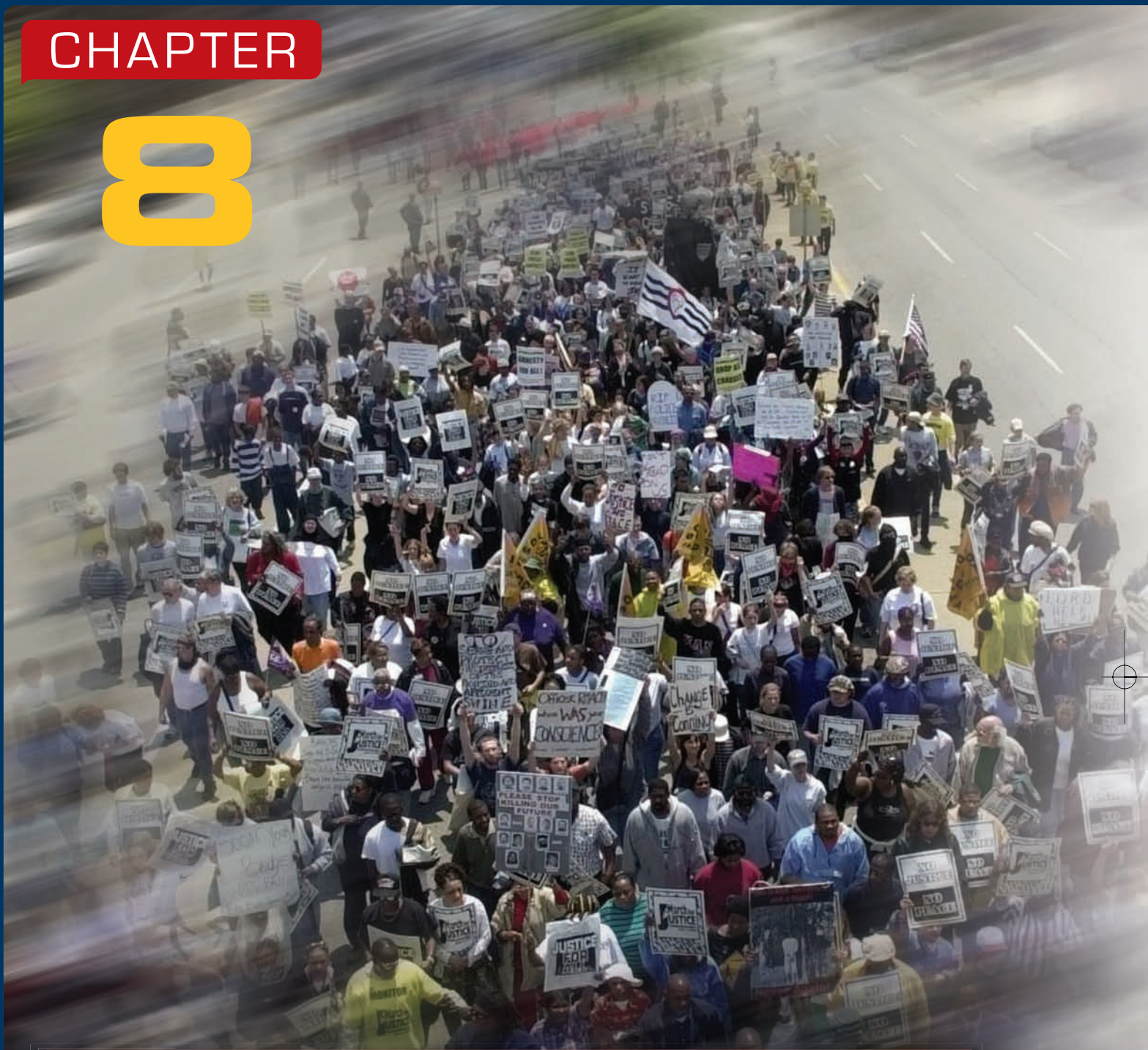


## CHAPTER

## 8



## OBJECTIVES

- |  |  |
|--|--|
| Understand the difference between a consensus and conflict view of society, and the core themes of critical theories.                  | Know how radical criminologists explain the law, criminal justice system, and criminal behavior. |
| Recognize how conflict among different interest groups shapes the content of the law and the operation of the criminal justice system. | Recognize extensions of radical theory, including peacemaking criminology and left realism.      |
| Understand the evidence regarding the relationship between race, class, and criminal justice outcomes.                                 | Appreciate how gender may shape both criminal justice processing and theories of crime.          |
|  | Link specific critical theories with their policy implications.                                  |

# Social Conflict and Crime

“

*“Is a person who kills another in a bar brawl a greater threat to society than a business executive who refuses to cut into his profits to make his plant a safe place to work? By any measure of death and suffering the latter is by far a greater danger than the former.”*

—Jeffrey Reiman<sup>1</sup>

”

## FEATURES

YOU ARE THE CRIMINOLOGIST

**Headline Crime**

THEORY IN ACTION

LINKS

## WRAP UP

YOU ARE THE CRIMINOLOGIST

CHAPTER SPOTLIGHT

PUTTING IT ALL TOGETHER

KEY TERMS

NOTES

## WWW.CRIMINOLOGY.JBPUB.COM

Interactivities  
In the News  
Key Term Explorer  
Web Links



## YOU ARE THE CRIMINOLOGIST

### What Is a “Serious” Crime?

Consider the following two scenarios:

A. Stephanie Pratt, after being introduced to illicit drugs by her boyfriend, developed a serious addiction to crack cocaine. In a matter of months, she lost her job as a factory worker and went from living in a nice apartment to living on the street. In order to procure money for her drug habit, Stephanie robbed a local gas station, armed with a pistol. During the robbery, the gas station clerk tried to grab the pistol. The gun fired and the gas station clerk was seriously wounded.

B. The Jeffco Seatbelt Company produces seatbelts for automobile manufacturers. In the late 1990s, Jeffco designed a new seatbelt, the “Restrainer,” for several SUV models. Late into the production process, engineers at Jeffco discovered that the restrainer model has a critical flaw. Under certain extreme conditions, the new seatbelt design fails and crash-test dummies are thrown through the windshield of the SUV. The engineers notify the top executives at the company who must make a decision about whether to immediately recall this product from auto manufacturers (none of the SUVs have yet reached the public). The executives calculate that if they remain silent, their seatbelt will result in approximately 1000 serious injuries per year, with over half resulting in death. They conclude that even after settling lawsuits from those injured and paying government fines, Jeffco will make more money with the flawed design. The executives take no action and shred all of the engineering documents.

*When the two scenarios are compared, who is the more “serious” criminal?*

*How do you think that the individuals in each scenario should be punished for their acts? Is this different from how they might be punished in the “real world” of criminal justice?*

*Does the cover-up in the second scenario qualify as murder?*

*Assuming that scenario B qualifies as a criminal act, who made the most “rational” decision (Stephanie or the executives) to engage in crime?*

## Introduction

Are the crimes of wealthy individuals and corporate leaders treated with kid gloves compared with typical street crimes? If so, why does this situation exist? The theories in this chapter raise just such questions. Critical approaches to criminology question why certain acts are illegal while others are not (even though they may cause as much or more harm). Furthermore, they note that the criminal justice system only targets certain laws and certain individuals for full enforcement. In seeking to understand the content of the law and the operation of the criminal justice system, critical approaches are quite different from the mainstream theories covered in previous chapters.

In the early 1960s, American criminology was dominated by anomie or strain theories of delinquency and crime. Criminologists such as Cloward and Ohlin argued that broad social reforms, includ-

ing the reduction of poverty, were necessary to reduce crime. Support for their Mobilization for Youth program and the general “war on poverty” indicated that many agreed with their position. By the 1970s, however, the social context had changed dramatically. The political vision of a “great society” wilted under the reality of the Vietnam War, the Watergate scandal, prison riots, the shootings at Kent State University, and civil rights demonstrations. Criminologists saw that crimes of the powerful (e.g., Watergate, FBI violations of civil rights, crimes against blacks) were ignored, while violations of victimless crimes (e.g., marijuana use, vagrancy) were pursued vigorously. Arguments for increasing support for the poor gave way to the belief that an economic and political system that created these class differences was corrupt beyond saving.<sup>2</sup>

**LINK** Chapter 6 outlined several anomie (or strain) theories of crime that pointed to the importance of poverty in the genesis of crime.

Labeling theory emerged from this context as a popular explanation of crime. Labeling theorists stated that crime was a social construction and that government intervention only made delinquency worse. Theories that emerged during the 1970s, however, were “much more explicit about the connection between the criminal justice system and the underlying economic order, sometimes condemning the state itself.”<sup>3</sup> Different commentators have referred to these theories as *critical criminology* or the *new criminology*. As will soon be noted, these general titles capture a very diverse body of theories including conflict theory, Marxist/radical theory, and feminist criminology.

Despite this diversity, it is possible to identify a number of broad themes that tie these theories together<sup>4</sup>:

1. Inequality and power as central concepts: Power can be based on social class, race, gender, or other factors. The powerful will use their power to control the law and the operation of the criminal justice system.
2. Crime as a political concept: The law is not an objective, agreed-upon list of behaviors that cause the most social damage. Many acts by the powerful that cause damage are not considered criminal.
3. The criminal justice system as serving the interests of those in power: The criminal justice system targets those who lack power and ignores the crimes of those who have power.
4. The solution to crime as the creation of a more equitable society: Criminologists should work to foster social justice by supporting humane policies aimed at preventing harm.

In sum, the focus of critical criminology is much different than mainstream criminology. Until now, the discussed theories sought to explain why people engage in crime or why some groups are more prone to crime than others. The theories in this chapter focus more on the content of the law (What is illegal?) and the actions of the criminal justice system (What laws are enforced?). As will be discovered, some of these theories attempt to explain some forms of criminal behavior. Still, at their core, these theories make predictions about how law is both formed and enforced.

At the heart of critical theory is the belief that the law reflects the outcome of a struggle over power. Prior to this time, the popular view was that the law and its enforcement reflected societal con-

sensus. In the **consensus model**, the law reflects common agreement over the fundamental values held by society; that is, it reflects the interests of the vast majority and the “shared popular viewpoint” in society.<sup>5</sup> Certain acts are prohibited because society generally agrees that this is necessary. Norms against certain behaviors begin as folkways and mores and are eventually codified into law. Law is a mechanism to resolve conflicting interests and maintain order. Here, the state is a value-neutral entity. Lawmakers resolve conflicts peacefully, the police enforce the law, and the courts arbitrate. Any biases that arise are temporary and unintended.<sup>6</sup>

In the **conflict model**, the law is the result of a battle between people or groups that have different levels of power. Control over the state (including the law and the criminal justice system) is the principal prize in the perpetual conflict of society.<sup>7</sup> In that regard, conflict theorists see bias in the criminal justice system as conscious and intentional. Those in power use the legal system to maintain power and privilege; the law and criminal justice system reflect the interests of those who won the power struggle. Further, crime can directly result from the conflict between competing groups in society.

A host of theories assume that conflict is a natural part of social life. Early conflict theories tended to be pluralistic; that is, they portrayed conflict as a result of clashes among many groups. The pluralistic perspective is discussed in this chapter under **conflict theory**. In the 1970s, theories focused on one central conflict: the battle between the very wealthy and the rest of the population. This perspective can be considered Marxist or **radical theory**.

## Conflict Theory

George Vold produced the first criminology textbook that prominently featured the conflict perspective. Vold argued that content and enforcement of the law was the result of the values and interests of those in power: “Those who produce legislative majorities win control over the police power and dominate the policies that decide who is likely to be involved in violation of the law.”<sup>8</sup> In the 1960s, a number of theorists, including William Chambliss, Richard Quinney, and Austin Turk heightened interest in how conflict shapes law.

## Conflict Theory and the Law

As with labeling theorists, conflict theorists argued that mainstream criminology focused too much attention on why people break the law, while ignoring the reasons that certain acts are illegal. As Chambliss put it, “Instead of asking, ‘Why do some people commit crimes and others do not?’ we ask ‘Why are some acts defined as criminal while others are not?’”<sup>9</sup> Their answer was that those with power and influence defined the laws in a way that promoted their interests.

**LINK** A great deal of overlap exists between labeling theory (discussed in Chapter 7) and conflict theories. In particular, both theories argue that the law will be enforced against those in society who lack power.

Within conflict theory, power is derived from a variety of sources. Power can come from membership in a more powerful group based on gender, social class, or race. In the United States, those who are white, male, and wealthy have more power than those who are poor, from a minority group, or female. Power is also equated with “resources,” which might include money, organization, or access to the media. There are multiple sources of power and many different groups.<sup>10</sup> The competition among these groups creates a society defined by a continual state of struggle and conflict.<sup>11</sup> Still, many conflict theorists acknowledge that there is a high degree of consensus for some crimes — particularly violent acts such as murder, rape, and robbery. Even here, it is crucial to recognize that there is disagreement over how particular physical acts are defined. If a corporation causes someone’s death by selling them an unsafe product or by polluting the air, is this “murder?”<sup>12</sup> The **Headline Crime: The Case Against DuPont’s Teflon box** explores this issue in the context of legal action against the makers of the nonstick coating Teflon.

A substantial body of empirical evidence supports the conflict view of law. To be sure, research on public support for laws indicates a great deal of agreement among different segments of society for many crimes. There is also consensus on which crimes are more (violent crime) or less (property crime, drug offenses) serious.<sup>13</sup> Despite this agreement, a substantial amount of conflict also exists. Disagreements are apparent in laws regarding things like public order offenses (e.g., public drunkenness) and the regulation of consensual sex (e.g., prostitution).<sup>14</sup> Even where there is agreement on the law,

there is conflict regarding how individuals who violate the law should be punished.<sup>15</sup>

Few people would dispute the fact that political interest groups shape the criminal law in the United States. The power of interest groups is apparent in a diverse range of issues, including abortion, gun control, pollution laws, and the death penalty. Groups such as the National Rifle Association, the American Association of Retired People, and the National Right to Life pay individuals to lobby members of Congress to push for laws consistent with their values and interests. On a larger scale, conflicts arising from social movements (e.g., the civil rights movement), broad segments of society (e.g., the “religious right”), and political parties (e.g., Republicans versus Democrats) also influence the development of law.<sup>16</sup>

## Conflict Theory and the Criminal Justice System

Those with power not only define the law to serve their interests, but also have an impact on the operation of the criminal justice system; that is, they have power over what laws are (or are not) enforced. Within the conflict framework, Austin Turk sought to understand crime through society’s au-



Demonstrators gather on the Colorado State Capitol grounds to protest against the National Rifle Association’s annual meeting, which took place after shootings at nearby Columbine High School.



*What kind of interest groups would support gun control laws? How do pro-gun control and anti-gun control interest groups derive their power?*

## Headline Crime

### The Case Against DuPont's Teflon

The Environmental Protection Agency (EPA) made headlines when it brought legal action against DuPont, the manufacturer of the popular stick-resistant coating called Teflon. The case involves Dupont's failure to notify the EPA of the toxic hazards posed by the chemical (perfluorooctanoic acid or PFOA) used to make Teflon. Dupont has been producing Teflon at the Washington Works Facility in a small West Virginia town for over 50 years. In the late 1990s, the cattle in a farm near the DuPont facility started to die. The farm owners sued DuPont, claiming the cattle deaths were due to a creek that was contaminated by a DuPont landfill. Later, a class action suit was filed on behalf of 60,000 area residents based on allegations that their drinking water was contaminated with PFOA. This lawsuit yielded a treasure trove of internal DuPont documents, memos, and e-mails that found their way to the EPA.

Among other things, the internal DuPont documents indicate that:

- In 1981, DuPont discovered that one of its employees passed PFOA on to her fetus and two other workers had babies born with birth defects in the eyes and nostrils, similar to those found in lab rats exposed to PFOA. DuPont subsequently moved all female workers from the production area.
- In the early 1980s, DuPont tested wells near the plant and

found that they were contaminated with PFOA. The company failed to notify either the community or the EPA.

- By 1991 DuPont had information that the chemical was in water supplies at a level that exceeded the company's exposure guidelines. By DuPont's own guidelines, they could not claim that the level of chemical exposure would have no effect on members of the community.

In accordance with the Toxic Substance Control Act (passed in the 1970s), DuPont was required to notify the EPA of information that indicated substantial public risk. The case against DuPont continues to unfold as scientists try to get a grip on the effects of PFOA on the environment and humans. Researchers have long known that PFOA causes cancer, birth defects, and other physical problems in lab animals. Additional research reveals that the vast majority of humans have absorbed some PFOA in their bodies. There is also some evidence that exposure to PFOA increases cancer rates in humans. Scientists and environmentalists are particularly troubled by the chemical, because it does not break down in the environment; time will not heal contamination. In essence, they believe that DuPont's failure to notify the government gave the chemical a 20-year window to spread without any effort to study the effects. DuPont officials indicate that although they

share the concerns about PFOA levels in humans, they did nothing wrong. Further, they claim that this chemical affects humans differently from animals. Nevertheless, the company recently settled the class action suit for over \$100 million, a sum that could increase depending on any health problems of those exposed to PFOA. Additionally, the EPA could fine DuPont up to \$313 million — over 10 times larger than the maximum fine ever assessed by the agency. To put these numbers in perspective, however, DuPont nets an estimated \$200 million per year from sales of Teflon. Since the early 1980s then, DuPont has profited substantially from this product.

*Is DuPont's failure to notify the EPA of the hazardous effects of PFOA a serious crime? If so, is the monetary punishment sufficient?*

*What resources does DuPont have, as opposed to the average citizen, to fight these allegations?*

*How does this article relate to conflict and/or Marxist theory?*

Sources: Legal News Watch, "DuPont Under Fire for Teflon Chemical PFOA," available at [http://www.legalnewswatch.com/news\\_398.html](http://www.legalnewswatch.com/news_398.html), accessed August 10, 2005; Environmental Working Group, "EPA Finds DuPont Guilty of Withholding Teflon Blood and Water Pollution Studies: Company Faces Fines of Up to \$313 Million," available at [www.ewg.org/issues/pfcs/tsca8e\\_teflon/index.php](http://www.ewg.org/issues/pfcs/tsca8e_teflon/index.php), accessed August 9, 2005.

thority relationships. He suggested that criminologists should focus primarily on the process of *criminalization* or the assignment of criminal status to an individual.<sup>17</sup> In other words, whose behavior is

targeted for enforcement? Like labeling theorists, he believes that criminalization may depend less on the particular behavior of people and more on their relationship with authority figures.

TABLE 8-1

**Factors Influencing Conflict Between Authority Figures and Law Violators**

Factor	Relationship to the Likelihood of Conflict
Organization	Conflict is more likely when those engaging in crime are organized (gangs and syndicate criminals will likely be more resistant to authority).
Sophistication	The probability of conflict increases where the law violator is less sophisticated (a street thug as opposed to a white-collar criminal).
Relative power of enforcers and resisters	Criminalization is more likely when enforcers (police, prosecutors) have substantially more power than resisters. However, some resisters who have little power may be passed over as not being worth the trouble.
The correspondence of cultural and social norms	Cultural norms are “what is expected” (the letter of the law), whereas social norms refer to “what is actually being done” (how laws are actually enforced). When there is congruence between these sets of norms, criminalization is more likely.

Source: Austin T. Turk, *Criminality and Legal Order* (Chicago: Rand McNally, 1969).

Turk devised a number of concepts intended to explain criminalization. **TABLE 8-1** outlines some of his more important ideas. For instance, consider Turk’s concepts of organization and sophistication. Criminalization is most likely for an organized but unsophisticated norm resister (e.g., delinquent gang member) than for an organized and sophisticated person (e.g., Mafia member). Turk’s theory has recently found some support in research analyzing police-citizen encounters.<sup>18</sup> A 2005 study of data from police observations found that organization and sophistication of the police and suspects significantly predicted overt conflict (use of force).<sup>19</sup>

William Chambliss and Robert Seidman authored another influential conflict-oriented text. The starting point for their analysis was the assumption that as society becomes more complex, dispute resolution will move away from “reconciliation” and toward “rule enforcement.”<sup>20</sup> A complex society will therefore depend heavily on sanctioning (police action) to keep order among parties in conflict. In the United States, Chambliss pointed to the dominance of middle-class values. Thus, the middle class could impose their own

standards and view of proper behavior upon others in society. Further, the bureaucratic nature of the legal system meant that enforcement of the law would be biased against lower-class people. Bureaucratic agencies tend to maximize the rewards and minimize strains against the organization. As a result, police are expected to avoid enforcing crimes committed by the powerful (which might cause trouble) and focus on crimes of the poor. Those who lack power are less able to successfully resist enforcement.<sup>21</sup>

## Research on Race and Criminal Justice Processing

Conflict theory suggests that enforcement of laws will be biased against those who lack power. One way to test this proposition is to see whether the less-powerful groups in society (e.g., racial minorities, the poor) receive harsher treatment from the criminal justice system. In other words, are black offenders more likely to be arrested, prosecuted, and imprisoned than white offenders? A simple inspection of arrest and prison statistics appears to support the conflict perspective. Minorities (especially African-Americans) are overrepresented at every stage of the criminal justice system — from arrest to imprisonment. In 2003, white Americans were incarcerated at a rate of 465 per 100,000. African-Americans had an incarceration rate of roughly 3400 per 100,000, and Hispanics 1200 per 100,000.<sup>22</sup> On the other hand, males are incarcerated at a dramatically higher rate than females — a finding that contradicts conflict theory, because men have more power.

The fact that a particular group is overrepresented in the criminal justice system does not, however, definitively support or refute conflict theory. Many consensus theories predict that minorities or members of the lower class are more likely to be involved in serious forms of criminal behavior. Social disorganization theory (see Chapter 6), for example, predicts that because minorities often live in poverty-stricken, disorganized neighborhoods, they are more likely to engage in crime. Conflict theory, on the other hand, would suggest that differences in arrest and imprisonment are not simply due to differences in criminal behavior. The key issue is whether **extra-legal factors** (e.g., race, class, and gender) have a substantial impact on decision making, regardless of **legal factors** (e.g., offense seriousness and prior record).

At the least, it appears as though legal factors, particularly offense seriousness and prior record, are the strongest predictors of decisions made by the police, prosecutors, and judges.<sup>23</sup> This finding should not come as a shock to anyone. Common sense dictates that someone with prior felony convictions who is caught in the act of armed robbery has a greater risk of arrest and imprisonment than someone with no prior record who gets caught shoplifting. Still, an important issue is whether race, class, or other factors still matter. The vast majority of research in this area focuses on race. This research asks (sticking with the example): “If neither has a prior record, are black and white shoplifters treated equally?”

Answering this type of question requires a multivariate analysis, which statistically controls for (holds constant) legal factors in order to examine factors such as race or class. That is the only way to find out whether the size of the black prison population is due to legitimate factors (e.g., more serious offenses, more severe prior record) or to discrimination.

The research examining race and the criminal justice system is extremely complex and often contradictory. Typically, a study examines official decision making within a jurisdiction, at a particular stage (e.g., arrest decisions, court decisions) of the criminal justice system. The most difficult decision makers to evaluate are the police. Police decisions typically occur out on the streets, and there are no records of individuals who are let go without formal action. To overcome this problem, a number of researchers have directly observed the behaviors of police.

Reiss's 1966 observational study found that race in itself did not influence police decisions to arrest. Black suspects were more likely to be arrested because they were suspected of more serious crimes, were more hostile toward police, and were more likely to have complainants that demanded official action.<sup>24</sup> It is important to remember that hostility toward police does not arise in a vacuum; minority communities are subject to a stronger police presence than other areas. Later studies reached very similar conclusions. A few observational studies, however, have found some evidence of racial bias.<sup>25</sup> An important limitation of this type of research is that police might act differently (and be less biased) simply because they are being observed.

Over the past 20 years, **racial profiling** (racially biased law enforcement) has become an extremely

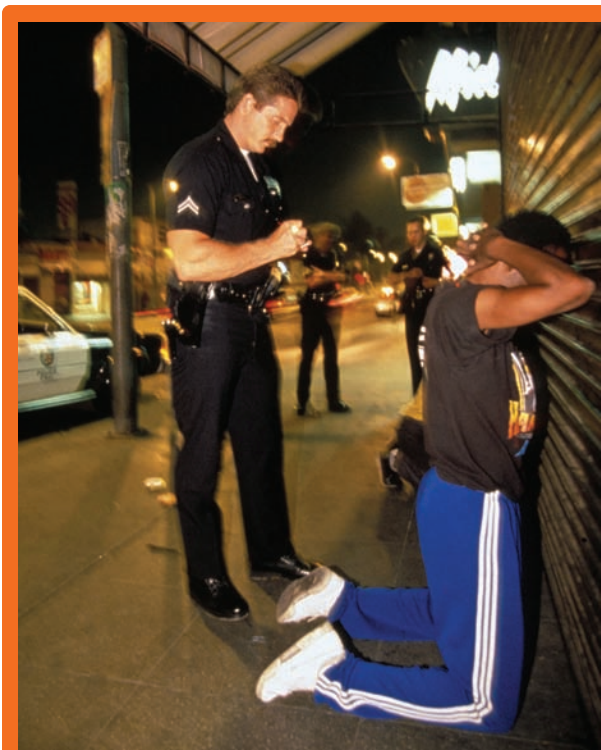
controversial issue. Many minorities believe that they are pulled over for traffic stops simply because of the color of their skin (i.e., “driving while black”). A great deal of evidence exists that African-Americans are more likely to be stopped, to have their cars searched, and to be ticketed, than would be expected given their numbers in the population.<sup>26</sup> Still, it is difficult to determine the cause of this difference. For example, it could reflect the fact that minorities are more likely to live in high-crime areas that are heavily patrolled by police. This issue promises to be an important research topic in the coming years.

Once a person is arrested, tracking decision making becomes much easier because a paper trail exists. Scholars have examined whether race impacts bail decisions, prosecution decisions (whether to charge or release a suspect), and sentencing decisions (both sentence length and whether or not a person gets prison time). Once again, there are no simple answers. Instead, different studies yield different results. As a starting point, consider Alfred Blumstein's research comparing arrest rates to incarceration rates at a national level. If there were no bias in the criminal justice system, the percentage of blacks arrested should be roughly equal to the percentage of blacks incarcerated. In two separate studies, Blumstein found that a large portion (76% and 80%) of the racial disparity in incarceration rates were due to disparities in arrest rates.<sup>27</sup> Still, incarceration rates were slightly higher for blacks than would be expected given their arrest rates. Further, as the seriousness of the offense decreased, arrest disparities were less important in explaining disparities in black incarceration.

This finding suggests that, as discretion in the criminal justice system increases, blacks find themselves at a disadvantage. In a replication of this study in a single jurisdiction (Pennsylvania), researchers concluded that race differences in arrests accounted for even less (70%) of the race differences in imprisonment.<sup>28</sup> In other words, 30% of the racial differences in incarceration were not due to racial differences in offending. For drug crimes, where discretion is higher, racial differences in offending accounted for only 20% of racial differences in incarceration.<sup>29</sup>

Another approach is to track offenders within a jurisdiction. Joan Petersilia conducted a detailed study of the California criminal justice system based on Offender-Based Transaction Statistics (OBTS).





African-Americans have much higher arrest and incarceration rates than white Americans.



How would the conflict perspective account for this fact? What does the empirical evidence indicate?

She found that minority suspects were more likely than whites to be released after arrest. Yet, following a felony conviction, minority offenders were more likely than whites to receive a long prison sentence. These differences held even after controlling for prior record, offense seriousness, previous violence, and probation or parole status.<sup>30</sup>

Additional information from the Rand prisoner survey in California, Texas, and Michigan revealed that minorities *are not* overrepresented in the arrest population compared with the number of crimes that they actually commit, nor are they more likely to be arrested.<sup>31</sup> A similar analysis of court data from Georgia between 1976 and 1982 found that sentencing was equitable.<sup>32</sup> No racial group of offenders was treated more harshly or leniently than others. An analysis of more than 11,000 California offenders convicted of assault, robbery, burglary, theft, forgery, or drug crimes revealed a similar pattern. Although black and Latino offenders were

more likely to go to prison than white offenders, once legal factors (e.g., prior adult or juvenile history, use of a weapon) were controlled, race differences disappeared. In other words, knowledge of race, independent of legal factors, did not help predict who goes to prison versus who gets probation.<sup>33</sup>

Studies such as this led William Wilbanks to conclude that it was a myth that the criminal justice system is discriminatory. Wilbanks argues that, although some persons in the system may make decisions on the basis of race, there is no *systematic* racial bias in the criminal justice system.<sup>34</sup> Once other factors (e.g., prior record, offense seriousness) are held constant, the effect of race is minimal. Wilbank's position, however, is by no means the final word on this subject. This body of research does not capture, for example, differences in police patrolling.<sup>35</sup> In other words, police presence helps to determine who accumulates a prior record. In that sense, statistically controlling for prior record might mask racial bias in policing.

A final body of empirical research examines the relationship between the presence of a “threatening” social group and measure of punitiveness within a certain geographical area. The **racial threat hypothesis** — that as minority populations increase relative to the white population, punitive measures will increase — has received some support in the literature.<sup>36</sup> Scholars have documented correlations between the percentage of black citizens and a diverse number of outcome measures, including lynching, the size of police forces, arrest rates, and sentencing practices.<sup>37</sup> For example, McGarrell tested a conflict model of incarceration rates in the United States for 1971, 1980, and 1988. He compared the effects of both social and structural variables and the crime rate. He determined that two variables (percentage of black population and the violent crime rate) were strong and consistent predictors of the incarceration rate.<sup>38</sup> Critics of such research correctly point out, however, that a measure such as “percentage of black citizens” is at best only an indirect measure of “social threat.”<sup>39</sup> The research evidence on race criminal justice processing demonstrates, if nothing else, the necessity of considering this problem over time in different jurisdictions, using different research methods.

As should be clear from the preceding, the research on race and the criminal justice system is complex and oftentimes contradictory. On the broad question of whether the system is biased, there is

no easy answer. Looking within certain categories of crime or punishment, however, sometimes yields a clear (and disturbing) picture.

### Race and the War on Drugs

Conflict theory appears to be particularly relevant to a discussion about the law, race, and the criminal justice system in the context of illicit drugs. The history of legislation against drug use in the United States is in many ways a story of linking particular drugs with a “dangerous” (and powerless) class of citizens. In an effort to portray these drugs as particularly bad, opium was linked to Chinese immigrants and marijuana to Mexicans.<sup>40</sup> In essence, the “drug of choice” of the less-powerful group is criminalized — laws against the particular drug are then enthusiastically enforced.

David Cole summarizes the conflict argument regarding the latest example — crack cocaine<sup>41</sup>:

Politicians impose the most serious criminal sanctions on conduct in which they and their constituents are least likely to engage. Thus, a predominantly white congress has mandated prison sentences for the possession and distribution of crack cocaine 100 times more severe than the penalties for powder cocaine. African-Americans comprise more than 90% of those found guilty of crack cocaine crimes. By contrast, when white youth began smoking marijuana in large numbers in the 1960s and 1970s, state legislatures responded by reducing penalties. . . .

There is little doubt that police targeted the sale and distribution of crack cocaine throughout the 1980s and 1990s. Not surprisingly, a shift in focus from powder cocaine and other drugs toward crack increased racial disparities in drug arrests. In the 1970s, African-Americans accounted for roughly 20% of drug arrests. By the early 1990s, they made up 40% of all drug arrests.<sup>42</sup> Minorities are about four times as likely to be arrested for drugs as white individuals, even though the vast majority of drug users are white. The primary enemy in the war on drugs appears to have been young black males.<sup>43</sup> Society must recognize that crime and illicit drug use do disproportionately affect minority communities. Criminologist Michael Tonry has argued, though, that the effect of the war on drugs on the black community was a foreseeable tragedy<sup>44</sup>:

What was clear both then and now is that a program built around education, drug abuse



When crack cocaine spread rapidly through urban areas in the 1980s, legislators across the country responded with harsh penalties for possessing or selling this drug.



*What impact did this legislative decision have on racial minorities? Could this impact have been prevented?*

treatment, and social programs designed to address the structural, social, and economic conditions that lead to crime and drug abuse would have a much less destructive impact on disadvantaged young blacks than would a program whose primary tactics were the arrest, prosecution, and lengthy incarceration of street-level sellers who are disproportionately black and Hispanic.

### Capital Sentencing and Race

Historically, race has also played a role in the imposition of the death penalty in the United States. In *Furman v. Georgia*,<sup>45</sup> a number of the Supreme Court justices raised serious questions about discrimination and arbitrariness in the application of the death penalty. For example, Justice Douglas noted<sup>46</sup>:

It would seem incontestable that the death penalty inflicted on one defendant is “unusual” if it discriminates against him by reason of his race, religion, wealth, social position, or class, or if it is imposed under a procedure that gives room for the play of such prejudices.

In other words, the death penalty was cruel and unusual because it was applied in a discriminatory manner. Although this decision is the subject of several different interpretations, it prohibited the arbitrary infliction of the death penalty.<sup>47</sup>

At that time, a massive body of research indicated that racial bias clouded the capital-sentencing process. In particular, it clearly demonstrated that blacks were far more likely to receive a death sentence than were whites.<sup>48</sup> Also, it was determined that whites were more likely to have their death sentences commuted to a lesser sentence.<sup>49</sup> Other studies found that capital sentencing was not only based on the race of the killer but also was determined by the race of the victim. For example, one study found that Philadelphia blacks charged with murdering whites were more likely to receive a death sentence than any other offender-victim race combination.<sup>50</sup> This pattern was also present in rape cases — blacks convicted of raping whites were 18 times more likely to attract a death sentence.<sup>51</sup>

This research evidence served as the backdrop for the *Furman* decision — yet, *Furman* did not outlaw the death penalty. Rather, it questioned the results of the unbridled discretion typically at work in the capital-sentencing process. In 1976, the Supreme Court (*Gregg v. Georgia*) approved a new Georgia system. The Supreme Court ruled that Georgia's "guided discretion" statute provided adequate protection against the arbitrary and capricious application of the death penalty. In other words, the Supreme Court concluded that the Georgia process provided adequate protection against racial bias and other arbitrary, extra-legal influences.

The Georgia law had several significant features. First, it required a bifurcated trial. In the first phase of the trial, the jury addressed the issue of guilt or innocence. In the second or sentencing phase, the penalty was decided. Second, the law delimited specific aggravating (and later, mitigating) circumstances that juries would consider during the sentencing phase of the trial. The court would later give broad latitude to the defense regarding what could be introduced in mitigation. Third, the Georgia law required an automatic appeal of all death sentences to the state supreme court. The Court believed that these processes provided sufficient protection for rights of the accused.

Research on capital sentencing conducted following *Gregg* indicates that race is still a dominant factor in the decision to execute. For example, studies of the capital-sentencing process in Florida revealed that blacks who kill whites have the greatest probability of receiving the death penalty.<sup>52</sup> Other studies found evidence of this specific pat-



Thomas Miller-El gained a stay of execution from the U.S. Supreme Court in 2002. He was granted a new trial because of alleged racial discrimination in his first trial.



*How prevalent is racial discrimination in the legal system generally, and specifically in death penalty cases?*

tern of discrimination in different states, including Arkansas, Georgia, Illinois, Kentucky, Louisiana, Mississippi, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Texas, and Virginia.<sup>53</sup> This pattern of racial discrimination was not a function of other factors. For example, cases in which blacks killed whites were not more aggravated or particularly heinous homicides.<sup>54</sup>

This research evidence was the focus of an evaluation synthesis conducted by the U.S. General Accounting Office (GAO).<sup>55</sup> This analysis was required under The Anti-Drug Abuse Act of 1988. Specifically, this legislation called for a study of capital-sentencing procedures to determine if the race of either the victim or the defendant influenced the capital-sentencing process. The GAO uncovered 53 studies of capital sentencing. They excluded those that did not contain empirical data or were duplicative. As a result, 28 studies were judged methodologically sound. Based on their review, the GAO concluded that<sup>56</sup>:

- In 82% of the studies, race of the victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty (especially those who murdered whites).
- The influence of the victim's race was found at all stages of the criminal justice system process. This evidence was stronger at the earlier stages of this process (e.g., prosecutorial decision to seek the death penalty or to proceed to trial rather than plea bargain) than in the later stages.
- Legally relevant variables (e.g., aggravating circumstances, prior record, culpability level, heinousness of the crime, and number of victims) were influential but did not fully explain the reasons for racial disparity in capital sentencing.

The GAO concluded that this evidence represented a strong race-of-victim influence over capital sentencing. It appears that the capital-sentencing process is significantly influenced by race. Blacks who killed whites are more likely to be charged with a capital offense and to receive a death sentence. They are singled out by the capital-sentencing process.

### Conflict Theory as an Explanation of Criminal Behavior

As noted earlier, the conflict explanation of the law and criminal justice system suggests that those who have power will make and enforce laws that are in their interests. Several sociologists have used this as a starting point to explain criminal behavior. Criminal conduct may originate when a less-powerful group adheres to their group norms while simultaneously violating those of another group. Basically, behavior that is valued in one group is denounced (and criminalized) by another. All the while, individuals believe they are acting appropriately.

This theme is apparent in the study of 1313 gangs conducted by Frederic Thrasher.<sup>57</sup> He reported the existence of a gang culture whose norms clashed with those of society. One dominant activity was orgiastic behavior: drinking, gambling, smoking, and sex. The values of the gang created an esprit de corps that carried over to all their activities.

**LINK** This theme is consistent with the subcultural theories discussed in Chapter 6. Critics, of course, question whether such group norms (e.g., value placed on drinking alcohol or partying) are all that different from the norms of society.

Similarly, Sutherland's culture conflict theory stated that the different values present in segments of society could lead an individual to criminal behavior.<sup>58</sup> This basic principle was further developed by Thorsten Sellin. Sellin was primarily concerned with the culture conflict faced by immigrants, not the conflict between specific socioeconomic classes. He proposed that culture conflict was the result of the difference in norms between ethnic groups.<sup>59</sup>

In complex societies like the United States, people from diverse ethnic, cultural, religious, and social backgrounds are living in close proximity to each other, yet they may not accept the values or divergent lifestyles of their neighbors. Moreover, in most social situations, each group has right and wrong ways of behaving. People are socially conditioned by these "conduct norms,"<sup>60</sup> but different groups have different norms. Culture conflict results when these groups meet.

Sellin defined **primary conflict** as that which may arise between two different cultures — again, between an established culture and recent immigrants. Because immigrants bring divergent religious beliefs, norms, and values from their homeland, culture conflict is inevitable. Moreover, what was considered appropriate conduct in the old country may be a crime in the new culture. To illustrate, Sellin cites the Sicilian father in New Jersey who murdered the youth who seduced his daughter. The father expressed surprise at his arrest because he was merely defending his family's honor in the traditional Sicilian fashion. Here, customary behavior in Sicilian society clashed with American definitions of legal behavior.

Another recent example of primary conflict is the use of "Khat" among East African (e.g., Somalia, Ethiopia, Yemen) immigrants. Khat is a stimulant that is legal and culturally accepted in East Africa and the Arabian Peninsula, but illegal in the United States. Khat has created conflict between East African immigrant communities and law enforcement.<sup>61</sup>

More recently, the practice of circumcising females (which can include the removal of the clitoris), still common in some cultures, has been denounced under American law.<sup>62</sup> In such situations, the norms of the dominant culture become the deciding factor in characterizing the incident as crime.

**Secondary conflict** occurs within a single culture that has different subcultures, each with their

own conduct norms. Here, Sellin anticipates the development of subcultural theories in criminology (see Chapter 6). Norm conflict can develop within a single culture when the norms of one subculture come into conflict with another. Sellin considered conduct norms to be universal and common to all forms of society. His theory was criticized, however, for being too narrow in its focus on norms, not people. As history shows, migrant groups are seldom accepted, and this rejection often leads to anomie and resentment. However, as succeeding generations of immigrants are socialized by the dominant culture, family ties as well as old-world cultural norms weaken. In short, Sellin overlooked the fact that heterogeneity must develop in modern complex societies.

George Vold turned the attention of conflict theory toward a class of crimes that were obviously political<sup>63</sup>:

- Crimes resulting from political protest movements (e.g., disorderly conduct arrests from clashing with police)
- Crimes that arise from strife between management and labor unions (e.g., the use of illegal tactics to “break” unions, employee sabotage of factory equipment)
- Crimes that result from attempts to change or upset the caste system that enforces racial segregation (e.g., lynching)

In such situations, Vold argues, “criminality is the normal, natural response of normal, natural human beings struggling in understandably normal and natural situations for the maintenance of the way of life to which they stand committed.”<sup>64</sup> In this case, conflict directly produces criminal behavior. Further, criminality depends on which side ultimately wins the conflict. Take, for example, the “Jim Crow laws” enforced by whites. These laws were passed by 19th-century legislatures of the southern states to segregate blacks and maintain a racial caste system. Blacks who violated these laws were seen as criminal; their churches were bombed and their leaders lynched. Ultimately, after the spread of civil rights, the white supremacists who enforced these laws were seen as criminals. In a similar vein, individuals who are a direct threat to a government regime are often branded as dissidents or terrorists and jailed. As power shifts, such criminals may become leaders of a new government.

## A Critique of Conflict Theory

Within a certain realm of behaviors, conflict theory appears to have some support, both as a theory of criminal behavior and as a theory of law. There is little disagreement that conflict is a central feature of democratic societies, nor is there argument against the idea that political groups attempt to shape the law in their favor. Conflict can (as in the case of labor strife or abortion protests) directly lead to criminal behavior. Early conflict theorists such as George Vold recognized that conflict theory should not be stretched to account for behaviors or laws that were outside of its scope. Chambliss, for example, points out that in many circumstances, there is no conflict whatsoever. There is wide public consensus that crimes such as murder, assault, and rape should be prohibited by law.<sup>65</sup>

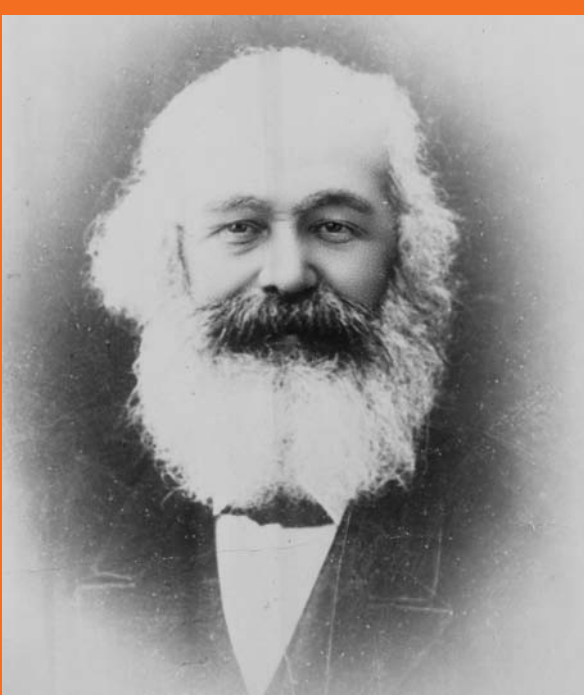
In that sense, conflict theory does not explain the core of the legal code, much of which seems to be agreed on and to benefit society as a whole. Further, the vast amount of delinquent and criminal behavior is not political in nature, nor does it tend to pit one group against another. Rather, victimization studies clearly demonstrate that most crime occurs within the same groups. Minorities generally victimize other minorities; poor people generally victimize other poor people, and so forth. In this regard, conflict theory has been criticized for explaining too little. On the other hand, some criticized the pluralistic model for not going far enough. In the 1970s, many conflict theorists shifted their attention toward one main source of conflict — the distribution of wealth.

## Radical Criminology

Over time, many conflict theorists came to believe that conflict results not from a struggle among many groups but from a larger struggle between the very wealthy and the rest of society. Radical (or Marxist) criminologists use Karl Marx’s theories of social structure to explain both (1) the nature and extent of crime in society, and (2) the content and enforcement of the criminal law. Although Marx did not address the issue of crime directly, his ideas do spotlight the linkage between capitalism and criminality.

## Karl Marx and Crime

Marxist criminology focuses on the conflict among three socioeconomic classes<sup>66</sup>:



Karl Marx wrote extensively about the evils of capitalism. Although he wrote little about crime, his ideas are an integral part of modern radical theories.



*How do radical theories use Marx's work to explain the content of the criminal law?*

1. the **capitalists**, who own the means of production and exploit the surplus labor of others
2. the **bourgeoisie**, who hold salaried and management (i.e., middle-class) positions
3. the **proletariat**, who comprise the working class

Marxists view the enactment and enforcement of laws as an outgrowth of the conflicts engendered by unequal distribution of wealth, power, and control within a capitalist society. In short, the law enforces the ideology of the capitalist ruling class.

Marx's critique of capitalism is relevant to the study of crime in several ways. Marx saw crime as largely a function of class conflict. The capitalist class owned the means of production — the use and distribution of tools, technical knowledge, and human labor. In addition, it profited from the creation of surplus value — the value of commodities workers produce above what they are paid in wages.<sup>67</sup>

According to Marx, the capitalist economic system is supported by the **superstructure** of social

institutions (e.g., law, education, and politics) that “lend legitimacy to both the class structure and the dominant set of economic relationships underpinning” the structure.<sup>68</sup> They were the foundation of the legal and political structures of the state. In this context, crime became an expression of the individual's struggle against unjust social conditions. Criminals were part of the **lumpenproletariat** — the dispossessed, unorganized workers' underclass. They did not contribute to the production of goods and services; instead, they made their livelihood from others who did work.<sup>69</sup> Criminal life was a natural reaction by those who were cut off from the fruits of capitalism and brutalized by under- or unemployment. Crime was a product of poverty and the conditions of inequality bred by capitalism. Because crime was the result of an unjust economic system, the only way to prevent crime was to change that system.

### Engels and the Social Revolution

Friedrich Engels, Marx's friend, sponsor, and collaborator, directly addressed the issue of crime. To Engels, crime was a form of revolt — too primitive (criminals lacked class consciousness) and unorganized to succeed — waged against the dreadful oppression of the capitalist industrial system. Society was the original offender. It created crime by depriving unfortunates of a place at the “feast of life.” Social revolution was the ultimate solution to crime<sup>70</sup>:

To protect itself against crime, against direct acts of violence, society requires an extensive, complicated system of administrative and judicial bodies, which require an immense labor force. In communist society, we eliminate the contradiction between the individual man and all others, we counterpoise social peace to social war, we put the ax to the root of crime. Crimes against property cease to their own accord where everyone receives what he needs to satisfy his natural and spiritual urges, where social gradations and distinctions cease to exist.

### Bonger and Egoistic Capitalism

One of the first Marxist criminologists was Wilhelm Adrian Bonger. He expanded the definition of criminal behavior by viewing crime as an “immoral” act against a prevailing social structure. Bonger stated that unless the act injures the ruling class as well as the subject class, it was unlikely to be punished.<sup>71</sup>

Bonger believed that **altruism** was a defining characteristic of primitive societies: Production was for mutual consumption, not exchange; social solidarity was high. The problem with a capitalist society was that it transformed the basic nature of humankind. Capitalistic societies are characterized by **egoism**: Capitalists produce for themselves and attempt to build a surplus to create a profit. They are not interested in the needs of others. In this manner, capitalism builds social irresponsibility and creates a climate of motivation for crime.

Bonger also considered what he called rich men's crimes: fraudulent bankruptcies, adulteration of food, stock market manipulators, land speculation, and the like. This type of criminal forced the masses to pay more than required for the necessities of life: "What an ordinary criminal does in a small way, they do on a gigantic scale; while the former injures a single person, or only a few, the latter brings misfortune to great numbers."<sup>72</sup>

According to Bonger, the solution was to create a socialist society. Socialism, he claimed, would cure many ills and allow the spirit of altruism to come forward and flourish. He noted, however, that crimes would still be committed by persons with medical or psychiatric problems. Bonger's writings — especially his focus on the crimes of the wealthy, and his suggestion that capitalism corrodes empathy for fellow citizens — are still reflected in modern radical theories.

### Rusche and Kirchheimer and Penal Systems

Another early Marxist analysis of crime was offered by George Rusche and Otto Kirchheimer.<sup>73</sup> They examined how a prison system operated in a capitalist state. Until the rise of capitalism, they noted, punishments for criminal behavior were largely determined by one's ability or inability to pay a fine. Thus, they argued, it was only natural that punishments would become more severe as economic conditions worsened. For example, over 72,000 thieves were hanged in England during the reign of Henry VIII. However, when the potential of inmate labor power became apparent, convicts were transported to distant lands to provide more markets for the British Empire instead of being executed. Rusche and Kirchheimer regarded economic conditions as the central issue in penal policy<sup>74</sup>:

The penal system of any given society is not an isolated phenomenon subject only to its own special laws. It is an integral part of the whole social system, and shares its aspirations and its defects. The crime rate can be influenced only if society can offer its members a certain measure of security and to guarantee a reasonable standard of living.

Thus, crime was an outgrowth of unemployment and poor social conditions. Rusche and Kirchheimer argued that imprisonment served as a solution to economic problems once Western society moved from feudalism to capitalism. They concluded that the complex legal systems found in capitalist societies provide only an illusion of security. They do not deal with the root problems of social inequality.

Rusche and Kirchheimer theorized that imprisonment served an important role in capitalistic societies—the regulation of the labor force.<sup>75</sup> In essence, their argument implies that imprisonment should increase when surplus labor (typically measured as using the unemployment rate) is high and decrease when there is a labor shortage. The research findings on this hypothesis are inconsistent. A multivariate analysis of time-series data on imprisonment in the United States from 1948 to 1981 found evidence of an effect of unemployment on prison admissions.<sup>76</sup> However, a historical analysis of the New York State prison system offered little support to Rusche and Kirchheimer's claim that imprisonment is a consequence of the desire to exploit and train captive manufacturing labor.<sup>77</sup> A longitudinal study that investigated the effect of unemployment rates on rates of pretrial jail incarceration in Florida and found no relationship between these variables at either the felony or misdemeanor levels.<sup>78</sup> This finding suggests that Rusche and Kirchheimer overstated this relationship. Pretrial incarceration was not used to control labor surpluses.

The Marxist influence has extended to modern criminology. Radical criminologists argue that the power of the capitalist state depends entirely on its ability to use the criminal justice system to maintain social order. The economic elite define and enforce the law to favor specific interests. The law reflects the unequal distribution of wealth in society and enforces the will of the ruling class. Moreover, they point out, the state is very selective about whom it punishes.

TABLE 8-2

## Richard Quinney's Typology of Crime

Type of Crime	Description
<b>Crimes of Domination</b>	
Crimes of control	Felonies and misdemeanors by law enforcement agents against persons accused of crimes (e.g., violations of the civil liberties of citizens).
Crimes of government	Actions by elected and appointed officials of the capitalist state to maintain political control over others (e.g. Watergate, Iran-Contra, warfare, political assassination).
Crimes of economic domination	Corporate crimes (e.g. price fixing, pollution, hazardous work conditions, marketing of unsafe products) that protect and further the accumulation of capital. Organized crime also seeks to perpetuate the capitalist system because it invests some of its profits from illegal goods and services in legitimate businesses.
Social injuries	Denial of basic human rights (e.g. sexism, racism, economic exploitation) that are not typically defined as crime.
<b>Crimes of Accommodation</b>	
Predatory crimes	Crimes such as burglary, robbery, drug dealing that are produced out of a need to survive. These are reproductions of the capitalist system.
Personal crimes	Violent crimes (e.g. murder, rape, robbery) usually directed against members of the same class and pursued by those who have already been brutalized by the capitalist system.
Crimes of resistance	Crimes that are an expression of political consciousness (e.g., the sabotage of factory equipment) directed at the capitalist class.

Source: Richard Quinney, *Class, State, and Crime*, 2nd ed. (New York: Longman, 1980): 56–66.

## Richard Quinney: Class, Crime, and the State

Richard Quinney remains one of the most influential radical criminologists in the United States. Quinney's ideas have evolved substantially over time — from conflict theory in the 1960s to radical theory throughout the 1970s and 1980s, and finally to his most recent statements on peacemaking criminology. In his 1977 *Class, State and Crime*, Quinney portrays the criminal justice system as the last supporting prop for a slowly decaying capitalist social order.<sup>79</sup> It controls a population that can no longer be restrained by employment or social services. Of particular interest is Quinney's definition of criminal behavior (see TABLE 8-2).

Quinney ties together the work of Marx, Engels, Bonger, and others to characterize most forms of criminal behavior as the result of capitalism. Quinney describes several types of crime committed by capitalists in order to maintain their control over society. Consistent with the radical theory, Quinney argues that law enforcement exists primarily to control members of the lower class. “Crimes of control” result when police violate the civil rights of others (such as police brutality). “Crimes of economic domination” include most forms of white-collar crime (e.g., price fixing, pollution). The capitalist elite also engage in socially

injurious behavior, such as the denial of basic human rights (e.g., sexism, racism, economic exploitation) that are not defined as criminal. They are not defined as criminal because the capitalists control the definition of criminal behavior and are unlikely to pass laws against their interests.

Apart from crimes committed by capitalists, Quinney portrays crimes among the lower class as acts of *survival*. Because they are economically exploited, members of the lower class rob, steal, and burgle in order to meet basic needs. Ironically, by exploiting other members of their class, these predatory offenders reproduce the capitalist system. Quinney argues that acts of violence (murder, rape, assault) are a reaction to the brutality of the capitalist system. Ultimately, Quinney advocates the development of a socialist society to halt the abuses of the capitalist state.

## Radical Explanations of the Law and the Criminal Justice System

Quinney's work clearly suggests that criminal law and the criminal justice system are used solely as tools to control the lower classes. Considered **instrumental Marxism**, this type of theory argues that the law and criminal justice system are always instruments to be used by the capitalist class.<sup>80</sup> The purpose of radical analyses within this perspective



is to demonstrate the true purpose of the criminal law and the justice system. A major weakness of instrumental Marxist analyses is that there is a substantial body of law that appears to run against the interests of the capitalist class. Why, for example, would economic elites allow laws against pollution, price fixing, or false advertising?

**Structural Marxism** grants the government (at least in the short run) a degree of political autonomy. In other words, some laws may indeed run counter to the desires of the capitalist class. Further, capitalists are not portrayed as a single, homogeneous group. Rather, some laws may serve the interests of particular fractions of the capitalist elite, but not others.<sup>81</sup> In the long run, both perspectives argue that the content of the legal code and enforcement of the laws will benefit the economic elites. What is the evidence to support this position?

Jeffrey Reiman's *The Rich Get Richer and the Poor Get Prison* is a classic treatise on this issue. Reiman argues that dangerous actions perpetrated by the wealthy are often not even defined as criminal.<sup>82</sup> For example, studies estimate that over 12,000 Americans die from unnecessary surgeries each year. Countless more die from pollution, hazardous work conditions, and unsafe products. Even where these actions are defined as criminal, they are framed as actions that require regulatory oversight, rather than criminal prosecution. To the extent that white-collar criminals convicted of acts such as insider trading, embezzlement, and fraud are even sanctioned, their penalties pale in comparison to the typical sanctions for street crimes.<sup>83</sup>

Reiman argues that at virtually every stage of the criminal justice system, the wealthy and middle-class members of society are weeded out, leaving U.S. prisons to fill with predominantly poor individuals. Moreover, crimes that are likely to be committed by wealthy individuals (e.g., insider trading, embezzlement, violations of occupational safety standards, bribery, consumer fraud) are viewed as less serious and are less likely to be enforced. Reiman highlights the savings and loan scandal in the 1980s, and more recent corporate crime sagas (e.g., Enron, Arthur Andersen, Adelphia, Tyco, WorldCom). Where prison sentences were handed out for these crimes, they were very light compared with the typical sentence for a comparable street crime.

For example, the savings and loan scandal cost American taxpayers over \$480 billion, but led to only a handful of convictions. Of those convicted, most ended up serving between one and four



Sam Waksal leaves federal court after being sentenced in 2003 for insider trading. Waksal was sentenced to seven years and three months in prison for the scandal that ensnared his family and Martha Stewart. Despite such high-profile cases, prosecution for insider trading and other white-collar crimes appears to be the exception rather than the rule.



*How do radical theorists account for this fact?*

years in prison.<sup>84</sup> This sort of filtering process helps to create the public image of an offender as young, black, inner-city resident. Ironically, because many white-collar crimes are rational and involve cost-benefit calculations, harsh punishments have greater potential to produce a deterrent effect. This concept is explored further in the **Theory in Action** box.

Where wealthy and poor individuals engage in similar conduct, the police are more likely to target the crimes of the poor. Consider again the sentencing disparity between those caught using powdered cocaine (preferred by the wealthy) and those caught using crack cocaine. Reiman highlights research that indicates that (1) the police are more likely to take formal action where the suspect is poor, (2) the wealthy are less likely to be formally charged for an offense, and (3) even when charged, the wealthy are often able to avoid punitive sanctioning.<sup>85</sup>

### Historical Support for Marxist Criminology

Another source of support for radical criminology comes from historical analyses of the law and systems of formal control. William Chambliss uses such



## THEORY IN ACTION

### Corporate Crime — A Civil or Criminal Response?

Studies that examine the deterrent effect of formal punishment on street crime consistently yield disappointing results. It appears that only the certainty of punishment has any substantial effect on offending. Even here, the evidence is marginal. Critics of a deterrence approach often point to the theory's underlying assumption about human nature as its primary flaw. The theory assumes that offenders are rational and calculating. Interviews with offenders, however, reveal that considerations of the costs of crime are minimal. Most offenders do not think at all about the consequences of their actions, simply believing that they will not get caught.

In contrast, a hallmark of a bureaucratic institution (such as a corporation) is rational, cost-benefit analyses of most decisions. Indeed, civil and criminal actions against corporate offenders often rest on internal documents that show a deliberate, rational calculation of the costs (typically a fine) and benefits (profit) of criminal activity. Might increasing the certainty and severity of punishment put a damper on corporate crime? In the current criminal justice landscape, this is a difficult question to answer.

The prevailing thought regarding corporate crime is that civil damages (monetary damages awarded from private lawsuits) are a more effective deterrent than

criminal action. This view is summarized by Richard Parker, a professor at George Mason University Law School: "Since a corporation has no mind, it can commit no crime." Parker claims "there is no legitimate function to corporate criminal liability that cannot be served equally as well, if not better, by civil enforcement."

Other experts, like Columbia University law professor John Coffee, agree that in theory civil penalties could effectively combat corporate crime. In practice, however, they don't work as well as the criminal law: "When it comes to allocating blame, assessing responsibility, and shaming wrongdoers, the criminal law works much better than the civil law." He argues that because corporations are sanctioned almost exclusively by civil penalties, their wrongdoing appears less blameworthy than the conduct of ordinary street criminals.

*Do you believe that increasing the severity of penalties (e.g., long prison terms) for corporate leaders would curb corporate crime?*

*What interest groups would support such action? Who would oppose stiffer penalties?*

Source: Citizen Works, "Corporate Crime," available at <http://www.citizenworks.org/issues/democracy/demo-issuepapers-corp-crime.php>, accessed April 2, 2005.

a historical analysis to support his theory. For example, he argues that the English vagrancy law of 1349 was enacted solely to provide a pool of cheap labor and combat the collapse of the feudal system<sup>86</sup>:

The law was clearly and consciously designed to serve the interests of the ruling class at the expense of the working class. The vagrancy laws were designed to alleviate a condition defined by the lawmakers as undesirable.

The vagrancy law was later amended to protect the transportation of goods and to control recidivism by branding the letter V on the forehead of repeat offenders.<sup>87</sup> In this way, enforcement of the vagrancy law was adapted to meet changing social conditions. Although his study has been severely criticized, it remains a classic work in criminology.<sup>88</sup>

Another example of how history has been used to support Marxist theory is Anthony Platt's study

of the origins and development of the juvenile court system in the United States.<sup>89</sup> To Platt, this system was formed to control immigrant youths and instill discipline. It was dominated by wealthy upper-class matrons who promulgated the values of the white, Anglo-Saxon, capitalist class<sup>90</sup>:

The child saving movement was heavily influenced by middle-class women who extended their housewifely roles into public service and economic resources to advance the cause of child welfare. The child savers defended the importance of the home, of family life, and parental supervision. These institutions traditionally gave purpose to a woman's life.

Platt charges that, under the guise of the child-saving movement, delinquency was invented to control the behavior of lower-class youths. The combination of a capitalist society (which creates a

surplus labor pool) and the child labor laws (which prevent children from working) created a dangerous class that necessitated control. Platt argues that the juvenile courts were created largely to serve this purpose.

### A Radical Critique of “Traditional” Criminologists

Even the discipline of criminology itself has not escaped blame. Critics contend that mainstream criminology concentrates on the behavior of the offender, accepts the legal definitions of crime, and largely ignores the proposition that crime is created by political authority. Thus, criminologists serve as agents of the state who provide information that the government uses to manipulate and control those who threaten the system.<sup>91</sup>

Radical criminologists point out, for example, that most mainstream theories of crime are actually theories of street crime that largely ignore crimes of the affluent.<sup>92</sup> Consider, for example, Gottfredson and Hirschi’s theory of low self-control. Most persons in a position of power have demonstrated enough self-control to accumulate the credentials (e.g., employment education) to rise to a position of power. Robert Merton’s modes of adaptation virtually require offenders to be poor (only the poor lack legitimate means for achieving success). Criminologists also lend legitimacy to the image of criminals as urban, poor, and nonwhite by relying on the FBI Uniform Crime Report (UCR) data. The UCR does not track corporate or government crime.<sup>93</sup> Further, despite recent attempts to remedy this situation, the UCR does not provide reliable information on other forms of white-collar crime.<sup>94</sup> Radical scholars urge mainstream criminologists to question this preoccupation with street crime, and to scrutinize the political and social institutions that support the crimes of the powerful.

### A Critique of Radical Criminology

Radical criminology has been criticized on several grounds. First, there is the question of whether radical criminologists offer much that is new.<sup>95</sup> For example, like Durkheim, radical criminologists assert that crime is normal and that diversity should be tolerated. Like labeling theorists, they emphasize rule making, not rule breaking. In fact, some scholars argue that the only thing the radicals managed to do was to politicize traditional criminological theories.<sup>96</sup>

Second, some claim that radical criminologists have been unable to clearly define the ruling class.<sup>97</sup> Are the capitalists all powerful? Can they really decide exactly how the law is made and enforced? In some ways, radical criminologists portray crime policy as a conspiracy theory. Critics are also leery of radical theory’s dependence on historical analysis, which is far more difficult to test (it is essentially someone’s *interpretation* of historical events) and falsify than quantitative analysis.<sup>98</sup>

Third, Criminologist Jackson Toby argues that the radicals provide an idealized view of the deviant as a rebel. This underdog mentality appears to excuse all lower-class criminality. He notes that crimes of the elite, however, do not legitimate other crimes. Toby also asserts that the radicals must acknowledge that imperfect justice is the product of an imperfect world: “What the radical criminologists refuse to recognize is that the political process in a reasonably open society is responsive (not perfectly) to public opinion.”<sup>99</sup>

Finally, radical criminologists must now contend with the failure of communism in the Soviet Union and Eastern Europe. Certainly, these states were not model Marxist societies; they were more bureaucratic and party dominated than Marx would have liked. However, they did represent an attempt to put Marxian theory into practice and their demise supports the view that Marx’s utopian vision of society is difficult, if not impossible, to carry out. Even more damaging is the fact that some capitalist countries (e.g., England, Japan) have relatively low crime rates. If capitalism is the sole cause of criminal behavior, how is this possible?

Does the failure of communism and the low crime rates of some capitalist countries mean that the radicals were wrong? Perhaps, but their work has forced criminologists to broaden their perspective. Criminal law can be used as a weapon to oppress the public, and it can be overextended in damaging and self-defeating ways. Radical theorists also deserve credit for highlighting the difference in sanctioning between crimes of the powerful and crimes of the poor. As discussed briefly earlier (and will be seen more clearly in Chapter 15), crimes of the powerful are far more destructive than street crime. Radical theorists also act as a conscience for the discipline of criminology. They remind criminologists not to allow their discipline to be co-opted by the status quo.

## Extensions of Radical Criminology

Thomas and O'Maolchatha have outlined several new trends that are attributable to the radical perspective. Acknowledging that radical criminology is often viewed as polarizing, personalized, and narrow, they remind one that<sup>100</sup>:

Critical criminology is not a utopian perspective but an invitation to struggle; it is a call to recast definitions of social offense more broadly than do traditional criminologists, who rarely challenge unnecessary forms of social domination.

### British ("Left") Realism

Radical criminologists have always been concerned with praxis — "action that is guided by theory and that has social change as its goal,"<sup>101</sup> yet they also have been criticized for relying on socialist revolution and the state to solve social problems. The British realists offer practical solutions to street crime in an attempt to reduce this dependence. They argue that street crime is a serious problem for the working class and not a "proto-revolutionary" activity by the oppressed masses.<sup>102</sup> Working-class people are victimized not only by the powerful classes in society but also by the poor.

However, the British realists are critical of the policies developed by the government to deal with street crime. They question conservative crime policies that emphasize deterrence, military-style policing, and increasing use of prisons. As an alternative solution, left realists suggest the use of minimal policing and police accountability to local communities.<sup>103</sup> Specifically, minimal policing calls for maximum public initiation of police action, minimum coercion by the police, minimal police intervention, and maximum public access to the police.<sup>104</sup>

### Elliott Currie: The United States as a "Market Society"

The gist of radical theory is that capitalism causes crime. Elliott Currie suggests the following update: *Some forms of capitalism encourage crime.* Currie uses the concept of a *market society* to explain the difference.<sup>105</sup> A *market economy* is based on the principles of capitalism — and capitalism is an important aspect of the global economy. Many societies (e.g., Japan, Great Britain) with capitalist economies nevertheless have relatively low crime rates. Currie refers to the economic and social arrangements in these countries as *compassionate capitalism*. In other words, the government curbs the free market by ensuring that economic inequality does not be-

come too severe and provides strong safety nets for those who are not involved in the economy. In contrast, a *market society* involves<sup>106</sup>:

[T]he spread of civilization in which the pursuit of personal economic gain becomes increasingly the dominant organizing principle of social life; a social formation in which market principles, instead of being confined to some parts of the *economy*, and appropriately buffered and restrained by other social institutions and norms, come to suffuse the whole social fabric — and to undercut and overwhelm other principles, that have historically sustained individuals, families, and communities. [emphasis in original]

In other words, a market society is a completely Darwinian society with a sink-or-swim mentality. There are few cushions against disabilities or misfortunes in the labor market. This central idea is very similar to Messner and Rosenfeld's institutional anomie theory. In both cases, that adherence to a hard-core form of capitalism produces America's high rates of violent crime. As a critical criminologist, however, Currie takes this central idea in a more radical direction.<sup>107</sup> He identifies seven mechanisms that link a market society to high rates of violence. The mechanisms are outlined in **TABLE 8-3**.

**LINK** Institutional anomie (see Chapter 6) shares a great deal of overlap with Currie's idea of a market society.

In particular, Currie points out that a market society tolerates high levels of inequality and poverty. The idea of having a strong safety net (e.g., job training and relocation, child care, universal health care) runs counter to the everyone-for-themselves mentality of a market society. Even the regulation of handguns is very limited, when compared with other advanced countries. These characteristics interfere with the childhood development (poverty), informal control (job relocations, lack of child care), and other buffers against high levels of crime. Thus, while Marxist radicals support a revolution to overthrow capitalism, Currie suggests that a softer, gentler capitalist society (allowing a little socialism to creep in) might suffice.

### Criminology as Peacemaking

Another new direction in radical thought involves using criminology to promote a peaceful society. This approach draws on many religious traditions (e.g., Buddhism, Quakerism, Judaism) that see crime

TABLE 8-3

**How a Market Society Breeds Violent Crime**

Premise	Explanation
1. A market society breeds violent crime by destroying livelihood.	In a market society, labor is always a cost to be reduced, rather than a social institution valued in its own right. Benefits and wages are cut, and the number of working poor is high. A lack of stable or rewarding work breeds alienation and undercuts the idea of having a stake in society.
2. A market society has an inherent tendency toward extremes of inequality and material deprivation.	Income inequality in the United States is more dramatic than in other advanced countries. Poor children are more prevalent in the United States and they are poorer than in other industrialized countries. Children living in poverty (especially extreme poverty) are more likely to be physically abused and neglected and less likely to develop intellectually.
3. A market society weakens public support.	A market society is opposed to the provision of public support that may inhibit violent crime. For example, while other countries provide nearly universal child care to working parents, the United States “allows” parents to take unpaid leave without getting fired for certain family emergencies.
4. A market society erodes informal social support.	Employers’ desire for a flexible workforce means that workers continuously move locations, uprooting them from their communities and families. This interferes with social organization and removes a source of social support.
5. A market society promotes a culture that exalts brutal individual competition and consumption.	A culture of materialism (or “hypermaterialism”) emphasizes money, rather than other values, such as a job well done. In such a culture, throwing people out of a job is not considered bad, but rather good business practice.
6. A market society deregulates the technology of violence.	The virtual absence of national-level gun control distinguishes the United States from virtually every other advanced nation.
7. A market society weakens alternative political values and institutions.	The prevailing ideology (or myth) is that inequality and deprivation are simply the nature of things. Labor unions or political parties that address the needs of the poor or disenfranchised are weak or nonexistent.

Source: Elliott Currie, “Market, Crime and Community: Toward a Mid-Range Theory of Post-Industrial Violence,” *Theoretical Criminology* 1 (1997): 147–172.

as a form of suffering from both the criminal’s and the victim’s perspective<sup>108</sup>:

Crime is suffering passed on from one person to another; one kind of suffering becomes another; we have to suffer with the criminal to put an end to the suffering the criminal inflicts upon others.

As long as we persist in trying to make the criminal suffer for us, the problem will get worse.

One concrete example of a course of action is mediation. Mediation transforms criminal disputes into civil matters by bringing victims and offenders to the bargaining table. It attempts to offer forms of reconciliation that are constructive for both parties.<sup>109</sup> This approach also calls for the development of a “nonviolent criminology of compassion and service.”<sup>110</sup> This, Quinney suggests, runs counter to the interests of the criminal justice system, which he says is driven by violence<sup>111</sup>:

It is a system that assumes that violence can be overcome by violence, evil by evil. Criminal justice at home and warfare abroad are of the same principle of violence. This principle sadly

dominates much of our criminology. Fortunately, more and more criminologists are realizing that this principle is fundamentally incompatible with a faith that seeks to express itself in compassion, forgiveness, and love.

The warlike image of the criminal justice system, so this argument goes, contributes to the crime problem. Criminologists must seek to make peace by confronting such issues as homelessness, sexual assault, and the use of prisons.<sup>112</sup> The primary criticism of this perspective is that it rejects any effort to scientifically study crime or crime control. Rather, it is simply a call to love thy neighbor. In that sense, peacemaking criminology no longer portends to be a theory of criminal behavior.<sup>113</sup>

## Feminist Criminology

Historically, females were largely ignored in criminology. Most empirical tests used data on males to explain male offending; theories of crime explained

why boys or men engaged in crime.<sup>114</sup> Until the last 40 years, only a handful of scholars directly addressed female criminality. Even here, the portrayal of female offenders was often blatantly sexist. In essence, because female offenders deviated from their “natural temperament” (e.g., warm, passive, caring), they were viewed as biologically or psychologically defective.<sup>115</sup> Over the past few decades, this situation has changed substantially. A major turning point was the women’s movement and the fight for gender equality. Among other things, this movement created a wave of female criminologists by paving the way for women to enter graduate school.<sup>116</sup>

As **TABLE 8-4** illustrates, the feminist perspective takes different forms.<sup>117</sup> Liberal feminists, who emphasize equal opportunity and the importance of sex-role socialization, had the most influence in the early days of the feminist movement.<sup>118</sup> Critical (e.g., socialist and radical) feminists emphasize the structural inequality in power between men and women. This approach links male and female crime to *patriarchy*—a cultural arrangement where males exert dominance over females through financial and physical power. In a patriarchal society, male behaviors are defined as “normal,” and male control of females is viewed as legitimate.<sup>119</sup>

In a now-classic article, Kathleen Daly and Meda Chesney-Lind outlined two central problems for a male-dominated criminology.<sup>120</sup> The **generalizability problem** suggests that (in part, because most criminology theorists are male) mainstream criminological theories may not be applicable to female

offending. The **gender-ratio problem** speaks to the empirical observation that males account for the vast majority of delinquent and criminal offending. The key task before researchers is to identify factors that account for this gender difference.

## The Gender Ratio

There is little doubt that males are more prone to crime than females. Uniform Crime Report data indicate that males account for the vast majority of arrests for both property (70%) and violent (80%) crime. The National Crime Victimization Survey reveals a similar pattern: Males account for roughly 85% of violent offenders.<sup>121</sup> Self-report studies that measure serious forms of delinquency tell a similar story. The central issue for theorists is explaining male overrepresentation in criminal behavior. It is hard to overstate the importance of this issue. If, as many believe, the gender gap is due to environmental influence such as different parenting practices, the policy implications are enormous. Sticking with the example of parenting — if parents “parented” their boys as they do girls, male offending would be expected to decline dramatically. Ironically though, the first investigations into the gender ratio did not seek to explain its existence. Rather, they argued that the gender ratio was shrinking.

In 1975, two controversial works appeared. Freda Adler’s *Sisters in Crime* and Rita Simon’s *Women and Crime* argued that the women’s movement provided greater opportunities for females in both legitimate and illegitimate enterprises.<sup>122</sup> The as-

TABLE 8-4

### Three Feminist Perspectives on Crime

Perspective	Description
Liberal Feminism	Highlights problems arising from gender discrimination and stereotypical views concerning the traditional roles of women in society. It emphasizes the use of affirmative action and equal opportunity as major weapons of change. This perspective has been criticized as limited because it ignores class and race differences among women. It has also been characterized as less threatening because it does not strongly question “white, male, and/or capitalist privilege” and typically uses the traditional scientific, quantitative (positivist) methodology to study crime.
Socialist Feminism	Views gender discrimination as a function of capitalist society, which fosters both social class divisions and patriarchy. The criminality of males and females varies in frequency and type because of the social relations of production (class) and reproduction (family). Patriarchal capitalism creates two groups — the powerful (males and capitalists) and the powerless (females and the working class). The opportunity to commit crime is limited by position in the social structure.
Radical Feminism	Views the origins of patriarchy and subordination of women in male aggression and the control of female sexuality. For example, radical feminists have redefined rape as a crime of violence and male power, control, and domination, rather than as a sexual one.

Source: Sally S. Simpson, “Feminist Theory, Crime, and Justice,” *Criminology* 27 (1989): 605–632.

sumption was that feminism would thus lead to a growth in the female crime rate. According to this “liberation hypothesis,” female offenders were now capable of committing the same offenses as men, and female criminality would approach that of males in both nature and volume.

Both Adler’s and Simon’s studies were criticized by feminists because they<sup>123</sup>:

[P]roposed ideas about women’s criminality that were troubling to feminists because they were largely an outgrowth of the unexamined assumption that the emancipation of women resided solely in achieving legal and social equality with men in the public sphere. Although the books reached different conclusions, they touched a raw nerve by linking women’s crime to the women’s movement and to the goal of equality with men in the public sphere.

Indeed, analysis of crime statistics reveals that women have not radically changed their patterns of crime. Women are still much less likely to commit violent crimes although their rate of involvement in property crime (e.g., petty theft and fraud) has increased. Overall, their involvement in crime remains far less than that of males.<sup>124</sup> This pattern is not limited to street crime. Women convicted of white-collar crimes tend to be clerical workers, not managers or administrators, as with their male counterparts.<sup>125</sup> Female white-collar offenders are also more likely to act alone and to profit less from their offenses than the males.

Over the past 20 years, several scholars have devised empirical tests to examine and explain the gender gap. Typically, these studies use variables from mainstream theories of crime (e.g., social learning and social control) to account for the difference in offending across genders. The assumption in this research is that male and female offending is caused by the same factors, but that males are exposed to more risk factors than females. These investigations have yielded mixed results. Typically, researchers find that they can account for some, but not all, of the gender gap. Generally, social learning variables (e.g., delinquent peers, antisocial attitudes), school performance, and sex-role attitudes (e.g., traditional gender beliefs, masculinity) do the best job of explaining gender differences in offending.<sup>126</sup>

### The Generalizability Issue

Virtually all theories of crime, until recently, were created by men to account for male offending. An



Female inmates constitute less than 10% of all prisoners.



What factors might explain the differences between male and female offending rates?

important question is whether such “male” theories can also explain female offending. The general finding is that variables derived from mainstream theories of crime also explain female offending.<sup>127</sup> Hirschi’s social bond theory (see Chapter 7) actually explains female offending better than male offending. More commonly, authors find little difference in how well theories predict offending across gender. Paul Mazerolle’s recent analysis of general strain theory (see Chapter 6) is a good example. Mazerolle found that, for the most part, measures of strain (e.g., negative life events, peer hassles) explain both male and female offending.<sup>128</sup>

The fact that mainstream theories can explain female offending does not necessarily mean that they offer a *complete* explanation. Feminist scholars point out that the male perspective may overlook factors that are unique to females. Research

TABLE 8-5

## A Typology of Female Offenders

Type of Offender	Description
Street women	Street women have experienced high levels of abuse, which is their primary reason for living on the street. This type of woman is likely to be arrested for prostitution, theft, or drug-related offenses.
Harmed-and-harming women	This type of offender, abused and/or neglected as children, are labeled as "problem children." They are more likely to be addicted to alcohol or drugs, have psychological problems, and engage in violent behavior.
Battered women	Battered women are currently in a relationship with an abusive partner. Often they are in court for harming the person who is battering them.
Drug-connected women	This type of offenders distributes drugs in conjunction with her family or her boyfriend, husband, or family.
"Other" women	"Other" women are those who do not fit in other categories. They are more likely to be in court for crimes of greed, such as embezzlement or fraud, which are not committed to meet basic needs.

Source: Kathleen Daly, *Gender, Crime, and Punishment* (New Haven, CT: Yale University Press, 1994).

reveals that victimization in general, and in particular sexual victimization, is implicated in much female offending.<sup>129</sup> Studies on incarcerated girls reveal that between 40% and 73% were sexually abused.<sup>130</sup> Importantly, abuse can lead to girls (and boys) running away from home. Prostitution, theft, and other crimes result from the attempt to survive in this environment.

Criminologist Kathleen Daly used presentence investigation reports and other court records to examine what factors led females to engage in crime.<sup>131</sup> TABLE 8-5 presents Daly's typology of female offending. *Street women*, for example, are those who have experienced high levels of abuse and are arrested primarily for prostitution, theft, and drug-related offenses. *Battered women* were typically arrested for harming (and in some cases killing) their abusers.

Taking a different path, Heimer and De Coster use the feminist perspective to "gender" differential association theory. The authors believe that definitions favorable to law violation have different sources for males and females. Among males, proviolence

attitudes are learned when parents fail to correct their violent acts (e.g., "boys will be boys"). Females, because of their greater concern for interpersonal relationships, are more likely to learn violent attitudes when there is a breakdown of relationships in the family.<sup>132</sup>

**LINK** Social learning theory, discussed in Chapter 7, focuses on how individuals learn criminal attitudes and behaviors from others.

Feminist explanations of female offending, such as Daly's typology and Heimer and De Coster's revision of differential association, represent an exciting new area in criminology. After much neglect, it appears as though the female perspective and feminist theory are gaining a voice within criminology. This relatively new area of criminology will continue to generate important insight into the gender gap, the issue of generalizability, and female (as well as male) offending in general.

## Gender and the Criminal Justice System

What predictions would a feminist criminologist make on the relationship between gender and the law? A patriarchic society is by definition male dominated. Following the logic of other critical theories, those who lack power should have their behavior criminalized and should be singled out by the criminal justice system for punishment. Also, crimes against the less powerful should be given less priority. Disparities in the treatment of women in the criminal justice system have been studied by both conflict and radical theorists. Are persons treated equally under the law or is gender a key indicator of how a case will be handled?

As with race and class, research on this area examines whether gender has an impact on criminal justice decision making independent of other factors. The general pattern found in this research is that if there is a gender effect, it benefits females.<sup>133</sup> As with race, significant gender effects tend to be small and appear at different stages of processing. In fact, Daly notes that gender decisions favoring women are found more often than race decisions favoring whites.<sup>134</sup>

The finding that females are treated more leniently within the criminal justice system was long ago tabbed the **chivalry hypothesis**. Because police, prosecutors, and judges are predominately male,



they may have a chivalrous attitude toward women and be more inclined to treat them with leniency. Evidence suggesting the differential processing of women in the criminal justice system is mixed, however. Visher found that police make arrest decisions about women based on the image the woman projects, not the type of offense (violent versus property). The officers were more likely to be chivalrous toward older, white females and to arrest their young, hostile, black counterparts.<sup>135</sup> A study of plea bargaining in Washington, D.C., showed that women were less able to bargain and were more willing to plead guilty than men. In other words, they were not rewarded for pleading guilty with a lesser sentence.<sup>136</sup>

Even where females receive more lenient treatment, feminists are more inclined to regard this as

*paternalism*. A paternalistic response, unlike a chivalrous response, could lead to leniency, but also to a punitive response if it serves to keep women in a submissive role.<sup>137</sup> Bishop and Frazier's examination of Florida delinquency processing suggests a degree of paternalism. For more serious offenses, boys were treated more harshly, and for most status offenses, there were no differences across gender. For contempt-of-court cases, which resulted largely from repeated attempts to run away from home, girls were more likely to be incarcerated than boys.<sup>138</sup>

Like conflict theorists, feminists have also highlighted certain crimes that were not enforced because women lacked power and status. Male violence against women, particularly nonstranger rape and battering of intimates, was traditionally not sanctioned or penalized by the state.<sup>139</sup> Only

through sustained campaigning and activism have feminists managed to alter this situation. Terms such as *date rape* and *marital rape*, unheard of only a short time ago, are now part of the common vocabulary. Further, intimate violence has been re-framed as a crime of violence rather than a personal problem between intimates.

## Conclusion

Critical theories highlight the manner in which laws are made and enforced. Conflict, Marxist, and feminist theories of criminology often challenge the basis and legitimacy of the criminal justice system and

law enforcement. Collectively, they have changed the manner in which crime is studied, considered, and analyzed. They remind society that crime is not an objective behavior, but rather a politically constructed label. In this sense, they have significantly broadened both the definition and the scope of criminology. Critical theories also challenge criminologists to explain crimes often neglected in the mainstream literature. Feminist theories call attention to female criminality and the male-female offending gap, and radical theories call attention to white-collar, government, and corporate crime. Critical analysis of the operations and nature of the criminal justice system must be continued if criminology is to have a beneficial impact on society.

## WRAP UP

### YOU ARE THE CRIMINOLOGIST

#### What Is a “Serious” Crime?

The scenarios provided here are intended to contrast a “street” crime with a “suite” crime. In the context of this chapter, the central issues are the content of the legal code and the operation of the criminal justice system. Conflict and radical theorists argue that those with power shape both the content of the law (e.g., the particular acts that are considered illegal) and the operation of the criminal justice system (e.g., whether and to what extent laws are enforced). Thus, those with power (the Jeffco executives) would be unlikely to either have their actions defined as criminal, or be prosecuted for their actions. Indeed, many might regard their decision as “good business” practice. Which scenario describes the most “serious” crime? If a person defines seriousness as the level of harm that results from an act, there is little doubt that the actions of the Jeffco executives are more serious. Their decision to remain silent will result in 500 auto deaths per year. Stephanie’s actions resulted in injury to one victim. In the “real” criminal justice system, Stephanie has much greater odds of getting caught, prosecuted, and punished harshly for her criminal act than the Jeffco executives.

### Chapter Spotlight

- Although critical (e.g., conflict, radical, feminist) theories of crime include a diverse body of theories, they share some commonality. In particular, they view crime as a political concept, where those in power shape both the content of the law and the operation of the criminal justice system.
- Conflict theory is based on a pluralistic view of power. There are many interest groups that shape the law. Conflict is primarily used to explain the law and actions of criminal justice agents, but can also explain some forms of criminal behavior (e.g., an abortion clinic bombing).
- Radical theory stems from the work of Karl Marx. Radical theorists emphasize the conflict between the wealthy elite and the working class. They point out that many harmful acts perpetrated by the wealthy are not defined as criminal. To the extent that such acts are defined as criminal, they are not strongly enforced. Those prosecuted for “white-collar crimes” rarely receive long prison sentences.
- A central empirical issue in radical theories is whether criminal justice decisions (e.g., the decision to arrest or prosecute) are related to race and class. This body of evidence is extensive, complex, and often contradictory. There is some evidence of racial disparities in criminal justice decision making. Racial disparity is most clear in the areas of illicit drug use and capital sentencing.
- Modern extensions of radical theory include Currie’s concept of a “market society,” as well as peacemaking criminology and left realism.
- Feminist scholars point out that most criminological theories were written by males and about male criminality. They question whether such theories apply to females. Further, they point out that mainstream theory cannot adequately explain why males are more likely to engage in crime than females.
- As with race and class, researchers have studied whether gender has an effect on criminal justice processing. There is some evidence that females are treated more leniently by the system. For some acts, (e.g., contempt of court cases arising from repeated runaways), however, the reverse holds true.

## Putting It All Together

1. Is the criminal justice system racist? What factors would you have to take into consideration to research this question?
2. Does American society operate under a consensus or conflict model?
3. Describe the gender ratio and generalizability problems.
4. What does Currie mean by a market society? How does a market society breed violence?
5. Think of a current scandal involving wealthy individuals or corporations engaging in crime. How might radical theorists explain this?

## Key Terms

**altruism** According to Bonger, altruism was a characteristic of primitive societies. In these societies, social solidarity was high, and individuals were more selfless and looked after each other's needs.

**bourgeoisie** Within the Marxist theory, those who hold salaried and management positions.

**capitalists** Within the Marxist theory, they are the owners of the means of production.

**chivalry hypothesis** The idea that females are treated leniently by the criminal justice system because police, prosecutors, and judges are predominately male and have a gracious attitude toward women.

**conflict model** The belief that the law is the result of a battle between people or groups that have different levels of power. Control over the state (including the law and the criminal justice system) is the principal prize in the perpetual conflict of society.

**conflict theory** Theories that emphasize a pluralistic perspective — multiple groups within a society wield different levels of power.

**consensus model** The belief that the law reflects common agreement over the fundamental values held by society.

**egoism** A lack of consideration for others. According to Bonger, capitalism encourages selfishness, greed, and insensitivity to others.

**extra-legal factors** Characteristics such as race, class, and gender that can impact criminal justice decision making.

**gender-ratio problem** A key issue for criminologists is to explain the empirical observation that males account for the vast majority of delinquent and criminal offending.

**generalizability problem** Because most criminology theorists are male, mainstream criminological theories may not be applicable (they may not generalize) to female offending.

**instrumental Marxism** This type of theory argues that the law and criminal justice system are always instruments to be used by the capitalist class.

**legal factors** Factors such as offense seriousness and prior record that play a role in criminal justice decision making.

**lumpenproletariat** Within Marxist theory, the dispossessed, unorganized workers.

**market society** A country (such as the United States) where the capitalist economy dominates all other spheres of life. This is a sink-or-swim society that does not provide a strong safety net for citizens.

**primary conflict** A concept from Thorsten Sellin's culture-conflict theory. Primary conflict may arise between an established culture and a less-powerful culture. For example, recent immigrants may conduct themselves based on codes from the old country that may be criminal in the dominant culture.

**proletariat** Within Marxist theory, the working class.

**racial profiling** Racially biased law enforcement; targeting individuals for law enforcement based primarily on their race.

**racial threat hypothesis** The idea that as minority populations increase relative to the white population, they will be viewed as a threat and punitive measures will increase.

**radical theory** Theoretical perspective that emphasizes conflict between the wealthy elite and the rest of society.

**secondary conflict** Concept from Thorsten Sellin's culture-conflict theory. Secondary conflict occurs within a single culture that has different subcultures, each with their own conduct norms.

**structural Marxism** This type of Marxist analysis grants the government (at least in the short run) a degree of political autonomy. Some laws may run counter to the desires of the capitalists.

**superstructure** The system of social institutions (e.g., law, education, and politics) that lend legitimacy to capitalist arrangements.

## Notes

1. Jeffrey Reiman, *The Rich Get Richer and the Poor Get Prison: Ideology, Class, and Criminal Justice*, 7th ed. (Boston: Allyn and Bacon, 2004).
2. J. Robert Lilly, Francis T. Cullen, and Richard A. Ball, *Criminological Theory: Context and Consequences*, 3rd ed. (Thousand Oaks, CA: Sage, 2002): 132–133.
3. Lilly, Cullen, and Ball, 2002, 132.
4. Francis T. Cullen and Robert Agnew, *Criminological Theory: Past to Present* (Los Angeles: Roxbury, 2003): 334–335.
5. William J. Chambliss, "The Law of Vagrancy," in William J. Chambliss, ed., *Criminal Law in Action* (New York: John Wiley, 1984).
6. William J. Chambliss and Robert T. Seidman, *Law, Order, and Power* (Reading, MA: Addison-Wesley, 1982): 33–38.
7. *Ibid.*
8. George B. Vold, *Theoretical Criminology* (New York: Oxford University Press, 1958): 208–209.
9. William J. Chambliss, *Criminal Law in Action* (Santa Barbara, CA: Hamilton, 1975): i–ii.
10. Frank P. Williams III and Marilyn D. McShane, *Criminological Theory*, 4th ed. (Upper Saddle River, NJ: Prentice Hall, 2004): 167–168.
11. George Ritzer, *Sociological Theory*, 3rd ed. (New York: McGraw Hill, 1992): 263–270.
12. Marc C. Kennedy, "Beyond Incrimination: Some Neglected Facets of the Theory of Punishment," *Catalyst* 5 (1970): 1–37.
13. Ronald L. Akers and Christine S. Sellers, *Criminological Theories: Introduction, Evaluation, and Application*, 4th ed. (Los Angeles: Roxbury, 2004): 200–201.
14. Marvin E. Wolfgang, Robert M. Figlio, Paul E. Tracy, and Simon Singer, *The National Survey of Crime Severity* (Washington, DC: Bureau of Justice Statistics, 1985).
15. Francis T. Cullen, Bonnie S. Fisher, and Brandon K. Applegate, "Public Opinion About Crime and Punishment," *Crime and Justice: A Review of the Research* 27 (2000): 1–79.
16. Akers and Sellers, 2004, 197–198.
17. Austin T. Turk, *Criminality and Legal Order* (Chicago: Rand McNally, 1969).
18. Richard G. Greenleaf and Lonan Lanza Kaduce, "Sophistication, Organization, and Authority Subject Conflict: Re-discovering and Unraveling Turks' Theory of Norm Resistance," *Criminology* 33 (1995): 565–586.
19. Robert R. Weidner and William Terrell, "A Test of Turk's Theory of Norm Resistance Using Observational Data on Police-Suspect Encounters," *Journal of Research in Crime and Delinquency* 42 (2005): 84–109.
20. Chambliss and Seidman, 1982, 31.
21. Chambliss and Seidman, 1982, 269.
22. *Sourcebook of Criminal Justice Statistics*, available at [www.albany.edu/sourcebook/pdf/1627](http://www.albany.edu/sourcebook/pdf/1627), accessed April 3, 2005.
23. Akers and Sellers, 2004, 203–206.
24. Donald Black, "The Social Organization of Arrest," in Richard J. Lundman, ed., *Police Behavior: A Sociological Perspective* (New York: Oxford University Press, 1980).
25. Samuel Walker, Cassia Spohn, and Miriam DeLone, *The Color of Justice: Race, Ethnicity, and Crime in America* (Belmont, CA: Wadsworth, 2000).
26. Robin Shepard Engel, Jennifer M. Calnon, and Thomas J. Bernard, "Theory and Racial Profiling: Shortcomings and Future Directions in Research," *Justice Quarterly* 19 (2002): 249–273.
27. Alfred Blumstein, "On the Racial Disproportionality of the United States' Prison Populations," *Journal of Criminal Law and Criminology* 73 (1982): 1259–1281; Alfred Blumstein, "Racial Disproportionality of U.S. Prison Populations Revisited," *University of Colorado Law Review* 64 (1993): 1259–1281.
28. Roy L. Austin and Mark D. Allen, "Racial Disparity in Arrest Rates and an Explanation of Racial Disparity in Commitment to Pennsylvania's Prisons," *Journal of Research in Crime and Delinquency* 37 (2000): 200–220.
29. *Ibid.*
30. Joan Petersilia, *Racial Disparities in the Criminal Justice System* (Santa Monica, CA: Rand Corporation, 1983).
31. Petersilia, 1983, xxiii.
32. Martha A. Myers and Susette M. Talarico, *Disparity and Discrimination in Sentencing: The Case of Georgia* (Athens, GA: National Institute of Justice, 1985).
33. Stephen Klein, Joan Petersilia, and Susan Turner, "Race and Imprisonment Decisions in California," *Science* 247 (1990): 812–816.
34. William Wilbanks, *The Myth of a Racist Criminal Justice System* (Belmont, CA: Wadsworth, 1987).

35. Institute for the Study of Labor and Economic Crisis, *The Iron Fist and the Velvet Glove* (San Francisco: Synthesis Publications, 1975).
36. Hubert M. Blalock Jr., *Toward a Theory of Minority-Group Relations* (New York: John Wiley and Sons, 1967).
37. David Eitle, Steward J. D'Alessio, and Lisa Stolzenberg, "Racial Threat and Social Control: A Test of the Political, Economic, and Threat of Black Crime Hypothesis," *Social Forces* 81 (2002): 557–576.
38. Edmund F. McGarrell, "Institutional Theory and the Stability of a Conflict Model of the Incarceration Rate," *Justice Quarterly* 10 (1993): 7–28.
39. David Jacobs and Ronald Helms, "Collective Outbursts, Politics, and Punitive Resources: Toward a Political Sociology of Spending on Social Control," *Social Problems* 77 (1999): 1497–1523.
40. Howard Abadinsky, *Drugs: An Introduction* (Belmont, CA: Wadsworth, 2001): 19–42.
41. David Cole, *No Equal Justice: Race and Class in the American Criminal Justice System* (New York: The New Press, 1999): 8.
42. Michael Tonry, *Malign Neglect: Race, Crime, and Punishment in America* (New York: Oxford University Press, 1995): 104–112.
43. Ibid.
44. Tonry, 1995, 123.
45. *Furman v. Georgia* 408 U.S. 238 (1972).
46. *Furman*, 1972, 242.
47. Samuel Gross and Robert Mauro, *Death and Discrimination* (Boston: Northeastern University Press, 1989).
48. H. C. Brearley, "The Negro and Homicides," *Social Forces* 9 (1930): 247–253; Elmer H. Johnson, "Selective Forces in Capital Punishment," *Social Forces* 36 (1957): 165–169.
49. Marvin E. Wolfgang, Arlene Kelly, and Hans C. Nolde, "Comparison of Executed and Commuted Among Admissions to Death Row," *Journal of Criminal Law and Criminology* 53 (1962): 301–311.
50. Franklin E., Zimring, Joel Eigen, and Sheila O'Malley, "Punishing Homicides in Philadelphia: Perspectives on the Death Penalty," *University of Chicago Law Review* 43 (1976): 227–252.
51. Marvin E. Wolfgang and Marc Riedel, "Race, Judicial Discretion, and the Death Penalty," *The Annals of the American Academy of Political and Social Science* 407 (1973): 119–133.
52. Stephen D. Arkin, "Discrimination and Arbitrariness in Capital Punishment: An Analysis of Post-Furman Murder Cases in Dade County, Florida, 1973–1976," *Stanford Law Review* 33 (1980): 75–101; Michael L. Radelet and Glenn L. Pierce, "Choosing Those Who Will Die: Race and the Death Penalty in Florida," *Florida Law Review* 43 (1991): 1–34.
53. See, for example, Sheldon Ekland-Olson, "Structured Discretion, Racial Bias, and the Death Penalty: The First Decade After *Furman* in Texas," *Social Science Quarterly* 69 (1988): 853–873; M. Dwayne Smith, "Patterns of Discrimination in Assessments of the Death Penalty: The Case of Louisiana," *Journal of Criminal Justice* 15 (1987): 279–286.
54. Thomas Keil and Genaro F. Vito, "Race, Homicide Severity, and Application of the Death Penalty: A Consideration of the Barnett Scale," *Criminology* 27 (1989): 511–531.
55. U.S. General Accounting Office, *Death Penalty Sentencing: Research Indicates a Pattern of Racial Disparities* (Washington, DC: Author, 1990).
56. U.S. General Accounting Office, 1990, 5–6.
57. Frederic M. Thrasher, *The Gang: A Study of 1,313 Gangs in Chicago* (Chicago: University of Chicago Press, 1927).
58. Edwin H. Sutherland, "Crime and the Conflict Process," *Journal of Juvenile Research* 13 (1929): 38–48.
59. Thorsten Sellin, *Culture Conflict and Crime* (New York: Social Science Research Council, 1938).
60. Ysabel Rennie, *The Search for Criminal Man* (Lexington, MA: Lexington Books, 1978): 132.
61. T. Trent Gagaz, "Meet the Khat-heads," *Newsweek* 140 (September, 2002): 35.
62. Gregory A. Kelson, "Female Circumcision in the Modern Age: Should Female Circumcision Now Be Considered Grounds for Asylum in the United States?" *Buffalo Human Rights Law Review* 4 (1998): 185–209.
63. George Vold, *Theoretical Criminology* (New York: Oxford University Press, 1958).
64. Vold, 1958, 219.
65. William J. Chambliss, *Crime and the Legal Process* (New York: McGraw Hill, 1969): 10.
66. Michael J. Lynch and W. Byron Groves, *A Primer in Radical Criminology*, 2nd ed. (New York: Harrow and Heston, 1989): 11.
67. Lynch and Groves, 1989, 10.
68. Lynch and Groves, 1989, 13.
69. Ian Taylor, Paul Walton, and Jock Young, *The New Criminology: For a Social Theory of Deviance* (New York: Harper and Row, 1973).
70. Friedrich Engels, "Crime in Communist Society," in David F. Greenberg, ed., *Crime and Capitalism* (Palo Alto, CA: Mayfield, 1981): 51.
71. Rennie, 1978, 112.
72. Wilhelm A. Bonger, *Criminality and Economic Conditions* (Bloomington: Indiana University Press, 1969): 141.
73. George Rusche and Otto Kirchheimer, "Punishment and Social Structure," in W. J. Chambliss, ed., *Criminal Law in Action* (New York: John Wiley, 1975).
74. Rusche and Kirchheimer, 1975, 364.
75. Franklin E. Zimring and Gordon Hawkins, *The Scale of Imprisonment* (Chicago: University of Chicago Press, 1991).
76. James Inverarity and Daniel McCarthy, "Punishment and Social Structure Revisited: Unemployment and Imprisonment in the U. S., 1948–1984," *Sociological Quarterly* 29 (1988): 263–279.
77. Gil Gardner, "The Emergence of the New York State Prison System: A Critique of the Rusche-Kirchheimer Model," *Crime and Social Justice* 29 (1987): 88–109.
78. Stewart J. D'Alessio and Lisa Stolzenberg, "Unemployment and the Incarceration of Pretrial Defendants," *American Sociological Review* 60 (1995): 350–359.
79. Richard Quinney, *Class, State, and Crime* (New York: David McKay, 1977).

80. Akers and Sellers, 2004, 219–220.
81. Akers and Sellers, 2004, 220.
82. Reiman, 2004, 75–94.
83. Ibid.
84. Reiman, 2004, 140–143.
85. Reiman, 2004, 103–140.
86. Chambliss, 1984, 35.
87. Ibid.
88. For criticism, see Jeffrey S. Adler, “A Historical Analysis of the Law of Vagrancy,” *Criminology* 27 (1989): 209–230.
89. Anthony Platt, *The Child Savers: The Invention of Delinquency* (Chicago: University of Chicago Press, 1969).
90. Platt, 1969, 83.
91. Richard Quinney, *Critique of Legal Order* (Boston: Little, Brown, 1974): 27.
92. David M. Gordon, “Class and the Economics of Crime,” in David F. Greenberg, ed., *Crime and Capitalism* (Palo Alto, CA: Mayfield, 1981): 90.
93. Cynthia Barnett, “The Measurement of White-Collar Crime Using Uniform Crime Reporting (UCR) Data,” *NIBRS Publication Series* (Washington, D.C., U.S. Department of Justice, 2000):1.
94. Ibid.
95. Richard F. Sparks, “A Critique of Marxist Criminology,” in Norval Morris and Michael Tonry, eds., *Crime and Justice*, volume 2 (Chicago: University of Chicago, 1980): 173–175.
96. Robert F. Meier, “The New Criminology: Continuity in Criminological Theory,” *Journal of Criminal Law and Criminology* 67 (1976): 461–469.
97. Sparks, 1980, 190.
98. Carl Klockars, “The Contemporary Crises of Marxist Criminology,” *Criminology* 16 (1979): 477–515.
99. Jackson Toby, “The New Criminology Is the Old Sentimentality,” *Criminology* 16 (1979): 516–526.
100. Jim Thomas and Aogán O’Maolchatha, “Reassessing the Critical Metaphor: An Optimistic Revisionist View,” *Justice Quarterly* 6 (1989): 143–172.
101. Greenberg, 1981, 484.
102. John Lea and Jock Young, *What Is to Be Done About Law and Order* (London, Penguin, 1984).
103. Richard Kinsey, John Lea and Jock Young, *Losing the Fight Against Crime* (London: Blackwell, 1986).
104. Walter DeKeseredy, “The Left Realist Approach to Law and Order,” *Justice Quarterly* 5 (1988): 635–640.
105. Elliott Currie, “Market, Crime and Community: Toward a Mid-Range Theory of Post-Industrial Violence,” *Theoretical Criminology* 1 (1997): 147–172.
106. Currie, 1997, 151–152.
107. Cullen and Agnew, 2003, 338.
108. Harold E. Pepinsky, “Peacemaking in Criminology and Criminal Justice,” in Harold E. Pepinsky and Richard Quinney, eds., *Criminology as Peacekeeping* (Bloomington: Indiana University Press, 1991): 304.
109. Peter J. Cordella, “Reconciliation and the Mutualist Model of Community,” in Harold E. Pepinsky and Richard Quinney, eds., *Criminology as Peacekeeping* (Bloomington: Indiana University Press, 1991); Russ Immarigeon, “Beyond the Fear of Crime: Reconciliation as the Basis for Criminal Justice Policy,” in Harold E. Pepinsky and Richard Quinney, eds., *Criminology as Peacekeeping* (Bloomington: Indiana University Press, 1991).
110. Richard Quinney, “The Way of Peace: On Crime, Suffering, and Service,” in Harold E. Pepinsky and Richard Quinney, eds., *Criminology as Peacekeeping* (Bloomington: Indiana University Press, 1991): 4.
111. Quinney, 1991, 12.
112. John R. Fuller, *Criminal Justice: A Peacemaking Perspective* (Boston: Allyn and Bacon, 1998).

113. Cullen and Agnew, 2003, 387.
114. Joanne Belknap, *The Invisible Woman: Gender, Crime, and Justice* (Belmont, CA: Wadsworth, 1996).
115. See, for example, Dorie Klein, "The Etiology of Female Offending: A Review of the Literature," *Issues in Criminology* 8 (1973): 3–30.
116. Cullen and Agnew, 2003, 397–398.
117. Sally S. Simpson, "Feminist Theory, Crime, and Justice," *Criminology* 27 (1989): 605–632.
118. Cullen and Agnew, 2003, 398.
119. Ibid.
120. Kathleen Daly and Meda Chesney-Lind, "Feminism and Criminology," *Justice Quarterly* 5 (1988): 497–533.
121. Lawrence A Greenfeld, and Tracy L. Snell, *Women Offenders* (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1999).
122. Moyer, 1985, 198–200.
123. Daly and Chesney-Lind, 1988, 510.
124. Darrell Steffensmeier and Emile Allan, "The Nature of Female Offending: Patterns and Explanation," in Ruth T. Zaplin, ed., *Female Offenders: Critical Perspectives and Effective Interventions* (Gaithersburg, MD: Aspen, 1998).
125. Kathleen Daly, "Gender and Varieties of White-Collar Crime," *Criminology* 27 (1989): 769–794.
126. Gary F. Jenson, "Gender Variation in Delinquency: Self Image, Beliefs, and Peers as Mediating Mechanisms." Paper presented at the annual meeting of the American Society of Criminology, San Francisco, 2000.
127. Steffensmeier and Allan, 1998, 15–16.
128. Paul Mazerolle, "Gender, General Strain, and Delinquency: An Empirical Examination," *Justice Quarterly* 15 (1998): 65–91.
129. Meda Chesney-Lind and Karlene Faith, "What About Feminism? Engendering Theory-Making in Criminology," in Raymond Paternoster and Ronet Bachman, eds., *Explaining Crime and Criminals* (Los Angeles: Roxbury, 2001).
130. Joanne Belknap and Kristi Holsinger, "An Overview of Delinquent Girls: How Theory and Practice Have Failed and the Need for Innovative Changes," in Ruth T. Zaplin, ed., *Female Offenders: Critical Perspectives and Effective Interventions* (Gaithersburg, MD: Aspen, 1998): 34–35.
131. Kathleen Daly, *Gender, Crime, and Punishment* (New Haven, CT: Yale University Press, 1994).
132. Karen Heimer and Stacey De Coster, "The Gendering of Violent Delinquency," *Criminology* 37 (1999): 277–318.
133. Akers and Sellers, 2004, 247–251.
134. Kathleen Daly, "Neither Conflict nor Labeling nor Paternalism Will Suffice: Intersections of Race, Ethnicity, Gender, and Family in Criminal Court Decisions," *Crime and Delinquency* 35 (1989): 136–168.
135. Christy Visher, "Gender, Police Arrest Decisions, and Notions of Chivalry," *Criminology* 21 (1983): 5–28.
136. Josefina Figueira-McDonough, "Gender Differences in Informal Processing: A Look at Charge Bargaining and Sentence Reduction in Washington, D.C." *Journal of Research in Crime and Delinquency* 22 (1985): 101–133.
137. Akers and Sellers, 2004, 237.
138. Donna M. Bishop and Charles E. Frazier, "Gender Bias in Juvenile Justice Processing: Implications of the JJDP Act," *Journal of Criminal Law and Criminology* 82 (1992): 1162–1186.
139. Cullen and Agnew, 2003, 400.

[WWW.CRIMINOLOGY.JBPUB.COM](http://WWW.CRIMINOLOGY.JBPUB.COM)

Interactivities  
In the News  
Key Term Explorer  
Web Links