conflict perspective. This approach—which parallels the more general “cultural relativism” discussed in Chapter 4—states that deviance is not inherent in any particular act, belief, or condition; instead, it is socially constructed, a creation of collective human judgments and ideas. Like beauty, it is in the eye of the beholder. Consequently, no act is universally or “naturally” deviant. The relativist approach is useful when the focus of study is the process by which some group of people or some type of behavior is defined as deviant.

For the relativist, complex societies consist of different groups with different values and interests. Sometimes these groups agree and cooperate to achieve a common goal, as when different segments of society join together to fight a foreign enemy. But more often than not there is conflict and struggle among groups to realize their own interests and goals.

Different people or groups can thus have dramatically different interpretations of the same event. In 1995, a 35-year-old white ex-Marine named William Masters was taking his usual armed, late-night walk through a barren neighborhood in Los Angeles. He came upon two young Latino men spray painting graffiti beneath a freeway overpass. Masters wrote down the license number of their car on a small piece of paper. When the men saw him and demanded the paper, Masters pulled out his 9-millimeter pistol and shot them, wounding one and killing the other. He told the police that the men had threatened him with a screwdriver and he had acted in self-defense, even though both were shot in the back. He was not charged with murder. Eventually, he was found guilty on one count of carrying a concealed gun in public and one count of carrying a loaded gun in public—charges that carried a maximum of 18 months in jail and a \$2,000 fine.

Shortly after his arrest, Masters made a case for why his actions shouldn't be defined as deviant. He told one interviewer he was sure people were glad that he, the intended victim, had gotten away and that no jury would ever convict him (Mydans, 1995). Many people agreed. Callers to radio talk

## EXPLAINING DEVIANT BEHAVIOR

The question of how certain acts and certain people come to be defined as deviant is different from the question of why people do or don't commit acts that are considered deviant. Psychological or biological theories addressing this question might focus on the personality or physical characteristics that give rise to deviant behavior, such as psychological proneness to violence or addiction, genetic predispositions, chemical imbalances, or neurological defects. Most sociological theories, however, focus on the environmental forces that act upon people and the effectiveness of various methods to control them.

The structural-functionalist perspective, for instance, tells us that it is in society's interest to socialize everyone to strive for success so that the most able and talented people will come to occupy the most important positions. Sociologist Robert Merton's "strain theory" (1957) argues that the probability of committing deviant acts increases when people experience a strain or contradiction between these culturally defined success goals and access to legitimate means by which to achieve them. The despair and hopelessness that accompany sudden economic hardship can sometimes evoke anger and blame, leading to violence. Some criminologists noted an unprecedented spike in mass murders in 2009 during the height of the economic recession. For instance, in the span of one month, there were eight mass murders that took the lives of 57 people (cited in Rucker, 2009).

More commonly, though, those who believe that being wealthy and achieving the "American dream" are important goals but have no money, employment opportunities, or access to higher education will be inclined to achieve the goal of financial success through illegitimate means (Merton, 1957). One of the most consistent findings in criminal research is the correlation between unemployment (a factor closely associated with economic disadvantage) and property crime (Hagan, 2000). In this sense, people who sell, say, illegal drugs or stolen cell phones to get rich are motivated by the same desire as people who sell real estate or flat-screen TVs to get rich. But people who lack access to legitimate means to achieve success may also reject the culturally defined goal of success and retreat from society altogether. According to Merton, deviants such as vagrants, chronic drunks, drug addicts, and the mentally ill fall into this category.

Another sociologist, Edwin Sutherland, bases his theory of deviance (Sutherland & Cressey, 1955) on the symbolic interactionist principle that we all interpret life through the symbols and meanings we learn in our interactions with others. Sutherland argues that individuals learn deviant patterns of behavior from the people with whom they associate on a regular basis: friends, family members, peers. Through our associations with these influential individuals, we learn not only the techniques for committing deviant acts (e.g., how to pick a lock or how to snort cocaine) but also a set of beliefs and attitudes that justify or rationalize such behavior (Sykes & Matza, 1957). To commit deviant acts on a regular basis, we must learn how to perceive those acts as normal.

### Deterring Deviance

Some sociologists have turned away from the issue of why some people violate norms to the issue of why most people don't (see, e.g., Hirschi, 1969). Their concern is with the mechanisms society has in place to control or constrain people's behavior. **Deterrence theory** assumes that people are rational decision makers who calculate the potential costs and benefits of a behavior before they act. If the benefits of a deviant act (e.g., money or psychological satisfaction) outweigh the costs (e.g., getting caught and punished), we will be inclined to do it. Conversely, if the costs exceed the benefits, the theory predicts that we'll decide it's not worth the risk (van den Haag, 1975).

The controversy surrounding capital punishment is, essentially, a debate over its true capacity to deter potentially violent criminals. According to deterrence theory, a punishment, to be effective, must be swift as well as certain and severe. However, capital punishment is anything but swift.

on a government-owned local television station. Such penalties are designed to shame the labeled individuals into behaving properly and to deter others from committing such crimes. In the process, they satisfy the public's need for dramatic moral condemnation of deviants (Hoffman, 1997).

Deviant labels can impair an individual's eligibility to enter a broad range of socially acceptable roles. Many state penal systems use an instrument called the "Psychopathy Checklist-Revised" to decide if an inmate should be awarded parole. The battery of questions yields a score that allegedly determines if the individual is a "psychopath" or not. If an inmate is found to be a "psychopath" and therefore not eligible for parole, the label stays on his or her permanent record, rendering future positive parole decisions unlikely or even impossible ("This American Life," 2011). Indeed, some psychologists believe that fledgling psychopaths can be identified as early as kindergarten. Others, however, feel that branding a child at such an early age can be devastating:

This isn't like autism, where the child and parents will find support. Even if accurate it's a ruinous diagnosis. No one is sympathetic to the mother of a psychopath (quoted in Kahn, 2012, p. 35).

Consider also the impact of the 1994 Federal Crime Bill on convicted sex offenders. This law requires states to register and track convicted sex offenders for 10 years after their release from prison and to privately notify police departments when the sex offenders move into their community. A website, Family Watchdog, provides information on released sexual offenders in all 50 states, including their names, addresses, convictions, and photographs. Many states have "sexually violent predator" statutes that give officials the power to commit violent sex offenders to mental hospitals involuntarily or to retain them in prison indefinitely *after* their prison terms are up. Because of laws that allow registered sex offenders to live in towns as long as their residence is more than 2,000 feet from a school or park, some communities around the country have found a new way of excluding these individuals from their midst: they've begun creating "pocket parks" out of tiny parcels of land in the community, thereby forcing sex offenders who live nearby to move. These parcels, which can be as small as 1,000 square feet, are often parks in name only, containing no playground equipment or even children. Their sole purpose is to keep sex offenders out of the neighborhood (Lovett, 2013b). These convicts have "paid their debt" to society by serving their mandated punishment. But convicted sex offenders can never fully shed their deviant identity. Finding a decent place to live or a decent job may be a problem for the rest of their lives.

And it's not just sex offenders who must navigate the stigmatizing effects of their deviant labels. Several states are seeking to establish online registries for offenders who engage in a wide range of crimes including arson, drunk driving, methamphetamine production, and animal cruelty (Erica Goode, 2011). The appeal of these laws is hard to understate. According to one law professor, "You'd be hard pressed to find a more politically popular movement in recent years. Whether it's actually good public policy is a distinct and independent question from whether it's politically popular and makes us feel good" (quoted in Erica Goode, 2011, p. A12).

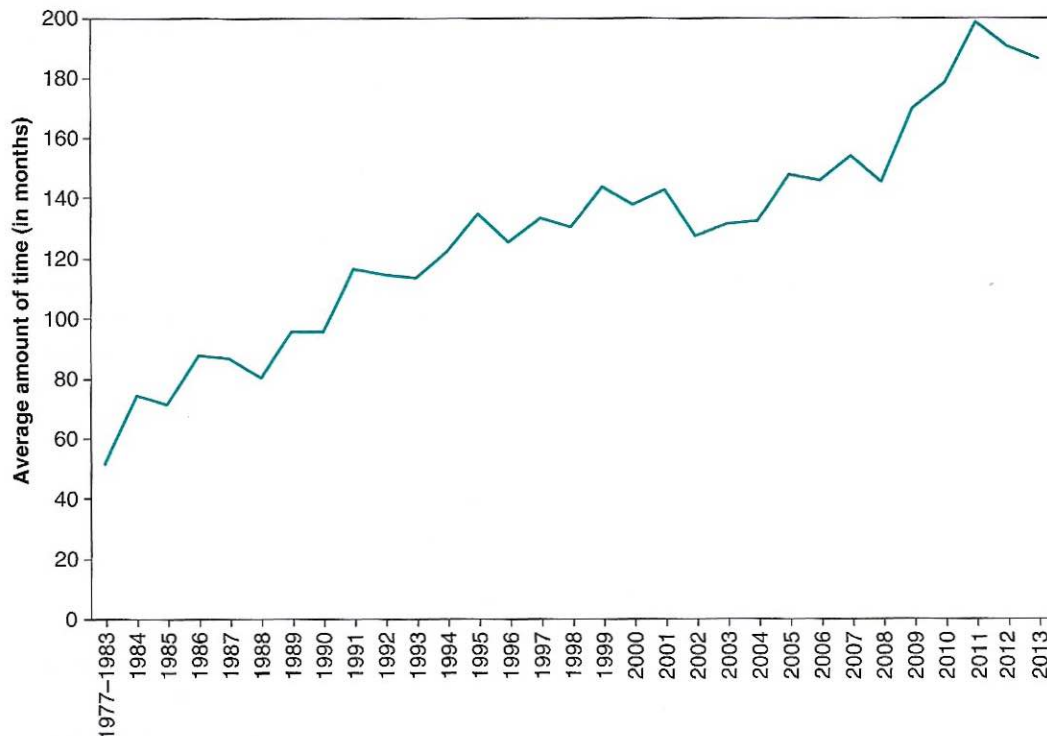
All ex-offenders experience the "stickiness" of labels to some degree, despite legislative efforts to help them. In 2007, Congress passed the Second Chance Act, which funds a variety of services and resources for ex-offenders in hopes of aiding their reentry into society. Nevertheless, potential employers still commonly refuse to hire ex-convicts, even when the crime has nothing to do with the job requirements. Like the public at large, many employers believe that prisons do not rehabilitate but actually make convicts more deviant by teaching them better ways to commit crimes and by providing social networks for criminal activity outside the prison (R. Johnson, 1987). In the past decade or so—particularly in the wake of the attacks of September 11, 2001—the criminal background check industry has grown dramatically. The public now has greater access to criminal history records of

Currently, about 3,000 inmates are on death row in the United States, but only 1,359 prisoners have been executed since 1977, when the death penalty was reinstated. On average, death row inmates spend 15 1/2 awaiting execution, a figure that has been growing steadily for three decades (Snell, 2014; see Exhibit 8.1).

In addition, opponents of the death penalty argue that violent offenders are often under the influence of drugs or alcohol or are consumed by passion when they commit an act of violence; their violence is more or less spontaneous. Hence, they may not be thinking rationally (weighing the potential benefits of the act against the costs of punishment) at the time of the crime. The threat of being condemned to death may not deter such people when they are committing the act. Researchers have, indeed, found little empirical support for the argument that the threat of capital punishment reduces murders (W. C. Bailey, 1990; Galliher & Galliher, 2002). Nor have they found that well-publicized executions deter homicides (R. D. Peterson & Bailey, 1991). In fact, over the past two decades, the homicide rate in states with the death penalty has consistently been about 50% higher than the rate in non-death penalty states (Death Penalty Information Center, 2013b). According to one study, 9 out of 10 leading criminologists don't think the death penalty deters homicides (Amnesty International, 2013),

Most societies around the world have abandoned the use of capital punishment for both moral and practical reasons: It's inhumane, and it doesn't deter crime. Even in China, a country responsible for most of the world's court-ordered executions, legislators voted in 2006 to bar all but the nation's highest court from approving death sentences ("China Changes," 2006). In the United States, there has been a steady decline in death sentences and executions since the 1990s (Snell, 2014). Nevertheless,

### EXHIBIT 8.1 Time Spent on Death Row



SOURCE: Snell, 2014, Table 10.

the majority of U.S. citizens—about 55% according to one study—continue to favor the death penalty (Pew Forum on Religion and Public Life, 2014c). Legislative efforts to increase the number of offenses punishable by death and to reduce the number of “death row” appeals an offender can file reflect this popular attitude. However, such a position can sometimes conflict with economic realities. During the recent recession, lawmakers in several states pushed bills to abolish the death penalty, not on moral grounds but to cut costs. Some argued that capital punishment cases cost states nearly three times as much as homicide cases where the death penalty was not sought (Urbina, 2009).

### Labeling Deviants

These theories help us explain why some people engage in deviant acts and others don't, but they bypass the question of why certain acts committed by certain people are considered deviant in the first place. **Labeling theory** attempts to answer this question by characterizing a deviant person as someone—such as the preschool teacher Kelly Michaels—to whom the label “deviant” has been successfully applied (Becker, 1963; Lemert, 1972). According to this theory, the process of being singled out, defined, and reacted to as deviant changes a person in the eyes of others and has important life consequences for the individual. Once the label sticks, others may react to the labeled deviant with rejection, suspicion, withdrawal, fear, mistrust, and hatred (A. K. Cohen, 1966). A deviant label suggests that the person holding it is habitually given to the types of undesirable motives and behavior thought to be typical of others so labeled. The “ex-convict” is seen as a cold-blooded and ruthless character incapable of reforming, the “mental patient” as dangerous and unpredictable, the “alcoholic” as weak willed, the “prostitute” as dirty and immoral.

The problem, of course, is that such labels overgeneralize and can be misleading. For instance, psychologists recently found that upper-class individuals behave more unethically than lower-class people. They are more likely to break the law while driving, take things from others, lie in negotiations, and cheat to increase the chances of winning a prize (Piff, Stancato, Côté, Mendoza-Denton, & Keltner, 2012).

The type of deviant who receives the harshest expressions of public outrage changes with some regularity. At various times, child molesters, crack addicts, and drug dealers have claimed the title of society's most despised deviant. Currently, foreign terrorists, greedy Wall Street executives, steroid-fueled athletes, and people who drive too slowly fit the bill. Often, collective hostility is directed toward people who don't seem to pose a grave societal threat, like those who talk loudly on cell phones in public places. Cigarette smoking used to be seen as a sign of sophistication; nowadays many people consider smoking filthy and disgusting, and smokers are often banished from buildings and forced to keep their distance from entryways. Across the country, landlords of privately owned multiple housing units have begun to forbid smoking *inside* people's apartments. In 2014, a Massachusetts city tried to ban the sale of *all* products containing tobacco or nicotine including cigarettes, chewing tobacco, and e-cigarettes.

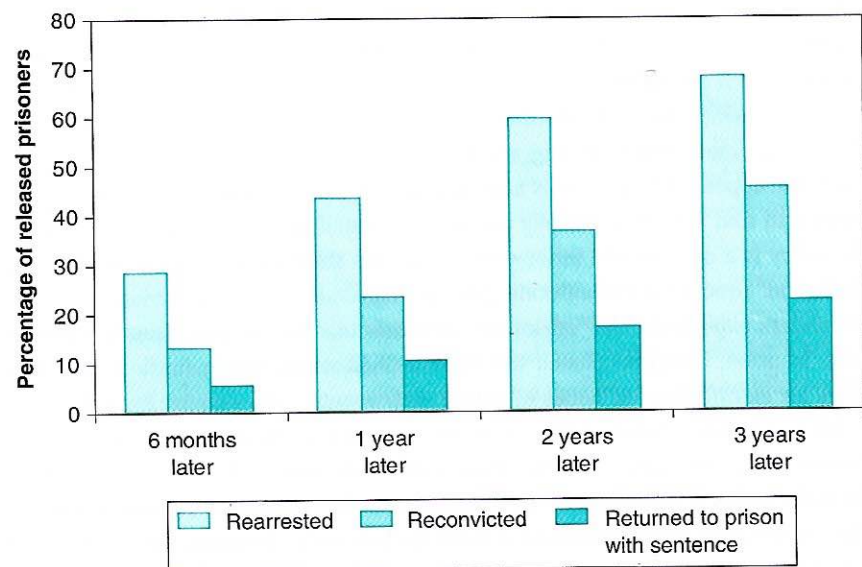
Cities around the country sometimes use humiliating labels as an alternative to incarceration. For example, a Cleveland woman who had driven her SUV on a sidewalk to avoid stopping for a school bus was ordered by a judge to stand on a street corner holding a sign that read, “Only an idiot would drive on the sidewalk to avoid a school bus” (Palmer, 2012). Some cities post the pictures of drug offenders, deadbeat dads, men who solicit prostitutes, even public uriners on billboards. In some states, convicted drunk drivers have to put special license plates on their cars, and convicted shoplifters must take out ads in local newspapers that use their photograph and announce their crimes. The Chicago police department posts on its website photographs and partial addresses of men arrested for soliciting prostitution, even though they've not yet been convicted. Kansas City posts this information

ex-offenders than ever before through such websites as CriminalSearches.com and Dirtsearch.org. Nine out of 10 companies—both large and small—now use criminal background checks as part of their hiring process. An examination of jobs posted on Craigslist found several hundred ads that contained statements that the company wouldn't consider applicants with criminal records: for example, "Do not apply with any misdemeanors/felonies," "You must not have any felony or misdemeanor convictions on your record. Period," and "We are looking for people with. . . spotless background/criminal history" (M. N. Rodriguez & Emsellem, 2011).

In addition, being labeled as deviant may actually increase the probability that the behavior itself will stay the same or become worse (Archer, 1985). A great many ex-convicts in the United States do return to prison. According to the U.S. Department of Justice, about 68% of ex-convicts released in 2005 were arrested for a new offense within 3 years, 45% were convicted again, and 22% ended up back in prison (see Exhibit 8.2). In fact, 16% of released prisoners are responsible for nearly half of all arrests that occur over a 5-year period.

Deviant labels are so powerful that a mere accusation of dangerous activity can taint a person's character. In 2009, two Muslim immigrants from Morocco enlisted in the Army National Guard. They both successfully completed basic training, but just prior to leaving the base in South Carolina, they were questioned by military investigators who suspected them and three other Moroccan immigrants of plotting to poison fellow soldiers. They were placed under military arrest. For the next month and a half, the Army prevented them from calling their families without military personnel present, barred them from speaking to each other in Arabic, and required them to go to the mess hall and bathroom with an escort. It wasn't until a year later that the Army concluded that the allegations against them were completely unfounded. However, despite their innocence, the FBI kept its investigation open. As a result, the two men were unable to receive security clearances, become citizens, obtain concealed weapons permits, or get government jobs (Dao, 2011).

### EXHIBIT 8.2 Recidivism Rate of Prisoners Released in 2005



SOURCE: Durose, Cooper, & Snyder, 2014, Tables 6 & 16.

## LINKING POWER, DEVIANCE, AND SOCIAL CONTROL

Because deviance is socially defined, the behaviors and conditions that come to be called “deviant” can at times appear somewhat arbitrary. Sociologists working from the conflict perspective would say that definitions of and responses to deviance are often a form of social control exerted by more powerful people and groups over less powerful people and groups. In U.S. society, the predominant means of controlling those whose behavior does not conform to the norms established by the powerful are criminalization and medicalization. Labeling people either as criminals or as sick people gives socially powerful individuals, groups, and organizations a way to marginalize and discount certain people who challenge the status quo. Criminalization and medicalization also have economic and other benefits for certain powerful groups.

### The Criminalization of Deviance

Presumably, certain acts are *criminalized*—officially defined as crimes—because they offend the majority of people in a given society. Most of us trust our legal institutions—legislators, courts, the police, and prisons—to regulate social behavior in the interest of the common good. But according to the conflict perspective, the law is not merely a mechanism that protects good people from bad people; it is a political instrument used by specific groups to further their own interests, often at the expense of others’ (W. Chambliss, 1964; Quinney, 1970). Law is, of course, determined by legislative action. But legislatures are greatly influenced by powerful segments of society, such as lobbying groups, political action committees, wealthy campaign contributors, and so on.

Tellingly, the acts that threaten the economic or political interests of the groups that have the power to influence public policy are more likely to be criminalized (and more likely to be punished) than are the deviant acts members of these groups are likely to commit. For instance, it’s against the law to fail to report income on one’s annual tax return. But poor working people are far more likely to be audited by the Internal Revenue Service (IRS) than wealthy people (Johnston, 2002). That’s not surprising, given that the IRS looks for tax cheating by wage earners much more closely than it does for cheating by corporations or by people whose money comes from their own businesses, investments, partnerships, and trusts.

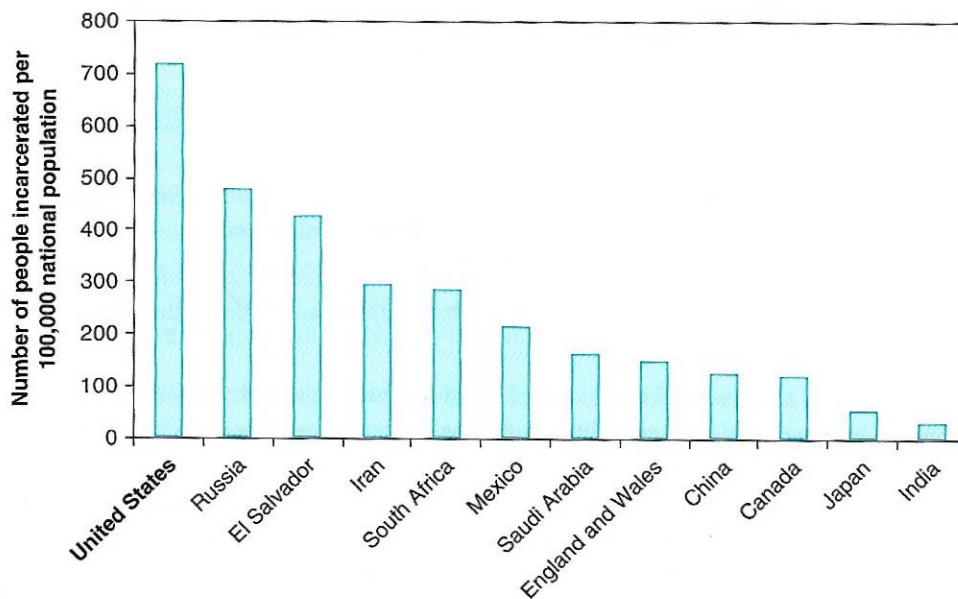
Through the mass media, dominant groups influence the public to look at crime in ways that are favorable to them. The selective portrayal of crime plays an important role in shaping public perceptions of the “crime problem” and therefore its “official” definition. For instance, decades of research show that the crimes depicted on television are significantly more likely to be violent than actual crimes committed in the real world (cited in Reiman & Leighton, 2013). When politicians talk about fighting the U.S. crime problem or when news shows report fluctuations in crime rates, they are almost always referring to street crimes (illegal drug use, robbery, burglary, murder, assault, etc.) rather than corporate crimes, governmental crimes, or crimes committed by people in influential positions.

The strategy has worked well. Sixty-five percent of respondents in one study said that the criminal justice system is not tough enough on crime (only 6% felt it was too tough; Kiefer, 2004). Governments at the state and federal level have since responded to this popular sentiment by “getting tough on crime”—cracking down on drug users and dealers, reviving the death penalty, scaling back parole eligibility, lengthening prison sentences, and building more prisons.

Not surprisingly, the inmate population in this country has grown dramatically in the last half century. In 1970, there were fewer than 200,000 people in state and federal prisons; today that figure is about 2.2 million; another 4.7 million Americans are on probation and parole (Carson & Sabol, 2012; Glaze & Kaeble, 2014), meaning that almost 7 million people, or about 2% of the population, experience some sort of criminal justice supervision. This situation is less a function of some staggeringly high number of evil people in this country than it is of the “tough on crime” policies that have taken hold in the last few decades. In 2013, the U.S. incarceration rate was 716 prisoners per 100,000 people (Walmsley, 2013). No other industrialized country comes close to this figure (see Exhibit 8.3). In 2014, the American Civil Liberties Union began an 8-year campaign to convince politicians and policymakers that this overreliance on imprisonment has become costly and counterproductive (Eckholm, 2014).

*The Social Reality of Crime* But within the United States, certain types of people have always been more likely than others to be defined as deviant in the first place. According to the conflict perspective, most societies ensure that offenders who are processed through the criminal justice system are members of the most disadvantaged groups (Reiman & Leighton, 2013). In particular, poor people are more likely to get arrested, be formally charged with a crime, have their cases go to trial, get convicted, and receive harsher sentences than more affluent citizens (Parenti, 1995; Reiman & Leighton, 2013). In some places, people who can’t afford to pay fines—say, for speeding tickets—often end up in jail (Bronner, 2012). And poor defendants who can’t afford bail are sometimes detained awaiting trial for a longer amount of time than if they’d been convicted right away (Dewan, 2015). Furthermore, although the accused have a constitutional right to an attorney even if they can’t afford one, many poor people still face legal proceedings alone. It turns out that this constitutional

### EXHIBIT 8.3 Incarceration Rates Worldwide



SOURCE: Walmsley, 2013.

provision only applies to criminal cases, not civil ones. Hence in civil matters like home foreclosures, job loss, and child support, poor people often end up representing themselves, which usually means they lose because they don't present necessary evidence, commit procedural mistakes, and fail to examine witnesses thoroughly. It's estimated that 80% of the legal needs of the poor in the United States go unmet (Bronner, 2013).

Poor people of color are likely to be depicted as "typical criminals" whose actions threaten not only people's personal safety but also the well-being of the entire society (see Chapter 11 for more detail). When this type of perception becomes common, official action against them becomes a justifiable and necessary response:

Poor, young, urban, (disproportionately) black males make up the core of the enemy forces in the crime war. They are the heart of a vicious, unorganized guerrilla army, threatening the lives, limbs, and possessions of the law-abiding members of society, necessitating recourse to the ultimate weapons of force and detention in our common defense. (Reiman & Leighton, 2013, p. 69)

Hovering police helicopters and video cameras mounted on streetlights have become the ubiquitous markers of poor urban neighborhoods. As a consequence, a climate of fear and suspicion has gripped these communities. In such an environment, life for everyone is anxious and unsettled: "Family members and friends are pressured to inform on one another and young men live as suspects and fugitives, with the daily fear of confinement" (A. Goffman, 2009, p. 353).

The past few years have also seen a steady stream of cases in which police officers have used lethal force against unarmed individuals who fit the racially tinged image of a dangerous criminal. Among those that have gotten the most media attention are:

- Trayvon Martin, the black teenager gunned down in 2012 by the neighborhood watch coordinator in the gated community where Trayvon was staying.
- Timothy Russell and Malissa Williams, the Cleveland couple killed in a hail of police bullets after their car backfired. Police fired 137 shots into the car, hitting both Russell and Williams two dozen times.
- Michael Brown, the black teenager and robbery suspect shot to death in the street by a police officer in Ferguson, Missouri in 2014.
- Eric Garner, the 44-year old black man from Staten Island, New York, killed in 2014 as a result of an illegal chokehold used by police officers to subdue him.
- Tamir Rice, a 12-year old black boy shot and killed by police in 2014 after they'd received a dispatch call describing a "young, black male" brandishing a gun (the gun was a toy).
- Walter Scott, a 50-year old black man shot from behind in 2015 by a police officer in North Charleston, South Carolina, as he fled on foot following a traffic stop for a nonfunctioning brake light.
- Freddie Gray, a 25-year old black man in Baltimore who died in 2015 from spinal injuries sustained while he was being transported in a police van after being arrested.

Moreover, Latino/as and African Americans make up over 72% of all convicted offenders in the U.S. even though they compose only about 27% of the general population (U.S. Sentencing Commission, 2013). Black men have a 32% chance of spending time in prison, compared to 17% for Latinos and

they are so similar as to make the existing discrepancy in punishment “excessive.” In addition, other research has found that the effects of crack use by pregnant women on fetuses are no different from those of tobacco or alcohol use (cited in Coyle, 2003).

Some sociologists argue that the problems associated with crack use have as much to do with class and race as with the drug itself. Harsh sentences for crack offenses have had a disproportionate effect on black men in poor urban areas, where crack is much more common than the powdered cocaine favored by white users. In 2013, 93% of those convicted of crack possession were black and Latino/a; less than 6% were white. By contrast, 31.2% of those convicted of powdered cocaine possession were black, 10% were white, and 58% were Latino/a (though most of these individuals are white; U.S. Sentencing Commission, 2013). In 2010, President Obama signed into law the Fair Sentencing Act, which aims to reduce these sentencing disparities. In 2011, the U.S. Sentencing Commission voted unanimously to reduce the unfairly long sentences for crack offenders already in prison so that they are more in line with shorter terms given powder cocaine offenders (Serrano, 2011).

Meanwhile, little has been accomplished in the way of stopping the illegal activities of the rich and powerful interests that participate in the drug industry. Established financial institutions often launder drug money, despite laws against it (Parenti, 1995). Massive international crime organizations that ensure the flow of illicit drugs into the country have grown bigger and richer, despite a decades-long attempt to stop them (Bullington, 1993). Unlike low-status users and small-time dealers of illegal drugs, these organizations wield tremendous economic power and political influence (Godson & Olson, 1995).

### The Medicalization of Deviance

One of the most powerful forces in defining deviance in the United States today is the medical profession. Throughout the 20th century, the medical profession gained in prestige, influence, and authority. This professional dominance gave medicine jurisdiction over anything that could be designated “healthy” or “sick” (Conrad & Leiter, 2004). This trend, what sociologists call *medicalization*, is the process through which deviant behavior is defined as a medical problem or illness and the medical profession is mandated or licensed to provide some type of treatment for it (Conrad, 2005). Each time we automatically refer to troublesome behavior or people as “sick,” we help to perpetuate the perception that deviance is like an illness. Many physicians, psychologists, psychiatrists, therapists, and insurance agents, not to mention the entire pharmaceutical industry, benefit from a medicalized view of certain deviant acts.

According to some, we’re currently in the midst of an “epidemic of diagnoses” (Welch, Schwartz, & Woloshin, 2007), meaning that more and more actions that were once categorized simply as misbehaviors are being redefined as psychiatric diseases, disorders, or syndromes. Between 1952 and 2000, the number of mental disorders officially recognized by the American Psychiatric Association increased from 110 to close to 400 (P. J. Caplan, 1995; Horwitz, 2002). Many of these designations seem to have nothing to do with illness. Take, for instance a malady called “conduct disorder,” a diagnosis restricted to children and adolescents. According to the American Psychiatric Association (2013), the “symptoms” of this disorder include bullying or threatening behavior toward others, physical cruelty, destruction of property, theft, and violations of other rules like staying out late despite parental prohibition. In another era, this sort of misbehavior was called juvenile delinquency.

To accommodate the growing number of “illnesses,” the number of psychiatric professionals has almost tripled over the past two decades, as has the number of people seeking psychiatric help. The combined indirect and direct costs of serious mental “illness” in this society, including lost productivity, lost earnings due to illness, disability benefits, and health care expenditures, are estimated to exceed \$317 billion annually (National Institute of Mental Health, 2010). According to the National

Creating the image of deviants as sick people who must be dealt with through medical therapies is a powerful way for dominant groups in society to maintain conformity and protect themselves from those whom they fear or who challenge the way “normal” social life is organized (Pfohl, 1994). The seemingly merciful medical labels not only reduce individual responsibility but also reduce the likelihood that such potentially contagious political criticism will be taken seriously (Hills, 1980).

## CONCLUSION

When we talk about deviance, we usually speak of extreme forms: crime, mental illness, substance abuse, and so on. These activities are indeed troublesome, but for most people they remain comfortably distant phenomena. I think most of us would like to cling to the belief that deviants are “them” and normal people are “us.”

The lesson I hope you take away from this chapter, however, is that the issue of deviance is, essentially, an issue of social definition. As a group, community, or society, we decide which differences are benign and which are dangerous. Standards and expectations change. Norms come and go. The consequence is that each of us could be considered deviant to some degree by some audience. We have all broken unspoken interactional norms; many of us have even broken the law. To a lesser degree, we are all potentially like Kelly Michaels, subject to being erroneously labeled deviant and unfairly treated as a result. Given the right—or wrong—circumstances, all of us risk being negatively labeled or acquiring a bad reputation.

This chapter has examined deviance as both a microlevel and a macrolevel sociological phenomenon, as something that plays a profound role in individual lives and in society as a whole. Although sociologists are interested in the broad social and political processes that create cultural definitions of deviance, they are also interested in the ways these definitions are applied in everyday life. Societal definitions have their most potent effect when expressed face to face. We can talk about powerful institutions such as medicine creating definitions of deviance that are consistent with broader political or economic interests, but if these definitions aren’t accepted as appropriate to some degree by the majority, they will be ineffectual. Again, we see the value of developing the sociological imagination, which helps us understand the complex interplay between individuals and the culture and community within which they live.

## YOUR TURN

People’s perceptions of deviant acts and individuals are a crucial element of our understanding of deviance. From a conflict perspective, these perceptions are usually consistent with the goals and interests of those in power. But what exactly are people’s perceptions of deviance?

Make copies of the following list, and find 20 to 30 people who would be willing to read it and answer a few questions. Try to get an equal proportion of males and females and younger and

older people. Have each person rank the following “deviant” acts in order from 1 to 19, with 19 being the most serious and 1 the least serious. Do not define for them what you mean by “serious.”

- Catching your spouse/partner with a lover and killing them both
- Embezzling money from your employer
- Robbing a supermarket with a gun

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## KEY TERMS

**absolutism:** Approach to defining deviance that rests on the assumption that all human behavior can be considered either inherently good or inherently bad

**criminalization:** Official definition of an act of deviance as a crime

**deterrence theory:** Theory of deviance positing that people will be prevented from engaging in a deviant act if they judge the costs of such an act to outweigh its benefits

**deviance:** Behavior, ideas, or attributes of an individual or group that some people in society find offensive

**labeling theory:** Theory stating that deviance is the consequence of the application of rules and sanctions to an offender; a deviant is an individual to whom the identity “deviant” has been successfully applied

**medicalization:** Definition of behavior as a medical problem, mandating the medical profession to provide some kind of treatment for it

**relativism:** Approach to defining deviance that rests on the assumption that deviance is socially created by collective human judgments and ideas

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