

6th edition

CRIMINOLOGY

a sociological understanding

CRIMINOLOGY

Steven E. Barkan

SIXTH EDITION

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A Sociological Understanding

Steven E. Barkan

University of Maine

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Library of Congress Cataloging-in-Publication Data

Barkan, Steven E.

Criminology: a sociological understanding/Steven E. Barkan.—6th ed.
p. cm.

Includes bibliographical references and index.

ISBN-13: 978-0-13-345899-2 (alk. paper)

ISBN-10: 0-13-345899-7 (alk. paper)

1. Crime—Sociological aspects. 2. Criminology. I. Title.

HV6025.B278 2014

364—dc23

2013046850

10 9 8 7 6 5 4 3 2 1

PEARSON

ISBN 13: 978-0-13-345899-2

ISBN 10: 0-13-345899-7

Dedication

**To Barb,
Dave,
and Joe,
and in memory of my parents**

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New to this Edition

This sixth edition has been thoroughly revised. It includes the latest crime and criminal justice statistics available as the book went to production, and it discusses the latest research on crime and criminal justice issues that had appeared by that time, with dozens of new references added and some older ones deleted. This edition continues the popular features of the previous one, including the chapter-opening *Crime in the News* vignettes ripped from the headlines (almost all new from 2013) that engage students' attention and demonstrate the text's relevance for real-life events and issues; the *Crime and Controversy* and *International Focus* boxes, several of them new or revised for this edition, that respectively highlight crime and justice issues within the United States and abroad; and the *What Would You Do?* feature at the end of each chapter that presents hypothetical scenarios on real-world situations faced by criminal justice professionals and average citizens alike.

Major changes or additions to specific chapters include the following:

Chapter 3. The Measurement and Patterning of Criminal Behavior

- New examples of crime-reporting problems at colleges and universities
- New discussion in the *Crime and Controversy* box of a possible connection between reduced lead paint exposure and the decline in crime rates
- New discussion of possible effects of climate change on crime rates

Chapter 5. Classical and Neoclassical Perspectives

- New discussion of routine activities theory's explanation of relationship between unemployment and changes in crime rates

Chapter 6. Biological and Sociological Explanations

- New material on brain abnormalities and antisocial behavior
- New material on fish oil and antisocial behavior
- New material on child malnutrition and later antisocial behavior
- New discussion of the relevance of biological research on prenatal difficulties and on poverty for efforts to reduce crime

Chapter 7. Sociological Theories: Emphasis on Social Structure

- New material on physical disorder and quality of life
- New *International Focus* box
- Expanded discussion of the prospects for subcultural explanations
- New material on structural explanations and female victimization

Chapter 8. Sociological Theories: Emphasis on Social Process

- New section on evaluation of learning theories
- New material on animal rights activism and techniques of neutralization
- New material on social schemas and theoretical integration

Chapter 10. Violent Crime: Homicide, Assault, and Robbery

- New *International Focus* box
- New material on women as victims of serial killers
- Revised and expanded discussion of workplace violence
- New section on elder abuse
- Revised section on firearms and violence
- Updated discussion of Virginia's gun-carrying laws in *Crime and Controversy* box

Chapter 11. Violence Against Women

- Revised section on defining rape/sexual assault and domestic violence
- New material on prevalence rates for rape/sexual assault and domestic violence
- Updated discussion of military rape/sexual assault in *Crime and Controversy* box
- New material on gang rapes by teenaged boys
- New material on stalking and on cyberstalking

Chapter 13. White-Collar and Organized Crime

- New material on price-fixing and on false advertising
- New material on workplace hazards



- Revised estimates of deaths from unsafe products
- New discussion of gender and involvement in white-collar crime
- New section on patterning of white-collar crime by race/ethnicity and social class
- New *International Focus* box

Chapter 15. Consensual Crime

- New discussion of drug war's impact on African-Americans and Latinos
- New material on legalization of marijuana in the United States

- New *International Focus* box
- New section on the sex trafficking controversy
- New material on drinking by high school students
- Expanded *Crime and Controversy* box

Chapter 16. Policing: Dilemmas of Crime Control in a Democratic Society

- Expanded discussion of Japanese police in *International Focus* box
- Revised discussion of impact of additional police on crime rates
- New material on focused deterrence involving juvenile gangs



Welcome to this sociological

introduction to the field of criminology! This book emphasizes the need to understand the social causes of criminal behavior in order to be able to significantly reduce crime. This approach is similar to the approach followed in the field of public health. In the case of a disease such as cancer, we naturally try to determine what causes it so that we can prevent people from contracting it.

Although it is obviously important to treat people who already have cancer, there will always be more cancer patients unless we discover its causes and then do something about these causes. The analogy to crime is clear: Unless we discover the causes of crime and do something about them, there will always be more criminals.

Unfortunately, this is not the approach the United States has taken during the past few decades. Instead, it has relied on a “get tough” approach to the crime problem that relies on more aggressive policing, longer and more certain prison terms, and the building of more and more prisons. The nation’s prison and jail population has soared and has reached more than 2.2 million despite a small recent decrease. Many criminologists warn that the surge in prisoners has set the stage for a crime increase down the line, given that almost all of these prisoners will one day be returned to their communities, many of them penniless, without jobs, and embittered by their incarceration.

In offering a sociological understanding of crime, this book suggests that the “get tough” approach is shortsighted because it ignores the roots of crime in the social structure and social inequality of society. To reduce crime, we must address these structural conditions and appreciate the role that factors such as race and ethnicity, gender, and social class play in criminal behavior. Students in criminology courses in sociology departments will especially benefit from the sociological understanding that this book offers. But this

understanding is also important for students in courses in criminal justice or criminology departments. If crime cannot be fully understood without appreciating its structural context, students in all these departments who do not develop this appreciation have only an incomplete understanding of the reasons for crime and of the most effective strategies to reduce it.

Although street crime has declined since the early 1990s, it remains a national problem, as the residents of high-crime communities know all too well. Meanwhile, white-collar crime continues to cost tens of billions of dollars and thousands of lives annually, even as it receives far less attention than mass murder, terrorism, and everyday violent and property crime.

In presenting a sociological perspective on crime and criminal justice, this book highlights issues of race and ethnicity, gender, and social class in every chapter and emphasizes the criminogenic effects of the social and physical features of urban neighborhoods. This sixth edition continues to include certain chapters that remain uncommon in other criminology texts, including Chapter 2: Public Opinion, the News Media, and the Crime Problem; Chapter 11: Violence Against Women; Chapter 14: Political Crime; and Chapter 18: Conclusion: How Can We Reduce Crime? In addition, the book’s criminal justice chapters, Chapter 16: Policing: Dilemmas of Crime Control in a Democratic Society and Chapter 17: Prosecution and Punishment, continue to address two central themes in the sociological understanding of crime and criminal justice: (1) the degree to which race and ethnicity, gender, and social class affect the operation of the criminal justice system and (2) the extent to which reliance on the criminal justice system can reduce the amount of crime. These two themes, in turn, reflect two more general sociological issues: the degree to which inequality affects the dynamics of social institutions and the extent to which formal sanctions affect human behavior.

Supplements

Instructor Supplements

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Acknowledgments

The first
edition
of this
book

stated my personal and intellectual debt to Norman Miller and Forrest Dill, and I continue to acknowledge how much I owe them. Norman Miller was my first undergraduate sociology professor and quickly helped me fall in love with the discipline. He forced me to ask questions about society that I probably still haven't answered. I and the many other students he influenced can offer only an inadequate "thank you" for caring so much about us and, to paraphrase a verse from a great book, for training us in the way we should go. Forrest Dill was my mentor in graduate school and introduced me to criminology and the sociology of law and to the craft of scholarship. His untimely death about three decades ago continues to leave a deep void.

My professional home since graduate school has been the Sociology Department at the University of Maine. I continue to owe my colleagues there an intellectual debt for sharing and reaffirming my sense of the importance of social structure and social inequality to an understanding of crime and other contemporary issues. They continue to provide a warm, supportive working environment that often seems all too rare in academia.

I also wish to thank the editorial, production, and marketing staff at Prentice Hall for their help on all aspects of the book's revision. In particular, the assistance of development editor Elisa

Rogers on this edition was indispensable, as was Gary Bauer's faith in the vision underlying the book. In addition, thanks go to Jessica Sykes for her help and patience during the various stages of the book's production.

I also wish to thank the reviewers who read the fifth edition and provided very helpful comments and criticism. Any errors that remain, of course, are mine alone. These reviewers are: Theodore Curry, University of Texas—El Paso; Melissa Deller, University of Wisconsin—Whitewater; Robert W. Greene, University of Wisconsin—Whitewater; Tammy Kochel, Southern Illinois University—Carbondale; Karen S. Miller, West Virginia Wesleyan College; Mark A. Mills, Glenville State College; and Paul Odems, St. John's University—Queens

Finally, as in my first five editions, I acknowledge with heartfelt gratitude the love and support that my wife, Barbara Tennent, and my sons, Dave and Joe, bring to my life. They put up with my need to write, my quirks, and my reactions to the success and failure of our favorite sports teams more than any husband and father has a right to expect.

The sixth edition of this book is again dedicated to my late parents, Morry and Sylvia Barkan, who instilled in me respect for learning and sympathy for those less fortunate than I. As I continue to think about them after so many years, I can only hope that somewhere they are smiling with pride over this latest evidence of their legacy.

About the Author

Steven E. Barkan is professor of sociology at the University of Maine, where he has taught since 1979. His teaching and research interests include criminology, sociology of law, and social movements. He was the 2008–2009 president of the Society for the Study of Social Problems and had previously served as a member of the SSSP Board of Directors, as chair of its Law and Society Division and Editorial and Publications Committee, and as an advisory editor of its journal, *Social Problems*. He also previously served as a member of the council of the Sociology of Law Section of the American Sociological Association and served on its student paper award committee as well as that of the ASA Crime, Law, and Deviance Section. He currently serves on the council of Alpha Kappa Delta, the sociology honor society, and is Vice President/President-elect of the Text and Academic Authors Association.

Professor Barkan has written many journal articles dealing with topics such as racial prejudice and death-penalty attitudes, views on police brutality, political trials, and feminist activism. These articles have appeared in the *American Sociological Review*, *Journal for the Scientific Study of Religion*, *Journal of Crime and Justice*, *Journal of Research in Crime and Delinquency*, *Justice Quarterly*, *Social Forces*, *Social Problems*, *Sociological Forum*, *Sociological Inquiry*, *Sociological Perspectives*, and other journals. He has also authored another text, *Law and Society: An Introduction*, with Prentice Hall.

Professor Barkan welcomes comments from students and faculty about this book. They may e-mail him at barkan@maine.edu or send regular mail to Department of Sociology, 5728 Fernald Hall, University of Maine, Orono, Maine 04469–5728.

Timeline of Major Criminological Theories

Chapter 5

	1764	Classical Theory (Utilitarianism)	Cesare Beccaria
Year	1968	Neoclassical Theories Rational Choice Theory	Gary Becker Derek B. Cornish Ronald V. Clarke
	1985		
	1970s	Deterrence Theory	
	1979	Routine Activities Theory	Lawrence E. Cohen Marcus Felson

Chapter 6

Year	1796	Phrenology	Franz Gall
	1876	Atavism	Cesare Lombroso
	1939	Biological Inferiority	Ernest Hooton
	1949	Body Shapes (Somatology)	William Sheldon
	1960s–1970s	Contemporary Explanations	

Chapter 7

Year	1942	Social Disorganization Theory	Clifford R. Shaw Henry D. McKay
	1987	Deviant Places Theory	Rodney Stark
	1938	Anomie Theory	Robert K. Merton
	1992	General Strain Theory	Robert Agnew
	1955	Status Frustration Theory	Albert K. Cohen
	1958	Focal Concerns Theory	Walter B. Miller
	1960	Differential Opportunity Theory	Richard Cloward Lloyd Ohlin
	1958, 1967	Subculture of Violence Theory	Marvin Wolfgang Franco Ferracuti
	1999	Code of the Street Theory	Elijah Anderson



Chapter 8

Year	1939	Differential Association Theory	Edwin H. Sutherland
	1956	Differential Identification Theory	Daniel Glaser
	1973, 1977	Social Learning Theory	Albert Bandura
	1966	Differential Reinforcement Theory	Robert L. Burgess Ronald L. Akers
	1956, 1961	Containment Theory	Walter Reckless
	1957	Neutralization and Drift Theory	Gresham M. Sykes David Matza
	1969	Social Bonding Theory	Travis Hirschi
	1990	Self-Control Theory	Michael Gottfredson Travis Hirschi
	2004	Control Balance Theory	Charles R. Tittle
	2002	Coercive Control and Social Support Theory	Mark Colvin Francis T. Cullen
	1979	Integrated Strain-Control Theory	Delbert S. Elliott
	1987	Interactional Theory	Terence P. Thornberry
	1993	Life-Course-Persistent Theory	Terrie E. Moffitt
	1993	Age-Graded Theory	Robert J. Sampson John H. Laub

Chapter 9

Year	1951 1963	Labeling Theory	Edwin Lemert Howard S. Becker
	1938 1958 1969	Conflict Theory	Thorsten Sellin George Vold Austin T. Turk
	1916 1952 1964 1974	Radical Theory	Willem Bonger Jerome Hall William Chambliss Richard Quinney
	1988 1989	Feminist Theories	Kathleen Daly Meda Chesney-Lind Sally S. Simpson



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1 Criminology and the Sociological Perspective

LEARNING OBJECTIVES

- 1 Explain the sociological perspective
- 2 Discuss the mutual relevance of sociology and criminology
- 3 Describe the contributions of W. E. B. DuBois and Ida B. Wells-Barnett to the development of criminology
- 4 List the goals of criminal law
- 5 Describe the two key elements of criminal intent
- 6 Know the legal defenses to criminal liability
- 7 Explain the three kinds of information gathered by surveys
- 8 Explain the advantages and disadvantages of experiments and of qualitative research

CHAPTER OUTLINE

The Sociological Perspective

The Mutual Relevance of Sociology and Criminology

The Rise of Sociological Criminology

Crime, Deviance, and Criminal Law

Consensus and Conflict in the Creation of Criminal Law

Goals of Criminal Law

An Overview of Criminal Law

Research Methods in Criminology

Surveys

Experiments

Crime in the News

On December 14, 2012, a young man entered the Sandy Hook Elementary School in Newtown, CT, and began fatally shooting everyone he saw. His victims included 6 adults and 23 children. Their deaths shocked the nation and ignited a heartfelt reflection on violence in America. More than 3,900 U.S. residents nonetheless were to die from gun violence within the next five months. One of these victims was Jerrick Jackson, 46, who was shot at his home in Atlanta, GA, during a robbery in May 2013. The robbers took Jackson's wallet and his fiancée's purse and then shot him after he tried to prevent them from going upstairs where his fiancée's daughter was in her bedroom. The robbers used the fiancée's debit card at a store nine hours later.

Source: Nocera 2013.

These many deaths remind us that violence and other street crime continue to trouble people across the nation. Although the U.S. crime rate has actually declined since the early 1990s, the prison and jail population stands at more than 2.3 million, the highest rate of incarceration in the Western world. The criminal justice system costs more than \$250 billion annually, compared to only \$36 billion in the early 1980s. Why do we have so much violence and other crime? What can we do to reduce our crime rate? What difference do police and prisons make? Could our dollars be spent more wisely? How serious is white-collar crime? Is the war on drugs working? What role do race and ethnicity, social class, and gender play in criminal behavior and in the response of the criminal justice system to such behavior? These are just a few of the questions this book tries to answer.

The rationale for the book is simple. Crime is one of our most important social problems and also one of the least understood. Most of our knowledge about crime comes from what we read in newspapers or see on TV or the Internet. From these sources, we get a distorted picture of crime and hear about solutions to the crime problem that ultimately will do little to reduce it. These are harsh accusations, to be sure, but they are ones with which most criminologists probably agree.

A major reason crime is so misunderstood is that the popular sources of our knowledge about crime say little about its social roots. Crime is not only an individual phenomenon but also a social one. Individuals commit crime, but their social backgrounds profoundly shape their likelihood of doing so. In this sense, crime is no different from other behaviors sociologists study. This basic sociological understanding of crime has an important social policy implication: if crime is rooted in the way our society is organized, then crime-reduction efforts will succeed only to the extent that they address the structural roots of criminality.

This book presents a sociological understanding of crime and criminal justice, an approach commonly called **sociological criminology**. As we will see later, for most of its history virtually all criminology was sociological criminology, and this two-word term would have been redundant. This view of criminology gave explicit attention to issues of poverty and race and ethnicity, as well as to the structure of communities and social relationships. As John Hagan (1994), a former president of the American Society of Criminology, once observed, a sociological criminology is thus a *structural* criminology. It takes into account the social and physical characteristics of communities and the profound influence of race and ethnicity, social class, and gender.

In the past few decades, criminology has moved away from this structural focus toward individualistic explanations, as the fields of biology and psychology are vying with sociology for prominence in the study of crime. These fields enliven the discipline and have expanded criminology's interdisciplinary focus. However, they ultimately fail to answer three of the most central questions in criminology: (1) Why do crime rates differ across locations and over time? (2) Why do crime rates differ according to the key dimensions of structured social inequality: race and ethnicity, social class, and gender? (3) How and why is the legal response to crime shaped by

race and ethnicity, social class, and gender and by other extralegal variables? Only a sociological criminology can begin to answer these questions, which must be answered if we are to have any hope of seriously reducing crime and of achieving a just legal system.

A sociological criminology is not only a structural criminology. To be true to the sociological perspective, it should also be a criminology that debunks incorrect perceptions about crime and false claims about the effectiveness of various crime-control strategies. In addition, it should expose possible injustice in the application of the criminal label.

These themes appear throughout the book. Part 1, *Understanding Crime and Victimization*, introduces the sociological perspective and discusses public beliefs about crime and criminal justice. It also discusses what is known about the amount and social patterning of crime and victimization. Part 2, *Explaining Crime*, critically reviews the major explanations of crime and criminality and discusses their implications for crime reduction. These explanations are integrated into the chapters contained in Part 3, *Criminal Behaviors*. These chapters discuss the major forms of crime and ways of reducing them. The fourth and final part of the book, *Controlling and Preventing Crime*, explores among other things two important issues for a sociological understanding of the criminal justice system: (1) To what degree do race and ethnicity, class, and gender unjustly affect the chances of arrest, conviction, and imprisonment? (2) To what degree do arrest and punishment reduce criminal behavior? The concluding chapter of the book presents a sociological prescription for crime reduction.

Our sociological journey into crime and criminal justice begins by reviewing the sociological perspective and discussing the mutual relevance of sociology and criminology. We look briefly at the development of sociological criminology and at its approaches to crime and criminal justice and review some key legal terms and concepts.

► The Sociological Perspective

Above all else, the **sociological perspective** stresses that people are *social beings* more than mere individuals. This means that society profoundly shapes their behavior, attitudes, and life chances. People growing up in societies with different cultures tend to act and think differently from one another. People within a given society growing up in various locations and under diverse socioeconomic circumstances also tend to act and think differently. We cannot understand why people think and behave as they do without understanding their many social backgrounds.

This perspective derives from the work of Émile Durkheim (1858–1917), a French sociologist and a founder of the discipline, who stressed that social forces influence our behavior and attitudes. In perhaps his most famous study, Durkheim (1952 (1897)) found that even suicide, normally regarded as the most individualistic act possible, has social roots. Examining data in France and elsewhere, he found that suicide rates varied across locations and across different kinds of people. Protestants, for example, had higher suicide rates than did Catholics. Durkheim explained these differences by focusing on structural characteristics, in particular the level of social integration, of the locations and people he studied. People in groups with high social integration, or strong bonds to others within their group, have lower suicide rates. His analysis remains a classic study of the influence of social structure on individual behavior such as suicide.

What exactly is **social structure**? Briefly, social structure refers to how a society is organized in terms of social relationships and social interaction. It is both *horizontal* and *vertical*. Horizontal social structure refers to the social and physical characteristics of communities and the networks of social relationships to which an individual belongs. Vertical social structure is more commonly called **social inequality**, and refers to how a

▼ The sociological perspective emphasizes that people are social beings more than individuals. This means that society shapes our behavior, attitudes, and life chances.





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▲ A job-seeker consults a bulletin board listing some employment possibilities. C. Wright Mills considered unemployment a public issue that results from structural problems in society.

society ranks different groups of people. In U.S. society, social class, race and ethnicity, and gender are key characteristics that help determine where people rank and whether some are “more equal” than others.

Sociologist C. Wright Mills (1959) emphasized that social structure lies at the root of **private troubles**. If only a few individuals, he wrote, are unemployed, then their private troubles are their own fault. But if masses of individuals are unemployed, structural forces must account for their bad fortune. What people may define as private troubles are thus more accurately described as **public issues**, wrote Mills. Their personal troubles result from the intersection of their personal biography with historical and social conditions. Mills referred to the ability to understand the structural and historical basis for personal troubles as the **sociological imagination**. Once people acquire a sociological imagination, they are better able both to understand and to change the social forces underlying their private troubles.

As Mills’s comments suggest, sociology’s emphasis on the structural basis for individual behavior and personal troubles often leads it to challenge conventional wisdom. Max Weber (1864–1920), another founder of sociology, echoed this theme when he noted that one of sociology’s most important goals was to uncover “inconvenient facts” (Gerth and Mills 1946). As Peter Berger (1963) observed in his classic book, *Invitation to Sociology*, the “first wisdom” of sociology is that things are not always what they seem; sociological research often exposes false claims about reality and taken-for-granted assumptions about social life and social institutions. Berger referred to this sociological tendency as the **debunking motif**.

Review and Discuss

What do we mean by the *sociological perspective*? How does this perspective help us to understand the origins of crime and possible ways of reducing crime?

The Mutual Relevance of Sociology and Criminology

With this brief discussion of the sociological perspective in mind, the continuing relevance of sociology for criminology immediately becomes clear. Perhaps most important, crime, victimization, and criminal justice cannot be fully understood without appreciating their structural context. Using Mills’s terminology, crime and victimization are public issues rather than private troubles. They are rooted in the social and physical characteristics of communities, in the network of relationships in which people interact, and in the structured social inequalities of race and ethnicity, social class, and gender. Reflecting this point, many of criminology’s important concepts, including anomie, relative deprivation, and social conflict, draw from concepts originally developed in the larger body of sociology. Moreover, research methodology originating in sociology provides the basis for much criminological research.

Criminology is just as relevant for its parent field of sociology because of the structural basis for criminality. If crime and victimization derive from community characteristics, social relationships, and inequality, criminological insights both reinforce and advance sociological understanding of all these areas. Crime, victimization, and legal punishment are certainly important negative life chances for people at the bottom of the socioeconomic ladder. More than most other subfields in sociology, criminology shows us how and why social inequality is, as Elliott Currie (1985: 160) once put it, “enormously destructive of human personality and of social order.” By the same token, positions at the top of the socioeconomic ladder contribute to a greater probability of white-collar crime that results in little or no punishment. Again, perhaps more than most other sociological subfields, criminology illuminates the privileges of those at the top of the social hierarchy.

Another major dimension of inequality, gender, also has important consequences for criminality and victimization and, perhaps, legal punishment. Criminological findings have contributed to the larger body of sociological knowledge about the importance of gender

(Renzetti 2013). More generally, the study of crime has furthered understanding of many standard sociological concepts, such as alienation, community, inequality, organization, and social control (Short 2007).

Review and Discuss

In what ways are the disciplines of sociology and criminology relevant for each other?

The Rise of Sociological Criminology

Many of the themes just outlined shaped the rise of sociological criminology in the United States during the twentieth century. Because Part 2 discusses the development of criminological theory in greater detail, here we simply sketch this history to underscore the intellectual connection between criminology and sociology. Before we do so, it will be helpful to review some basic concepts.

All societies have social **norms** or standards of behavior. Behavior that violates these norms and arouses negative social reactions is called **deviance**. In most traditional societies studied by anthropologists, the norms remain unwritten and informal and are called **customs**. These customs are enforced through informal **social control** (society's restraint of norm-violating behavior) such as ostracism and ridicule. People obey customs because they believe in them and because they fear the society's informal sanctions. In large, modern societies, many norms tend to be more formal, meaning that they tend to be written or codified. These formal norms are called **laws**. Social control is also more formal and takes the form of specialized groups of people (legislators, police officers, judges, and corrections officials) who create laws, interpret them, and apprehend and punish law violators. With these concepts in mind, we now trace the rise of sociological criminology.

For much of recorded history, people attributed crime and deviance to religious forces. Individuals were said to commit these behaviors because God or, in polytheistic societies, the gods were punishing or testing them. During the Middle Ages, deviance was blamed on the devil. In the eighteenth century, the *classical school* of criminology stressed that criminals rationally choose to commit crime after deciding that the potential rewards outweigh the risks. In view of this, said classical scholars, legal punishment needed to be severe enough only to deter potential criminals from breaking the law.

During the nineteenth century, scholars began to investigate the causes of criminal behavior through scientific investigation. Perhaps, the first such criminologist was Adolphe Quetelet (1796–1874), a Belgian astronomer and mathematician who gathered and analyzed crime data in France. Crime rates there, he found, remained fairly stable over time and, further, were higher for young adults than for older ones and higher among men and the poor than among women and the nonpoor.

Later in the century, Émile Durkheim began providing his major contributions. He stressed the primacy of social structure over the individual and thus established the sociological paradigm. He also observed that deviance will always exist because social norms are never strong enough to prevent *all* rule breaking. Even in a “society of saints,” he said, such as a monastery, rules will be broken and negative social reactions aroused. Because Durkheim (1962 (1895)) thought deviance was inevitable, he considered it a *normal* part of every healthy society and stressed its functions for social stability. The punishment of deviance, he said, clarifies social norms and reinforces social ties among those doing or watching the punishing. Durkheim further argued that deviance is necessary for social change to take place. A society without deviance, he said, would be one with no freedom of thought; hence, social change would not be possible. A society, thus, cannot have social change without also having deviance.

Quetelet's and Durkheim's interest in the social roots of crime gave way to interest in its biological roots, as physicians and other nineteenth-century researchers began to investigate the biological basis for criminal behavior. Although their methodology was seriously flawed and many of their views were racist, their perspective influenced public and scholarly thinking on crime. The recent rise of biological explanations of crime indicates their continuing popularity for understanding criminal behavior.

At the end of the nineteenth century, famed African-American scholar W. E. B. DuBois (1899) disputed a biological basis for crime in his renowned book *The Philadelphia Negro*, in which



he attributed the relatively high crime rates of African-Americans to negative social conditions rather than to biological problems. His analysis of crime in Philadelphia is today regarded as an early classic of sociological criminology (Gabbidon and Greene 2013). DuBois was also one of the first social scientists to write about possible racial discrimination in arrest and sentencing. Another African-American scholar, Ida B. Wells-Barnett (2002), documented perhaps the most extreme use of law in this regard in an 1892 pamphlet titled *Southern Horrors*, an indictment of lynch law. She wrote the pamphlet after three of her friends were lynched in Memphis, Tennessee, where Wells-Barnett co-owned a newspaper named *Free Speech*. After she editorialized against these and other lynchings, whites threatened to lynch her and other *Free Speech* staff and forced the newspaper to shut down.

The sociological study of crime advanced further at the University of Chicago after the turn of the twentieth century. Scholars there noticed that high crime rates in Chicago's inner-city neighborhoods stayed stable from one year to the next, even as certain immigrant groups moved out and others moved in. They attributed these crime rates to certain social and physical conditions of the neighborhoods, including their stark poverty and residential instability, that reflected a breakdown in conventional social institutions.

One student of the Chicago sociologists was Edwin Sutherland, who soon became a towering figure in the development of sociological criminology. Sensitive to the **criminogenic** (crime-causing) conditions of urban neighborhoods, Sutherland was especially interested in how and why these conditions promote criminality and emphasized the importance of peer influences in his famous *differential association theory*. He further developed the concept of *white-collar crime* and was sharply critical of the illegal and harmful practices of the nation's biggest corporations. At the heart of his sociological criminology was a concern for issues of race, poverty, and political and economic power.

At about the same time, Robert K. Merton, a Columbia University sociologist, developed his *anomie theory* of deviance. Borrowing heavily from Durkheim, Merton attributed deviance to the poor's inability to achieve economic success in a society that highly values it. His theory was perhaps the most "macro" of all the early structural theories of crime and remains influential today.

During the 1970s, a new *social control* or *social bonding theory* of criminal behavior rose to prominence. Drawing on Durkheim, this theory emphasized the criminogenic effects of weak bonds to social institutions. Although this theory focused on social relationships, it was less of a macro-structural theory than its social disorganization and anomie forebears.

The 1960s and early 1970s were also a turbulent era marked by intellectual upheaval in several academic disciplines, perhaps most of all sociology. Some sociologists asserted that society was rooted in conflict between the "haves" and "have-nots" in society. In the study of crime and deviance, *labeling* and *conflict theories* emphasized bias and discrimination in the application of criminal labels and in the development of criminal laws. Shortly thereafter, new feminist understandings of gender and society began to make their way into criminology, as feminists criticized the male bias of traditional criminological theories and called attention to the gendered nature of crime and victimization.

Today all of these sociological approaches inform the study of crime and criminal justice. As this textbook will indicate, sociological criminology's emphasis on the structural origins of crime and on the impact of race/ethnicity and poverty continues to guide much contemporary theory and research. To aid your understanding of sociological perspectives on crime, we now discuss some important concepts in the study of crime and deviance.

▼ This photo shows students running away after National Guard troops opened fire on demonstrators at Kent State University on May 4, 1970. The 1960s and early 1970s were a turbulent era that stimulated the use of labeling and conflict theories in the study of crime and deviance.



© Everett Collection Historical / Alamy

► Crime, Deviance, and Criminal Law

Edwin Sutherland (1947) defined **criminology** as the study of the making of laws, of the breaking of laws, and of society's reaction to the breaking of laws. Put another way, criminology is the scientific study of the creation of criminal law, of the causes and dynamics of criminal behavior, and of society's attempt through the criminal justice system and other efforts to punish, control, and prevent crime. Note that criminology as a social science differs from crime-scene investigation, or *forensic science*, featured in *CSI* and other TV shows.

The term *crime* has already appeared many times in this chapter, but what actually is crime? Most simply, **crime** is behavior that is considered so harmful that it is banned by a criminal law. Though straightforward, this definition begs some important questions. For example, how harmful must a behavior be before it is banned by a criminal law? Is it possible for a behavior to be harmful but not banned? Is it possible for a behavior to be banned but not very harmful? Who decides what is or is not harmful? What factors affect such decisions?

As these questions indicate, the definition of crime is not all that straightforward after all. Instead, it is problematic. In sociology, this view of crime derives from the larger study of deviant behavior, of which crime is obviously one very important type. Recall that deviance is a behavior that violates social norms and arouses negative social reactions. Durkheim's monastery example, given earlier, raises an interesting point. Behavior considered deviant in a monastery, such as talking, would be perfectly acceptable elsewhere. This illustrates that deviance is a *relative* concept: whether a given behavior is judged deviant depends not on the behavior itself but on the circumstances under which it occurs. Consider murder, the most serious of interpersonal crimes. As a behavior, murder involves killing someone. We consider this act so horrible that sometimes we execute people for it. Yet if soldiers kill someone in wartime, they are doing their job, and if they kill several people in a particularly heroic fashion, they may receive a medal. The behavior itself, killing, is the same, but the circumstances surrounding it determine whether we punish the killer or award a medal.

Whether a given behavior is considered deviant also depends on where it occurs, as the monastery example reminds us. What is considered deviant in one society may be considered acceptable in another. Another way of saying this is that deviance is *relative in space*. As just one example, anthropologists have found that sexual acts condemned in some societies are often practiced in others (Goode 2011).

Deviance is also *relative in time*: within the same society, what is considered deviant in one time period may not be considered deviant in a later period, and vice versa. For example, the use of cocaine, marijuana, and opium was very common (and legal) in the United States just over a century ago, even though all three drugs are illegal today. Many over-the-counter medicines contained opium for such problems as depression, insomnia, and various aches and pains. Marijuana was used to relieve migraines, menstrual cramps, and toothaches. Many over-the-counter products, including Coca-Cola, contained cocaine. Coke was popular when it hit the market in 1894 because it made people feel so good when they drank it (Goode 2011).

By saying that deviance is a relative concept, we emphasize that deviance is not a quality of a behavior itself but, rather, the result of what other people think about the behavior. This was a central insight of sociologist Howard S. Becker (1963: 9), who famously wrote that "deviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules or sanctions to an 'offender.' The deviant is one to whom that label has been successfully applied; deviant behavior is behavior that people so label."

Becker's observation alerts us to two possibilities. First, some harmful behaviors, such as white-collar crime, may not be considered deviant, either because "respectable" people do them, because they occur secretly, or because people know about them but do not deem them harmful.



AP Photo/Itsuho Inouye

▲ Killing in wartime is considered necessary and even heroic, but killing in most other circumstances is considered a crime (homicide).



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▲ When Coca-Cola was first manufactured in 1894, it contained cocaine, contributing in no small measure to its instant popularity.

Second, some less harmful behaviors, such as prostitution, may still be considered deviant because people are morally opposed to them or do not like the kinds of people (poor, nonwhite, etc.) who are doing them.

Consensus and Conflict in the Creation of Criminal Law

The previous discussion raises two related questions about criminal laws: (1) Why do criminal laws get established? (2) Whom do criminal laws benefit? In criminology, consensus and conflict theories of crime, law, and society try to answer these questions. These views derive from related perspectives in the larger field of sociology.

Consensus theory originates in Durkheim's work. It assumes a consensus among people from all walks of life on what the social norms of behavior are and should be. Formal norms, or laws, represent the interests of all segments of the public. People obey laws not because they fear being punished but because they have internalized the norms and regard them as appropriate to obey. When crime and deviance occur, they violate these widely accepted norms, and punishment of the behavior is necessary to ensure continuing social stability.

Conflict theory (discussed further in Chapter 9) derives from the work of Karl Marx and Friedrich Engels and is generally the opposite of consensus theory. It assumes that members of the public disagree on many of society's norms, with their disagreement reflecting their disparate positions based on their inequality of wealth and power. Laws represent the views of the powerful, not the powerless, and help them stay at the top of society's hierarchy and keep the powerless at the bottom. Behavior labeled criminal by laws is conduct by the poor that threatens the interests of the powerful. The powerful may commit very harmful behaviors, but because they determine which laws are created, their behaviors are often legal, or at least not harshly punished even if they are illegal.

These two theories have important implications for how we define and understand crime. In consensus theory, crime is defined simply as any behavior that violates a criminal law, to recall our earlier straightforward definition. Criminal law in turn is thought to both represent and protect the interests of all members of society. In conflict theory, the definition of crime is more problematic: it is just as important to consider why some behaviors *do not become* illegal as to consider why others *are* illegal. A conflict view of crime, law, and society thus defines crime more broadly than does a consensus view. In particular, it is willing to consider behaviors as crimes in the larger sense of the word if they are harmful, even if they are not illegal.

Both theories have their merits. The greatest support for consensus theory comes from criminal laws banning the criminal behaviors we call *street crime*, which all segments of society condemn and which victimizes the poor more than the wealthy. Although the historical roots of some of these laws lie in the conflict between rich and poor, today they cannot be said to exist for the protection of the wealthy and powerful. The greatest evidence for conflict theory perhaps comes from corporate misconduct, which is arguably more socially harmful than street crime but is less severely punished. Both kinds of behavior are discussed in the chapters ahead.

Goals of Criminal Law

Criminal law in the United States and other Western democracies ideally tries to achieve several goals. Because criminal law is obviously an essential component of the criminal justice system, perhaps its most important goal is to *help keep the public safe from crime and criminals or*, to put it another way, *to prevent and control crime and criminal behavior*.

A second goal of criminal law is to *articulate our society's moral values and concerns*, a goal that consensus theory emphasizes. Ideally, criminal law bans behaviors that our society

considers immoral or wrong for other reasons. Murder is an obvious example here. More controversially, criminal law also bans the use of certain drugs, prostitution, and some other behaviors that people voluntarily commit and for which there may be no unwilling victims. We call these behaviors *consensual* or *victimless* crimes, and critics say that society's effort to ban them amounts to "legislating morality" and may in fact do more harm than good (Brownstein 2013).

A third goal of criminal law and the larger criminal justice system is to *protect the rights and freedoms of the nation's citizenry* by protecting it from potential governmental abuses of power. This is what is meant by the *rule of law* that is so fundamental to a democracy and is lacking in authoritarian nations where police and other government agents take away their citizens' freedom and otherwise abuse them. This consideration helps us to understand why reports of torture and abuse by U.S. personnel of persons captured in the Iraq War a decade ago aroused so much concern: the alleged abuse was committed by personnel of a democratic nation and violated the rules of international law governing the treatment of military prisoners and detainees (Cole 2009).



Photo courtesy of Washington Post via Getty Images

▲ Reports of abuse and torture of Iraqi detainees by U.S. personnel aroused much controversy, in part because critics said these incidents violated international law.

An Overview of Criminal Law

We turn now from this basic understanding of criminal law to its origins and current aspects. Law in the United States has its origins in English **common law**, which began during the reign of Henry II in the twelfth century. Over the centuries, England developed a complex system of law that specified the types of illegal behaviors, the punishment for these behaviors, and the elements that had to be proved before someone could be found guilty of a crime. English judges had great powers to interpret the law and in effect to make new *case law*. As a result, much of English law derived from judges' rulings rather than from legislatures' statutes.

During this time the jury was developed to replace ordeals as the chief way to determine a defendant's guilt or innocence. However, the jury's power was limited because jurors could be punished if they found a defendant innocent. Its power and importance grew considerably in 1670 after William Penn was arrested and tried for preaching about Quakerism. When the jurors refused to convict him, the judge imprisoned and starved them. In response, an English court ruled that juries could not be punished for their verdicts. This ruling allowed juries to acquit defendants with impunity and strengthened their historic role as protectors of defendants against arbitrary state power (Barkan 1983).

When English colonists came to the New World beginning with the Pilgrims, they naturally brought with them English common law. Several grievances that led to the Revolutionary War centered on England's denial of jury trials for colonial defendants, its search and seizure of colonial homes and property, and its arbitrary use of legal punishment. After the Revolution, the new nation's leaders wrote protections from these and other legal abuses into the Constitution and the Bill of Rights.

Legal Distinctions in Types of Crime

Most U.S. jurisdictions still retain common law concepts of the types of crime and the elements of criminal law violation that must be proved before a defendant can be found guilty. One distinction