

You Be the Judge

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After hearing about a case involving a violent crime, it is easy to reach a quick conclusion about whether the sentence the judge delivered was fair. Cases of violent crime often create discussion about the value and meaning of a number of important principles such as justice, mercy, vengeance, shame, punishment, and public safety. The goal of this text is to help you think about these principles and other key considerations of Canada's criminal justice system more earnestly, and critically, and by the time you reach the end, we hope, a bit differently! This case study provides you with an opportunity to test your own beliefs about the criminal justice system. Read the following description of a real criminal offence committed in Canada, including information about the victim and the offender. What sentence would you give? What would be your reasons? At the end of the text, you'll have an opportunity to revisit this case to see whether your opinion or reasons have changed.

Please note: This case, as well as some others described in this text, involves a violent offence. Many of the facts are disturbing and should be approached with sensitivity and respect.



A small group of Mushuau Innu youth from Natuashish head out on a hunting expedition in Labrador.

The Offence

On the night of the offence, Matt was riding his bicycle along the town's main road when he met Robbie walking with some friends. Robbie called Matt a "child molester" and indicated that he wanted to fight him. Robbie then removed his jacket and handed it to one of his friends. Matt rode his bicycle into Robbie and the two began to fight. Bystander evidence at trial suggested that Robbie swung at Matt, but missed. Matt then punched Robbie in the face and ran. Robbie chased after Matt and grabbed him by the head. Matt then turned and stabbed Robbie in the left side of his chest with what he claimed was a pocket knife (although no weapon was recovered by police). Robbie was taken to hospital and was admitted for more than two weeks, during which time he underwent surgery. The nurse testified that the wound in Robbie's chest was round and "sufficiently large to be able to put four to five centimetres of [her] little finger into it," leading the trial judge to believe the weapon had been a screwdriver (*R v Dicker*, 2013, para. 15). Matt was arrested and found guilty at trial of aggravated assault and breach of probation.

The Victim

Robbie and Matt were both from the same small town and knew each other fairly well. Robbie had been in a relationship with Matt's sister, with whom he had children. Despite this family connection, Matt and Robbie had a history of fighting and did not get along. A couple of months before the offence, the two had been involved in a heated argument, and although it did not escalate into a physical fight, Robbie did threaten to "give [Matt] a beating" the next time he saw him. Two weeks before the offence, the two were involved in a physical fight outside the town's general store. According to the testimony of the store manager, Robbie threw the first punch, hitting Matt in the chest. Matt then hit Robbie in the face. Robbie then knocked Matt onto the ground, and Matt scrambled to his feet and ran off. The next time they saw each other was the night of the offence.

At Matt's trial, Robbie submitted a victim impact statement. It read, in part:

Since that night I still have nightmares he is trying to hurt me in my dreams. I was in the hospital for 2 weeks, and they found, he put in 2 stab wounds.¹ They had to put a tube inside me, and to this day I still have chest pains. We had to pay for my partner Beverly to travel to see me when I was in hospital. She stayed [at home] but had to travel every day. Since this happened I went to treatment and I still go to meetings once a week. It was very scary, my family did not know if I would survive and I was very scared to die also. I know this has changed my life forever. (*R v Dicker*, 2013, para. 160)

At the sentencing hearing, the court took note of the seriousness of the wound Matt had inflicted, particularly given its location in the left side of the victim's chest. The judge recognized that while some of Matt's actions could be understood as self-defence, the amount of force he used against Robbie was "excessive." The judge also commented on the importance of finding a sentence that would not only deter Matt from committing further offences, but would also send a message to the community, particularly its young men, that this kind of behaviour is unacceptable.

The Offender

At the time of the offence, Matt was 20 years old. He is a member of the Mushuau Innu First Nation and lives in a small and remote part of Labrador. The community was

established as part of a “relocation” project in 2002, when the government moved people out of the nearby community of Davis Inlet as a result of widespread health and social problems, including contaminated water sources, severe levels of domestic violence, alcoholism, substance abuse, and suicide—with more than one quarter of the community’s population reporting that they had attempted to end their own lives (Power, 2015). The community gained national attention when a video was released in 1993 of a group of six children (aged 11 to 14) sniffing gasoline in an unheated shack and declaring that life was not worth living. Follow-up reports indicated that inhalant abuse was rampant in the community, with 154 of the town’s 169 youths reporting having engaged in solvent abuse, some as young as eight years old. Sixty of these youths reported gas-sniffing on a daily basis.

As a teenager, Matt was falsely accused of having sexually assaulted a group of six young girls. The investigation went on for a long time, and Matt was forced to live outside the community and away from his friends and family for more than a year. This experience had a very negative effect on his life. Criminal charges were laid against him, and the early proceedings of a trial had begun before the RCMP received information that established the allegations were untrue. This case was well known in Matt’s community and often resulted in him being bullied. When asked about the stabbing, Matt testified that people were threatening him all the time and that he carried a pocket knife “for protection.” He argued that he stabbed Robbie in self-defence.

Matt has a lengthy criminal record, with 16 prior convictions, most of which were for break-and-enter charges and breaches of court orders. One conviction was for assault. For almost all of these offences, Matt was a youth. None of these convictions involved jail time; all of them resulted in periods of probation. While in custody for the aggravated assault charge, Matt incurred additional charges for assaultive behaviour in the pre-trial correctional centre.

English is not Matt’s first language. He learned Innu-aimun first in his home. During his childhood, his parents drank heavily, and he witnessed frequent incidents of domestic violence. He struggled in school and was held back a grade, eventually dropping out and leaving school in grade eight. He has had one serious relationship, from which he also has a young daughter. He has struggled with problems with alcohol and domestic violence and has not been able to maintain steady employment.

At the time of sentencing, Matt had applied for a treatment program at a healing lodge and submitted a letter offering him a custodial job with his First Nation upon his release. His sister also submitted a letter of support, indicating that Matt could live with her when released. Matt expressed remorse about stabbing Robbie and, when asked during sentencing about his plans for the future, indicated that he would like to finish school and possibly coach hockey.

While awaiting his sentence, Matt served 66 days in jail. At the time of his offence, he was on probation for a prior conviction (break and enter) and had been ordered to keep the peace and be of good behaviour. He indicated strong emotional ties to his community and his indigenous heritage.

The *Criminal Code* allows for a maximum period of 14 years’ imprisonment for the offence of aggravated assault and a maximum period of four years’ imprisonment for the offence of breach of probation. In this case, the Crown requested a sentence of six years in prison. The defence recommended a suspended sentence (with a period of probation).

What Do You Think?

1. What sentence would you give Matt in this case? Why? What factors would you take into account when deciding on this sentence?
2. What importance (if any) do you give to the socio-economic context of Matt's background or community? What central principles guide your decision?
3. What do you hope your sentence will accomplish?

SUGGESTED FURTHER READINGS

Burns, A. (2006). Moving and moving forward: Mushuau Innu relocation from Davis Inlet to Natuashish. *Acadiensis*, 35(2), 64–84.

REFERENCES

- Power, P. (2015, March 6). A decade after the people of Davis Inlet were relocated, they are still hunting demons. *Globe and Mail*. Retrieved from <http://www.theglobeandmail.com/news/national/hunting-demons/article23331533/>.
- R v Dicker* (2013), 280 CRR (2d) 68 (Nfld Prov Ct).

Studying Criminal Justice

LEARNING OUTCOMES

After reading this chapter, students will be able to:

- Describe the differences and similarities between criminology and criminal justice.
- Recognize the key players within the criminal justice system and outline their roles and responsibilities.
- Identify the three subfields of criminal justice studies and the ways each fits within and is informed by the liberal arts tradition.
- Understand the factors that influence how crime is defined and reported, including the role of the media, police practices, and the general public's sense of safety.
- Characterize the core theoretical models of criminal justice and explain how these models inform criminal justice policy.
- Be familiar with key terms in criminal justice studies and policy.

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Introduction

Cases like the one that opened this text reveal the complexity of the criminal justice system and the challenges inherent in its study. No doubt there were many disagreements among your colleagues about the appropriate sentence for Matt and the reasons for it. Working through these debates is a key component of the criminal justice profession and the many different agencies, institutions, and stakeholders it involves. These differences of opinion are also why studying criminal justice can be such an interesting endeavour. There is always more than one side to a story. Crime is, after all, an aspect of social life. Some theorists, such as the French sociologist Émile Durkheim, have argued that crime is a necessary part of human societies and their development. It exists in all civilizations regardless of political leadership, financial circumstances, geography, religious belief, cultural history, demographic composition, language, or levels of industrialization—although, as this text will discuss, each of these factors can influence how much crime there is and how it is dealt with.

Criminology and Criminal Justice: Liberal Arts Endeavours

Understanding how much crime there is, on the one hand, and determining how to address it, on the other, is a good way to think about the difference between criminology and criminal justice. Criminology is interested in *how* and *why* crime happens, while criminal justice is concerned with what to do about criminal activity once it has occurred. Those are, of course, simplistic definitions of both fields and it is important to keep in mind that criminology and criminal justice rely on the work and expertise of each other. Criminology, for example, wants to know more about “the criminal mind” and the factors that motivate an offender to commit illegal acts. Research in this area often relies on psychology, biology, sociology, and the studies that emerge from criminal justice experts about existing offenders and their treatment programs. In the same way, criminal justice scholars are sometimes interested in how to rehabilitate an offender in prison or how to help her reintegrate into a community after release. This challenge is made easier with the help of studies by criminologists that aim to learn more about what motivates people to commit crimes in the first place and how an offender’s community can play a role in the prevention, commission, and control of crime.

The cooperative work of criminologists and criminal justice professionals can also be witnessed by examining the central aims of each discipline. The purpose of the criminal justice system is the prevention and control of crime while maintaining and promoting justice. These objectives require knowing a lot about how crime happens and how society feels about it. How should police priorities be determined? What kinds of activities should be illegal? What does just punishment look like? Criminologists are often engaged in research that helps provide some answers to these questions, using scientific methods to explain the interactions of law-making, law-breaking, and the reactions of society to these processes. Criminal justice studies are sometimes housed in political science or sociology departments, given the discipline’s interest in studying social control and the various ways it is exercised in defining and responding to criminal behaviour.



A Vancouver Police officer interacts with the public. Strong verbal communications skills, empathy, applied ethics, and critical thinking are essential to a successful career in criminal justice.

It is not surprising that criminal justice professions are often staffed by those with a background in the liberal arts. Williams and Robinson (2004, p. 379) suggest that liberal arts education “has at its center four practices that distinguish it from other kinds of learning: critical thinking, continuing examination of life, encounters with difference, and the free exchange of ideas.” These practices help develop key skill sets that are of particular use in the criminal justice field. A 2015 survey of more than 200 criminal justice practitioners found that when asked to rate the skill sets that were most important for success within the profession, strong verbal communication and applied ethics were the most highly ranked, with an emphasis on awareness of racial and gender issues within the criminal justice system (Jones & Bonner, 2016). Criminal justice majors have also been found to score high in intrapersonal intelligence, which, as Tripp and Cobkit (2013) suggest, “indicates a high level of reasoning and an understanding of others’ feelings” (p. 482). Moreover, many professionals within the field

report that their degrees in criminal justice have improved not only their competency at work but also their ability to excel in higher-level functions. In a 2007 study among American police officers, participants “expressed great support for the degree’s ability to improve not only legal and justice system understanding, but more importantly their ability to communicate, analyze, administrate, and engage in human relations” (Carlan, 2007, p. 616).

Skills in applied reasoning and an appreciation for the social and cultural contexts of human relations are even more important when we consider Williams and Robinson’s (2004) suggestion that most criminal justice texts ignore issues crucial to the very foundation of all criminal justice processes. In particular, relations of power, **ideology**, politics, and the manipulation of the law through lobbying by special interest groups are areas often left underexplored. The liberal arts encourage a more critical approach to the study of the criminal justice system and its agencies, where it is essential to debunk the dominant myths of crime and criminal justice. This text encourages this kind of approach, using ideology as a framework for understanding both the intended and unintended consequences of a crime policy or program. The utility of ideology as a method of gaining a more critical understanding of the criminal justice system is further explored throughout this chapter.

ideology

A system of beliefs or assumptions about the correct or proper order of things, particularly with respect to morality and political arrangements; a value system that shapes a person’s position on specific issues.

SIDEBAR

The Bard Prison Initiative: Liberal Arts in Prison

Want to keep people out of prison? Give them a liberal arts education. This was the answer Max Kenner proposed when he established the Bard Prison Initiative—an organization that helps offer liberal arts education classes to prisoners in the United States. Male and female offenders enroll in academic programs that lead to degrees from Bard College in New York. The organization comprises people who, in the words of its mission statement, “share the view that a liberal education can transform the lives of individual students, and our public institutions, in ways that far exceed the prevailing responses to crime, punishment, and the need for change” (Bard Prison Initiative, n.d.).

The Bard Prison Initiative began as an idea Kenner had while he was an undergraduate student at Bard College. The US Congress had just revoked college funding for prisoners, resulting in the termination of most prison education programs. Kenner, having recently discovered the value of his own liberal arts education, became determined to see it shared with those behind

bars. What began as one course offered to 18 inmates is now a nationwide program offered in more than nine states with an annual budget of \$2.5 million. As of 2015, almost 350 inmates have earned degrees through the program. Moreover, graduates of the program are significantly less likely to return to prison than their degree-less counterparts. In comparison to the U.S. national average, where about two-thirds of released offenders commit another offence (67.8 percent within three years and 76.6 percent within five years), only 4 percent of all graduates of the initiative’s program have returned to prison (Qin, 2015).

For many participants, this outcome is due to the nature of studying the liberal arts. As one graduate remarked, “While at Bard, I learned that freedom was something much different than just a physicality, a space of physical existence. Freedom had a lot to do with your ability to think. Freedom had a lot to do with your ability to communicate with others. To see the world in a different view” (Cohen, 2011).

Criminal Justice: Areas of Study and Key Players

Given its mandate of *responding to crime*, the field of criminal justice can be defined as the study of the many institutions and agents that are involved in the investigation of criminal activity, the enforcement of the criminal law, and the correctional arm of the state.

These agencies can be broadly understood to fall within one of three principal areas of criminal justice work—namely, policing, the criminal court system, and corrections. This text is organized around these three subfields of specialization, the first of which is the work of the various policing services in Canada and their affiliated organizations, including municipal, regional, provincial, and federal levels of policing. Policing discussions also centre around the concept of community-based policing, specialized forces such as the Aboriginal Policing Directorate, surveillance and investigative teams, as well as the forensic science services used by police throughout the country.

A second area of criminal justice work centres on criminal law and its procedures. This field of study involves the work of many court-based personnel, including lawyers, judges, and their research teams (comprising paralegals, legal secretaries, and law clerks). It is also an area interested in the work of court services personnel, including bailiffs, registrars, jury attendants, and court reporters, as well as criminal justice professionals who provide services and support to victims and witnesses, such as victim services organizations and social workers, and court-appointed personnel, such as **duty counsel** and child-protection workers.

duty counsel

A lawyer paid by the government to provide legal advice and services to individuals who come to court unrepresented.

A third area of criminal justice work is also one of its largest fields of research: corrections. It focuses on the procedures and institutions of imprisonment in terms of the assessment, treatment, rehabilitation, and reintegration of offenders. Correctional officers, security personnel, and prison administration workers (such as the warden or superintendent of the institution) are key players in this criminal justice field. The work of post-incarceration personnel, such as parole officers, drug and alcohol abuse counsellors, and mental health workers, is also of interest to criminal justice scholars of corrections, as is the policy work of both government and non-government officials and organizations that study the prison experience. Community-based work among criminal justice professionals that does not take place in jail, court, or prison is also a part of the corrections area and includes halfway house counsellors, attendance centre program personnel, educational consultants, youth workers, probation officers, and group home workers, as well as diversion, extrajudicial, or alternative measures co-coordinators.

It is also important to mention the programs that are operated within the community that aim to prevent crime through both voluntary groups (e.g., crime prevention associations, Neighbourhood Watch groups) and other non-governmental organizations (e.g., John Howard Society, Elizabeth Fry Society, St. Leonard's Society). These programs and agencies provide assistance to the more formal state-run institutions under the direction of a broad base of community volunteers and provide additional services to prevent and reduce crime and harm in our communities.

This list of agencies is far from exhaustive, but it should give you some indication of the wide variety of work that is conducted within the criminal justice system and the exciting opportunities that such diversity creates for those who, like you, have chosen criminal justice as a field of study.

How Do We Come to Know What We Know About Crime and Criminal Justice?

The appeal of criminology and criminal justice courses may lie in the fascination that people have with the subject matter, but it is perhaps further enhanced by the popularity of the many dramas that explore issues of crime and justice, such as *Law and Order*, *Criminal Minds*, *Quantico*, *Blue Bloods*, and *CSI*. Many of us are subject to a daily barrage of images about crime and disorder through news media, television, and Internet sources. Crime constitutes a constant and significant portion of the total news portrayed on radio and television, and in the print media. Both the news and entertainment industries are notorious for consistently taking the least common crime or criminal justice event and making it appear to be the most common crime or justice image. Such practices can make anyone *seem* like an instant authority on crime, but all too often the image of crime portrayed in popular media is based more on stereotypes than empirical evidence. This image influences the beliefs we have about crime, which can impede our ability to see things differently or find alternative solutions to a problem. Consumers of a steady diet of crime and criminal justice images from the media have been subjected to a vocabulary of force, where police are portrayed as crime “fighters” in the “war” on crime. As a result, a student entering a course in criminal justice may hold beliefs that crime must be “fought” rather than treated, prevented, reduced, or solved. Students who do not learn about how laws are made may not appreciate that they are imperfect and incomplete, but not impartial. Learning how law can be biased, representing the interests of some over others, is a key step in understanding the present realities of Canada’s criminal justice system and its challenges. Similarly, considering the principles of sentencing after a crime has been committed and the subsequent purposes of punishment allows a more critical analysis of the population of offenders that are incarcerated in Canada. Releasing offenders from carceral settings back into our communities is also an area of critical concern with respect to the public misinformation regarding the success of offenders upon release through parole provisions. As students of criminal justice study, these areas will be considered as you further delve into the chapters in this text.

Thinking Critically About the Issues

In asking you to think critically about the issues in this text, we want you to embark on a process of reasonably deciding what to do and/or believe while considering what sources, images, ideas, and arguments helped you reach these positions. We want you not only to be able to assess your own and others’ arguments but also to be able to construct good arguments when the issues being presented are controversial. Criminal justice scholars should always be striving to create counterarguments and examples that require empirical evidence or support while remaining sensitive to their own biases and values. Thinking critically about the issues requires a commitment to open-mindedness and fairness, empathy for others’ positions, openness to self-criticism, and an appreciation of the value of looking at criminal events from multiple points of view. It may mean a change in some of the beliefs you already have about crime and how it should be addressed, and this kind of shift is not always easy to undertake. As Mark Twain once suggested, “Education consists mainly of what we have unlearned,” and when it comes to society’s reactions to and treatments of criminal activity, one might say there is a great deal of unlearning to do.

Sherman (1981), in his work on preparing criminal justice professionals, suggested that “the business of criminal justice is forcing people to do what they do not want to do, on the basis of threat of pain, physical harm or, in those countries which still have capital punishment, death” (p. 17). Few commentators on the criminal justice system and even fewer students of criminal justice think about the social and ethical responsibilities of this task before becoming involved with the system themselves. When they do encounter the system, Sherman suggested, the result is a “substantial reality shock” (p. 18). We all have a responsibility to act thoughtfully in our support for public policies within the realm of crime prevention and control, including when we elect our government leaders. Thinking through several viewpoints of the implications of a proposed change to the criminal law or a government agenda to “crack down” on crime is an important task in assessing the value of any given criminal justice practice. Moreover, the media often gets it wrong, leaving the uncritical observer to get it wrong too. As Gendreau, Goggin, Cullen, and Paparozzi (2002, p. 366) have noted:

[P]ublic opinions are woefully inaccurate and, not surprisingly, tend to be aligned with the “get-tough” orientation of the media. Thus, the public mistakenly believes that prisons (the harsher the better) deter criminal behaviour, that parole rates and parole violations are far too high, that Canada’s incarceration rates are lower than those of other countries and our sentencing policies are soft on crime, recidivism rates are sky high, and violent crime is epidemic.

One of the purposes of this text is to help you dispel the myths about crime and criminal justice so as to be able to critically evaluate criminal justice policies in light of competing views about the nature of crime, the methods of intervention, and the possible intended and unintended outcomes of various interventions.

As we have noted, the police, the courts, and the state’s correctional arm are the principal areas of focus in criminal justice studies. This is not only a reflection of how our current system *responds* to crime but also how it *defines* crime. It is important to keep in mind how the choices of lawmakers and government officials can influence which behaviours are targeted and by whom. The history and structure of Canada’s police systems, courtrooms, and correctional institutions inform us about how the criminal justice system is organized as well as its underlying assumptions. Remember, however, that established approaches are not the only ways of responding to crime. Many alternative approaches to policing or to determining punishments for offenders are explored in criminal justice studies each year (some of which are discussed in upcoming chapters).

Implementing criminal justice policy in policing, criminal law, or corrections requires an understanding that focusing on one form of crime control will affect the quality of life not only of the targeted segment of the population but also of the population as a whole. If any one method is used exclusively, it will have limited returns, so we must be mindful of the need to consider alternative processes. Through a systematic practice of recognizing our own beliefs and being open to the insights of others, we have an opportunity to explore the beliefs that might marginalize others and to consider all sides of an often conflicting array of proposed solutions. This text therefore encourages the study of criminal justice as an inquiry into not simply the *how* of criminal justice, but more importantly, the *why* of the law, police, courts, and corrections.

How Much Crime Is There? Debunking the Myths

Crime and society's response to it are frequent features in news media reports, leaving many issues of policing, the court system, and the correctional system open to public scrutiny. As Gendreau et al. (2002) have noted, public opinion often gets the facts wrong, but even well-informed editorials tend to focus on the failure of the system to keep citizens safe or the injustice of an offender getting off on a "technicality." Few of these opinions take into account the complexity of the system, and while this oversight is understandable given the breadth of issues involved in any case or criminal event, it can easily lead to widespread misconceptions. Consider, for example, the public perception of **crime rates**.

SIDEBAR

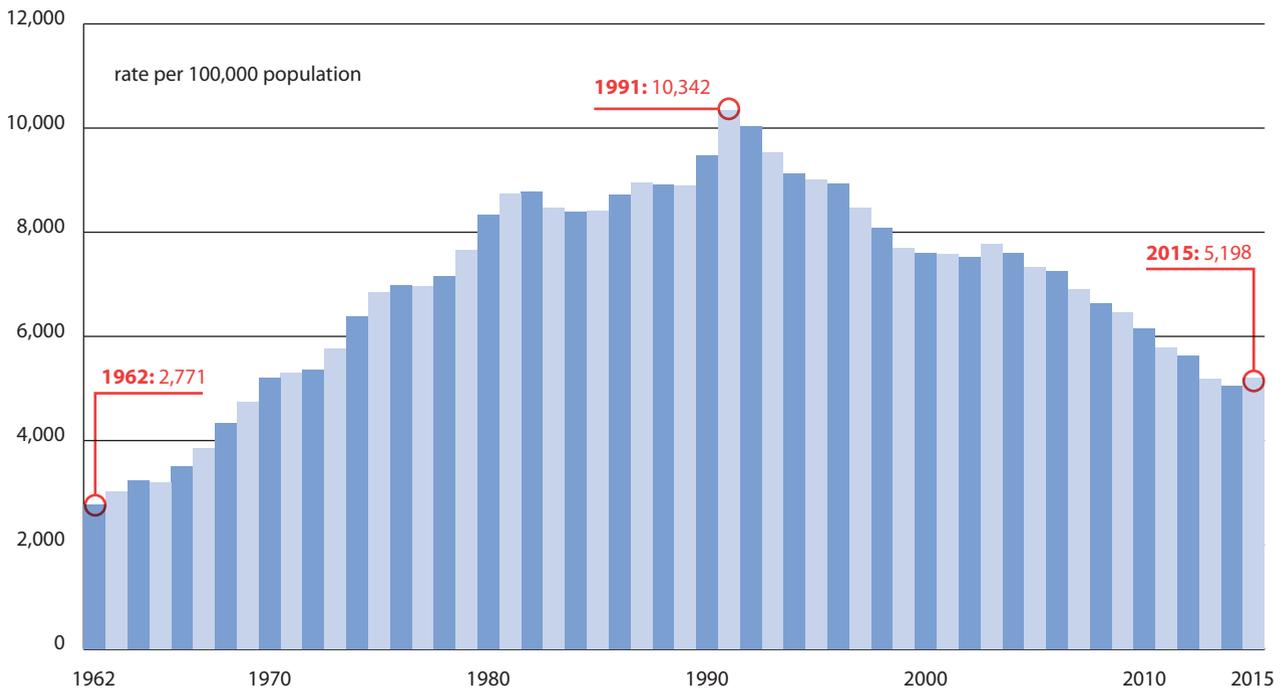
Crime Rate

The *crime rate* is a measure of how much crime is known about for any given region or population. It is calculated by adding up all of the criminal incidents that have been reported to the police and dividing by the population (i.e., the rate per every 100,000 persons). In Canada, these data are taken from the Uniform Crime Reporting (UCR) Survey, which collects information filed by police departments across the country about the number of crimes reported, the number of criminal charges that were laid, how these were addressed (e.g., were they "cleared" or solved by police?), as well as the age and gender of the offenders. Because it does not include information about any crimes that were not reported, the crime rate is only one indicator of how much crime really occurs.

Despite politicians' frequent claims to the contrary, the national crime rate in Canada has been falling steadily for the past several decades, and in 2014 it was at its lowest recorded level since 1969 (Statistics Canada, 2015). In 2014 alone, the crime rate dropped 3 percent from the previous year, representing the eleventh consecutive decrease in police-reported crime in Canada. In 2015, there was a slight increase (3 percent), with 5,198 incidents per 100,000 population; however, the rate was comparable to 2013 (5,194 incidents per 100,000). As Figure 1.1 shows, 2015 was the first year that the crime rate increased since 2003 (Allen, 2016).

Among the crimes reported in 2015, 604 were homicides, which increased by 83 from 2014. The 2015 homicide rate (1.68 per 100,000 population) was the highest rate since 2011, but it was still below the average for the previous decade (1.72 per 100,000 population) (Allen, 2016). While the number of homicides increased by 15 percent in 2015, the number of murders still only accounted for less than 1 percent of all violent crimes. The attempted murder rate also increased in 2015, with 144 more than the previous year. As Figure 1.2 shows, the homicide rate and the attempted murder rate fluctuate from year to year with no clear pattern. This kind of fluctuation affects the public's understanding of violent crime.

There is also a misconception that homicides and other violent crimes are more prevalent in large cities. The statistics for 2015 reveal in fact that the incidence of homicide was below the national average (1.68 per 100,000 population) in two of Canada's

FIGURE 1.1 Police-Reported Crime Rates, Canada, 1962–2015

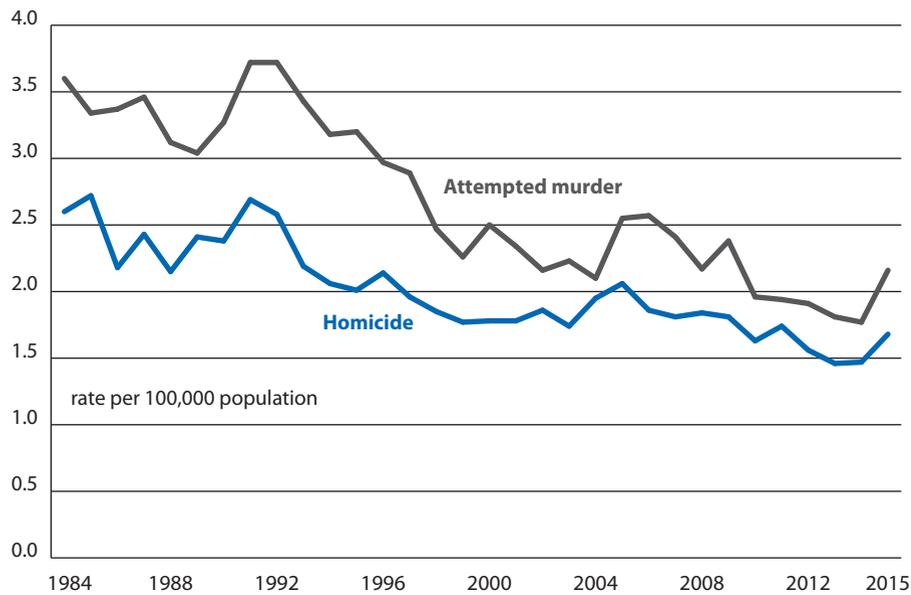
In 2015, Canada's police-reported crime rate (which measures the volume relative to the population size) was up by 3 percent from the previous year, the first increase since 2003.

Source: Allen (2016, chart 3).

three largest cities: in Toronto it was 1.35 per 100,000 population, and in Montreal it was 1.16 per 100,000 population (Allen, 2016). In 2015, Brantford, Ontario recorded no homicides. Does that mean that Brantford is the safest city in Canada? Not necessarily. Given how the crime rate is calculated, the increase of even one homicide in a region can dramatically increase the overall rate. For example, Nova Scotia showed a 100 percent increase in the rate of homicide in 2015, going from 6 homicides in 2014 to 12 homicides in 2015. However, Regina, which has the highest rate of 3.3 homicides per 100,000 population, only showed a 57 percent increase, going from 5 homicides in 2014 to 8 homicides in 2015. Toronto, by comparison, had a total of 82 murders, the same as reported in 2014. It is important to remember that while murder is a very serious event, it is not commonplace.

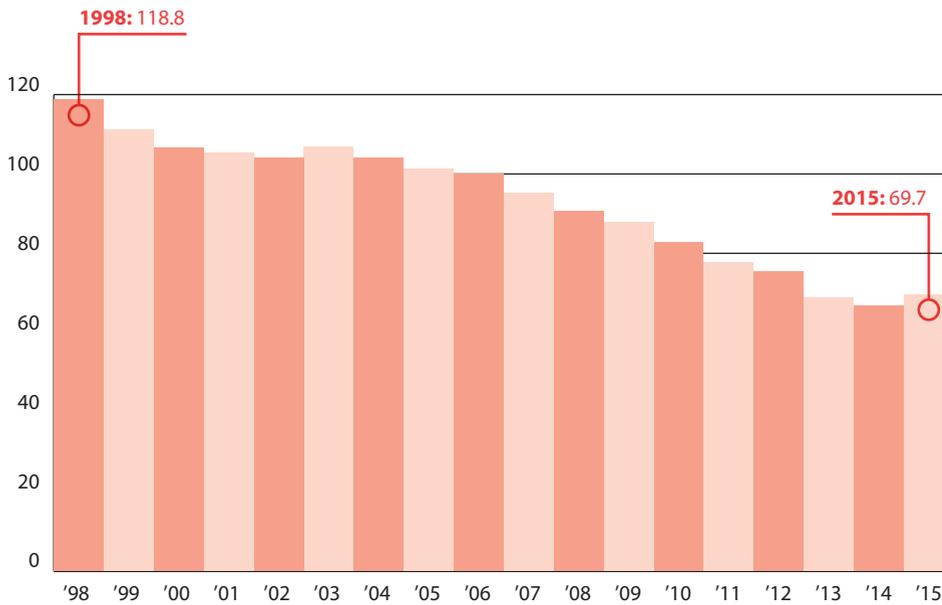
The crime rate, which measures the overall volume of police-reported crime, counts all offences equally, so that one incident of bicycle theft is counted the same as one incident of homicide. As such, the crime rate tends to be driven by high-volume, less-serious offences, such as minor thefts and mischief rather than the more violent offences people often imagine when they hear the word "crime." In order to have a better understanding of the more serious crimes in Canada, the Crime Severity Index (CSI) was introduced in 2006. In addition to the volume of crime reported to the police, the CSI also gives a weight to each offence based on the average sentences handed down by the courts. The more serious the average sentence, the higher the weight for the offence on the CSI. As a result, in the calculation of the sum of the weighted offences (divided by the population),

FIGURE 1.2 Police-Reported Attempted Murder and Homicide Rates, Canada, 1984–2015



Source: Allen (2016, chart 10).

FIGURE 1.3 Police-Reported Crime Severity Index and Crime Rate, Canada, 1998–2015



In 2015, Canada’s police-reported crime severity index (which measures the volume and severity of crime) was up by 5 percent from the previous year, the first increase in the index in 12 years.

Source: Allen (2016, chart 10).

the more serious offences such as homicide will have a greater impact on changes in the index from year to year (Wallace, Turner, Babyak, & Matarazzo, 2009). As reported by Statistics Canada, in 2015 the CSI increased by 5 percent over the previous year, and this change was due to slight increases in fraud, break and enter, robbery, and homicide (Allen, 2016). The compatibility between the crime rate and the CSI data for 2015 suggests that crime has increased, albeit marginally (see Figure 1.3).

Many factors can affect people's experience of crime, including race, gender, region, and socio-economic status. These factors can contribute to heightened levels of victimization among certain groups, even amid consistently declining crime rates. Following the 2014 RCMP report, *Missing and Murdered Aboriginal Women: A National Operational Overview*, Statistics Canada began working with police to collect data on the Indigenous identities of homicide victims. The results are staggering. In 2014, Indigenous people accounted for 5 percent of the Canadian population as a whole, and yet almost a quarter (23 percent) of all homicide victims and a third (32 percent) of all those accused of homicide were Indigenous people (Miladinovic & Mulligan, 2015). The 2014 homicide rate was six times higher for Indigenous people than for non-Indigenous people (7.20 per 100,000 population as compared with 1.13 per 100,000 population), and Indigenous people were ten times more likely to be accused of a homicide than non-Indigenous people.

These findings point to the importance of examining crime rates from many vantage points, as well as including alternate sources of data to provide a fuller picture of what crime is occurring and how it is experienced. These considerations are particularly important for learning more about unreported crime.

Unreported Crime: The Dark Figure

The crime rate is only one indicator of how much crime is happening in Canada. In addition to police-reported crimes, learning more about self-reported crimes (from victim surveys such as the General Social Survey) provides an overview of how Canadians feel in terms of their sense of personal safety and their satisfaction with the police. Self-report studies are particularly useful given their ability to provide data on crimes that are not reported to police and thus omitted from national measurements of the crime rate. We can never really know how much crime is out there because of the necessity of it having to be reported, which leads criminologists and law enforcement personnel to refer to this unknown amount of crime as the “dark figure of crime.”

SIDEBAR

Dark Figure of Crime

The *dark figure of crime* is a term used in criminology and criminal justice studies to refer to the vast amount of criminal activity that is not reported to police, leaving the total amount of crime in any given society impossible to know. How much crime goes unreported is thought to vary, depending on the offence. For example, sexual assault is believed to have the lowest reporting rate of any criminal offence, estimated to be less than 6 percent. This means that of every 100 sexual assaults that occur, the criminal justice system only ever learns about six of them, leaving the remaining 94 incidents within the dark figure of crime.

The General Social Survey (GSS), which began in 1985 and runs every five years, is one of the largest sources of data about unreported crime. It polls a sample of the Canadian population (sample size (n) = 25,000) aged 15 years and older living in Canada and asks a series of questions aimed at learning more about (1) changes in the living conditions and well-being of Canadians over time by gathering data on social trends and (2) current or emerging issues in Canadian society. Currently, the GSS collects data in six theme areas that represent different aspects of Canadians' lives (see Table 1.1).

TABLE 1.1 Current General Social Survey Themes

Caregiving and care receiving	The types of help received and provided for long-term health and aging conditions; the impact of providing care on the caregiver (e.g., health, socio-economic); and the number of houses with wheelchair accessibility
Families	Family structures and experiences (e.g., marriages, divorces, childbirths, adoptions); and organization and decision-making within households
Time use	Unpaid work; non-market production; commuting experiences; daily activities; and time pressures
Social identity	Identification with and participation in national, ethnic, geographical, or cultural groups; shared values; political activities; and social integration
Giving, volunteering, and participating	Levels of community involvement; compassion toward others; volunteer activities; charitable giving patterns; and online group participation patterns
Victimization	Experiences with reported and unreported crimes; spousal/family abuse; instances of cyberbullying and stalking; use of victims' services; crime prevention measures; and perceptions of the criminal justice system

Source: Statistics Canada (2013).

When collecting data under the victimization theme, the GSS asks about experiences with three types of crime, making up eight specific offences: violent victimization (sexual assault, robbery, physical assault); theft of personal property; and household victimization (break and enter, motor vehicle theft, theft of household property, and vandalism). In 2014, 5.6 million respondents to the survey reported that they or someone in their household had been the victim of at least one of these criminal incidents in the preceding 12 months (Perreault, 2015). This is a little less than one in five Canadians (aged 15 or older) and represents a decrease from the self-reported victimization rate in 2004 when the rate was greater than one in four. According to the data from the GSS, fewer than one-third (31 percent) of these incidents were reported to the police in 2014, down slightly from 2004 (34 percent).

In total, Canadians reported 6.4 million crimes in 2014 (Perrault, 2015). About 34 percent consisted of theft of personal property, and 22 percent were a form of physical assault. Theft of household property was reported among 12 percent of respondents, followed by sexual assault (10 percent), vandalism (9 percent), break and enter (7 percent), motor vehicle theft (4 percent), and robbery (3 percent). Most notably, the majority (65 percent) of reported incidents in 2014 were non-violent.

The 2014 GSS included a new question about sexual assaults that had taken place because the victim had been “drugged, intoxicated, manipulated or forced in ways other than physically” (Perreault, 2015). These incidents accounted for 9 percent of all sexual assaults reported on the GSS, with 71 percent involving “sexual touching” and 20 percent involving the use of force. In total, the 2014 GSS reported a rate of sexual assault at 22 incidents per 1,000 people—a slightly lower rate than in 2010, when the rate was 24. Interestingly, when the data from the new question is removed, the 2014 rate drops to 20 incidents per 1,000 people.

Despite their ability to provide some insight into the dark figure of crime, self-report studies depend on respondents’ honesty, understanding of the questions posed and particular definitions of crime, and the interpretation of personal experiences. Would most GSS respondents be aware that there are three levels of sexual assault?² Would each respondent interpret the new question’s focus on non-physical manipulation or force in the same way? How might each respondent read and understand the GSS question about “unwanted sexual touching”? Variations in respondent understanding have an effect on how the rate of sexual assault (and the other crimes reported in the GSS) is understood by criminal justice researchers and professionals and can alter how crime-control policies are developed.

Crime Rates Versus Fear of Crime

Some critics have pointed out that commentary about the falling crime rates is couched in elitism and that the criminologists and scholars who criticize the government for promoting a tough-on-crime agenda are divorced from the reality of crime in their lives. Ian Lee (2011), writing for the Macdonald-Laurier Institute, an Ottawa social policy think tank, has suggested the following:

[A]ffluent, older privileged people in ... any community with average incomes three or four or five times the Canadian income average, have little existential experience with crime ... [T]his suggests that governments need to adopt outreach programs to inform those privileged Canadians, who perhaps do not understand the lived reality of many Canadians, of the data and the relationship between the data, the concerns and fears of many Canadians, and the public policy initiatives undertaken to address those real concerns of ordinary Canadians. (pp. 17–18)

When we look at the Statistics Canada data that Lee (2011) makes reference to, we find that the largest majority of Canadians (93 percent) reported feeling satisfied with their personal safety and that this feeling has been a continuing trend (1999, 91 percent; 2004, 94 percent). Similarly, when respondents were asked about specific situations (e.g., walking alone in their neighbourhood at night), 90 percent reported feeling safe and about 83 percent said they were not at all worried when they were home alone at night. About 58 percent of those who used public transportation reported that they were also not concerned for their safety when waiting for or using these services after dark (Brennan, 2011).

Why, then, amid declining crime rates and an increased sense of safety among Canadians, are “get-tough” approaches to crime still so prevalent? Criminologist Julian Roberts (2007) has suggested that the reporting practices of the mass media have a significant influence on public attitudes and beliefs about crime. News reports tend to



focus on violent offences (despite their rarity) while paying less attention to declining crime rates in general, leading more Canadians to believe that violent crime is on the rise. The influence of the mass media might explain why, despite the statistics that suggest Canadians are generally feeling safer, there continues to be seemingly widespread support for the federal government's tough-on-crime policies. A 2014 public opinion poll revealed that more than 63 percent of Canadians supported increased penalties for those found guilty of serious offences (Angus Reid Global, 2014). A 2009 public opinion poll showed overwhelming support for the federal government's proposed changes to mandatory minimum sentencing, including 72 percent of Canadians being in favour of eliminating the "faint hope clause" and 91 percent supporting a mandatory two-year jail term for anyone caught selling drugs at or near a school (Angus Reid Strategies, 2009).

SIDEBAR

Faint Hope Clause

Canada's *faint hope clause* is found in s 745.6 of the *Criminal Code*. It provides persons convicted of the country's most serious offences (i.e., murder or high treason) and who have been sentenced to life imprisonment without the eligibility for parole the opportunity to apply for parole after they have served 15 years of their sentence. It is not permitted in cases where persons have committed more than one murder. It is called the "faint hope" clause because of how few applications made under this clause have been successful: about 10 percent since its inception in 1976 (Jenish, 1997). Following amendments to the *Criminal Code* in March 2011, the faint hope clause became unavailable to anyone whose offence was committed after December 2, 2011.

Although these polls suggest strong public support for the use of increased punishment to address crime, criminologist Anthony Doob has argued that these polls need to be looked at carefully to gain an accurate picture of public opinion. In the first instance, Doob (2011) warns that many of the questions asked in these polls concern matters that most Canadians are not in a position to be sufficiently informed about:

[E]very five years or so, Statistics Canada asks members of the public . . . , “In general, would you say that sentences handed down by the courts are too severe, about right or not severe enough?” Unfortunately, one of the alternative responses that is not offered or recorded is the quite reasonable, “How the [expletive deleted] am I supposed to know? You folks don’t make these data available to anyone.” Canadians, instead, are compliant with the Statistics Canada interviewer and generally offer an opinion on something for which [adequate] systematic information does not publicly exist. Only about 9% of Canadians in the 2004 survey refused to venture an opinion on an issue—sentence severity—that is essentially unknowable by any Canadian. (pp. 281–282)

The nature of the questions asked in opinion polls can also greatly impact results. Consider opinion polls that show public support for mandatory minimum sentences. These polls tend to ask Canadians only whether they *like* or *want* mandatory minimum sentences. When asked in a poll in 2005 whether judges should have flexibility in sentencing, 74 percent of respondents agreed that judges should be allowed to hand down a sentence that fell *below* the mandatory minimum (Roberts, Crutcher, & Verbrugge, 2007). Doob (2014) argues that this finding demonstrates that while Canadians “may say that they like mandatory minimum penalties, given a choice they would like these penalties *not* to be mandatory” (p. iii). Now consider the government’s repeal of the faint hope clause. Public opinion poll data showed that this decision was widely supported by Canadians, yet Doob points to data collected on the outcomes of “faint hope” hearings (showing that over 80 percent of applications were successful) to suggest that “those members of the public having the closest first-hand knowledge of the working of this [former] provision—jurors in Section 745.6 ‘faint hope’ hearings—seem to have been overwhelmingly sympathetic with prisoners’ proposals to reduce parole ineligibility times” (p. iii). In the areas of counting crime and determining how best to respond to it, it is clear that an individual’s political and ideological perceptions influence the questions that are asked and the way the data are interpreted. The same is true when we consider who should “count” as a criminal.

Who Are the “Criminals”?

By definition, a *criminal* is anyone who has been convicted of a crime. Contrary to public opinion, of the many individuals who come in contact with Canada’s criminal justice system, the smallest group are those convicted and sentenced to a term in prison. After a person commits a crime, the crime must be reported and investigated before an arrest (if any) can be made. The arrest, as you will learn throughout the course of this text, represents only the beginning of a criminal prosecution. Many decisions by police, lawyers, probation officers, judges, and juries will affect whether a conviction for the crime will occur or, after conviction, what type of sentence will be imposed. There is far more crime than the number of sentences served would suggest. This is because, as cases move through the criminal justice system, various factors affect whether they will

continue to the next stage. Many cases are dropped long before they reach the sentencing phase, let alone a sentence of incarceration. This funnelling process is known in criminal justice circles as **attrition** and is estimated in recent Statistics Canada data to be about 4 percent in Canada, meaning that if 100 crimes were reported to police over the year (which would be very low!), only 4 of these would result in a sentence of imprisonment.

attrition

The filtering process that criminal cases undergo as they move through the criminal justice system.

SIDEBAR

The Crime Funnel

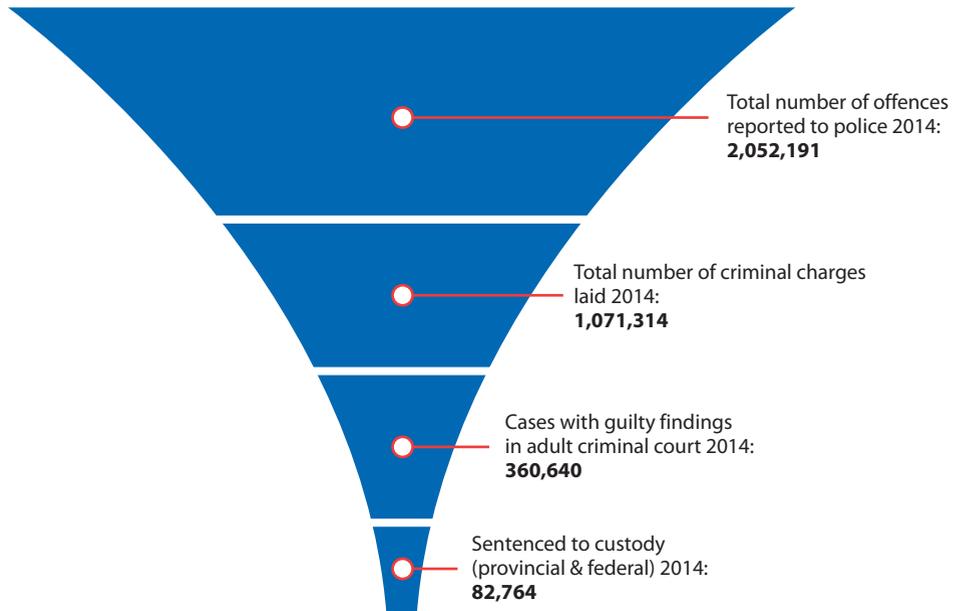
The *crime funnel*, also known as *attrition*, refers to the reduction of cases as they make their way through the various parts of the criminal justice system. A small percentage of the total number of cases investigated by police results in conviction, and even fewer end in a custodial sentence. Attrition is greatest at several key points within this funnelling process, including the following:

1. The victim's decision to report the crime to police
2. The police investigation and decision process with respect to whether the allegation is credible or supported by sufficient evidence (i.e., "founded")
3. Discussions between police and Crown prosecutors and their joint discretion to lay a charge
4. The criminal prosecution of an accused, including any pre-trial and trial procedures that can affect whether a case goes forward
5. The judge or jury's decision in reaching a guilty verdict or the entering of a plea from the accused
6. The determination of an appropriate sentence

The number of cases decreases at each of these attrition points.

Figure 1.4 illustrates the crime funnel for 2014. Although more than 2 million crimes were reported to police in Canada that year, criminal charges were laid in just over half of the cases (1,071,314). Of these cases, only 360,640 resulted in a finding of guilt (including both conviction and guilty pleas), with approximately 23 percent (82,764) of those resulting in a custodial sentence (Maxwell, 2015).

There are several decision points where members of the formal criminal justice system are relied on to make choices that will impact the flow of cases through the system. As you will read throughout the chapters in this text, the police officer has discretion in terms of arrest, laying a charge or diverting the individual to alternative measures that are sanctioned by the state. At this point of the funnel, some cases are referred to community supports that are seen to be a better alternative than proceeding by way of the formal machinery of the criminal justice system. Further, as you will learn in the criminal law and criminal procedure chapters (Chapters 6 and 7), lawyers for the Crown and the defence make arguments that either support the charge as laid or negate it based on case law precedent (judge-made law) or procedural law as outlined both in the *Criminal Code* and the *Canadian Charter of Rights and Freedoms*. Assuming that the case before the court is tried and the individual is found guilty, another decision point occurs with respect to the most suitable sentence for the guilty offender. The host of theoretical issues

FIGURE 1.4 The Crime Funnel

Source: Maxwell (2015).

that are related to the principles of sentencing will be elaborated on in Chapter 8. At this point, let us consider the sentencing provisions in s 718 of the *Criminal Code*:

718. The fundamental purpose of sentencing is to protect society and to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

- (a) to denounce unlawful conduct and the harm done to victims or to the community that is caused by unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community; and
- (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims or to the community.

The principle of restraint on the use of punishment is underscored in s 718.2 (passed in 1996), which indicates that all “available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders.”

Many students of criminal justice studies seek employment working in the field of corrections either in provincial detention or correctional centres, federal penitentiaries, or community-based corrections. As we consider the options available for correctional intervention, it is important to consider the field of **penology**. Unlike those responsible for implementing correctional procedures, the practitioners—penologists—are concerned with practices, laws, and procedures shaping punishment and their effectiveness.

SIDEBAR

Penology

Penology is the multidisciplinary study of the justifications of penalties and social sanctions that seek to understand broader questions concerning who we punish, for what offence, when, and why. The penologist seeks to understand the deployment of penalties within their social, historical, economic, and political contexts.

The crime funnel serves as a good example of what the study of criminal justice is like. We often begin with broad-based concerns or topics, but must narrow them in order to reach a fuller understanding and effect any change. This is particularly the case when what some criminologists refer to as the “social context” of crime is considered. This perspective views the social conditions in which crime takes place (e.g., the existence of inequality or discrimination) as central to understanding how crime is treated by the criminal justice system, including how crime and criminals are defined.

Could You Identify the Criminals in Canada Today?

As some of the studies discussed in this chapter have argued, it is important to think critically about how crime rates and statistics about Canada’s criminal population are both calculated and understood. Critical thinking involves asking questions about who is being “counted” as a criminal and at what point in the crime-funnel offenders are situated. Identifying who is a criminal is not always as simple as it seems. Although the term *criminal* brings to mind an image of a person behind bars, a 2015 newspaper editorial declared that on “any given day, Canada has more innocent people in prison than guilty ones” (Editorial, 2015). This result is due to the high number of people who are denied bail while awaiting trial—a problem the Supreme Court of Canada addressed in 2016 in *R v Jordan*. But who are the people most often arrested and convicted of criminal behaviour?

In his book *Who Are the Criminals?*, John Hagan (2010) argued that the question of who criminals are is largely determined by the highly political context of criminal justice policies, where elected leaders “advocate and implement definitions of crime and causal arguments to suit ideological preferences, placate fears, and serve electoral needs” (p. 3). Similarly, Jeffrey Reimen, in his classic book *The Rich Get Richer and the Poor Get Prison* (1979), noted how laws protect the interests of the world’s wealthy by defining crime in ways that target society’s poor while avoiding the criminalization of corporate, or “white collar,” activities. Hagan’s historical analysis of US crime policy drew attention to this differential targeting of criminal activity, noting a lax approach to what he refers to as “suite crime” (i.e., **white-collar crime**) and a harsh approach to street crime (e.g., common assault, break and enters). This point illustrates that, in addition to how crime is defined, the ways in which crime is addressed within the criminal justice system are also subject to multiple forms of bias and discrimination, where some social statuses and races experience privileged treatment at the expense of others. For example, Reimen (1979) observed:

See Chapter 7 for more information on bail, the *Jordan* case, and an accused’s Charter right to be tried within a reasonable time.

For the same criminal behavior, the poor are more likely to be arrested; if arrested, they are more likely to be charged; if charged, more likely to be convicted; if convicted, more likely to be sentenced to prison; and if sentenced, more likely to be given longer prison terms than members of the middle and upper classes. (p. 112)

A more recent study conducted on the various points of attrition in the US system of justice showed that male and black offenders were more likely to be arrested, convicted, and face sentences of imprisonment than any other type of offender, “leading to a [prison] population that becomes less representative of the total offender population throughout the crime funnel” (Charette & van Koppen, 2016).

SIDEBAR

White-Collar Crime

White-collar crime is a term that was coined initially by sociologist Edwin Sutherland in 1939 to refer to the illegal and fraudulent activities of corporate executives, business personnel, and other persons of high social status that are committed for the purposes of financial gain. These crimes are typically committed during the course of one’s employment, and while not considered directly violent, they can have violent consequences, as was the case with the 2001 Enron scandal. In an effort to increase the demand for electricity (and thereby increase profits), Enron traders instructed power plant operators in California to shut down for extended periods of time, creating an electricity shortage. The resulting blackouts experienced in California during some of its warmest months led to mass droughts and severe health problems, and, in some instances, death among the young and elderly (Eichenwald & Richtel, 2002).

Crime Funnel or Crime Net?

Critiques like Reiman’s suggest the possibility of a different perspective on the crime funnel. You will recall that the crime funnel suggests that only some criminal behaviour comes to the attention of the police and the courts, and that a great number of cases are dealt with outside the formal criminal justice system. Therefore, a certain amount of “editing out of crimes” takes place as cases proceed through the funnel.

Another way of discussing this phenomenon is what has been referred to as the “crime net.” Brannigan (1984) suggested that the crime-net model brings out features of the criminal justice system that are not considered in the crime-funnel approach. The police act as “fishers” seeking criminals, but when taking out their crime “nets” must decide where to go and what fish to catch. This approach suggests that not all people who commit offences are selected for prosecution. Picture the wide but finely meshed nets used by shrimping boats. The nets are widely cast, picking up many fish and sea life of all sizes; yet, many of these nets include an “escape hatch” for larger fish, directing the smaller fish toward the back of the net through a grid that large fish cannot enter. This analogy of a fishing net illustrates how “big fish” may be able to get away from the net that is put out by the police because of the way it is designed, whom it is aiming to catch, and who falls outside their interest.

This social structural approach draws attention to the overrepresentation of some members of society within our prisons, while rich and powerful members who commit

equally heinous offences “swim away.” It also helps illustrate how the act of defining some activities and not others as “crimes” results in different types of “criminals.” The regulation of employment safety standards or the determination of the maximum number of hours in a working day, for example, hardly seems related to criminal justice; however, the exploitation of workers and their impoverished socio-economic conditions has resulted in far more deaths than all of the world’s serial killers put together. The Union Carbide disaster in Bhopal, India in 1984 is a sad but effective example. Considered the world’s worst industrial catastrophe, the plant’s unsafe working conditions resulted in a gas leak that killed an estimated 25,000 people, severely injuring and deforming more than 550,000 others. No time in prison has been served by anyone following this incident (Sarangi, 2012).

Clearly, definitions of crime, perceptions about who is a criminal, and opinions about how to address criminal activity depend on an individual’s ideological perspective. For instance, attrition in the criminal justice system might be viewed as a “loss” or a “gain,” just as crime rates might be understood to be “high” or “low,” depending on what activities are considered criminal. Thinking through your own ideological perspective (as well as those of others) is key for critical criminal justice analyses. The same is true when you are considering how best to intervene in the lives of those who come in conflict with the law. Given the difficulty of understanding how much crime there is in society and who should “count” as a criminal, it seems predictable that it will be difficult to agree on the best way to deal with those individuals who formally enter the criminal justice system. Ongoing debate surrounds whether it is better to treat the underlying individual and social factors that lead to crime or to make offenders pay for their crimes through punishment, denunciation, and retribution.

What Do You Think?

Think back to your decision about the appropriate sentence for the offender in the opening case study. On which side of the crime-control debate would your punishment best fit? Were you most motivated by an interest in treating the “social context” of Matt’s crime? Or, were you concerned primarily with the principles of denunciation or retribution? Would a mandatory minimum sentence have made things better or worse for you as a judge in Matt’s case?

What Works? The Debate About Crime Control Versus Rehabilitation

Over the years, the pendulum in Canada has swung from left to right in terms of criminal justice policy for those who come in conflict with the law. At the height of the rehabilitative era, when the focus was on individualized treatment, the federal government focused its budget on assessment, treatment, and rehabilitation. Some critics of this approach argued that rehabilitation did not reduce **recidivism**; this position was reinforced by the release of a widely read article, “What Works?—Questions and Answers About Prison Reform” by Robert Martinson (1974), which in essence argued that when it comes to addressing crime in the prison system, “nothing works.” Martinson (1979) later clarified this position, stating that it was not the specific treatment programs designed for rehabilitating offenders that had the greatest predictive effect on recidivism, but rather the *conditions* under which these programs were delivered (p. 254). A similar conclusion had been reached by proponents of an effective treatment and intervention for offenders known as “what works” (Gendreau, Little, & Goggin, 1996). This literature has argued that empirical evidence demonstrates that placing low-risk, low-need offenders in inten-

recidivism

Relapsing into criminal behaviour after treatment and/or sentencing within the criminal justice system. Most simply, it can be thought of as “reoffending.”

sive “rehabilitation” programs can do more harm than good. Such intensive treatments should be reserved for those offenders who pose serious threats to the larger society. This finding has led some criminologists to suggest that doing nothing at all (radical non-intervention) is sometimes a more effective way of rehabilitating offenders and reducing crime than using the machinery of the criminal justice system. According to this argument, the more intervention and labelling of offenders who are at low risk to reoffend, the more likely it is that the net of social control will be widened. Rather than having fewer offenders within the system, the criminal justice processing and subsequent labelling of those who are at a low risk to reoffend serves to increase the number of offenders coming into the system.

SIDEBAR

Net Widening

Net widening is a term used to describe the effects of providing alternatives to incarceration that deal with offenders outside the court system in order to reduce the numbers of people going to court, and ultimately entering correctional systems. Such alternative measures (known as *diversion*) serve to cast a wider criminal justice net. Rather than decreasing the number of offenders in custody, net widening has increased the total number of offenders under the control of the state.

Webster and Doob (2015, p. 308) note that criminal justice policies until 2006 focused on a set of values that sought to enhance civil liberties for individuals who came into contact with the criminal law, moderation in the severity of criminal punishment, a reaffirmation of restraint in the use of imprisonment, and a focus on offender rehabilitation and reintegration. Webster and Doob suggest that the Conservative government usurped these traditional Canadian moral values and put in place criminal justice policies more like those of the United States. Rather than considering crime as determined by social factors, the focus of Canadian policy-makers has been on offenders making a rational choice to commit crime. These “bad” individuals have been considered not only “beyond hope or redemption but also unworthy of compassion or even tolerance” (p. 314). Through changes to the law on parole and the creation of harsher sanctions (including the possibility of the revocation of citizenship for those individuals with dual citizenship if they are convicted of certain crimes), Webster and Doob (2015) argue that criminal justice policy in Canada has reflected exclusionary tactics that elevate the value of imprisonment and view offenders as “lesser” individuals who have “forfeited their claims to full citizenship” and are “fittingly outlawed from society” (p. 315). Gerber and Jackson (2016) have further elaborated on the ideological basis of punitive attitudes based on political ideologies held by partisan politicians.

These debates highlight the complex challenges involved in determining not simply what crime is but also how best to respond to it. Part of the work of criminal justice scholars is to devise models for approaching these topics in a critical, fair, and thoughtful way. This issue will be revisited after a look at some theoretical models that are useful in considering criminal justice policy and its underlying ideologies.

The Ideology of Criminal Justice: Theoretical Models

Earlier in this chapter, we defined the term *ideology* and spoke about the importance of understanding the values that drive the development and explanation of criminal justice. Political belief systems serve as the basic foundation for both law and its reform. Given that law is the basis for our criminal justice system, criminal justice operations cannot be understood without examining the role that ideology plays in writing and implementing the legislation and policies that shape our system of justice. Williams and Robinson (2004, p. 385) suggested that public policy is influenced by ideology and by stereotypes of criminals as much as, if not more than, by an understanding of the underlying causes of crime and the immediate situations that bring it about. In order to move beyond these stereotypes and debunk these myths, it is important to have some way of bringing together a framework to understand these various competing belief systems.

Herbert Packer (1964) developed a systematic way to conceptualize the influence of ideology on criminal justice systems. He referred to criminal justice as a paradox, characterized by a gulf between how police, courts, and corrections *ought* to behave, and how they actually behave in practice. Packer identified two main models of criminal justice that fall on either side of this gulf, which is commonly referred to as the “punishment–treatment dichotomy.”

Crime control is largely concerned with assuring the public that crime will not be tolerated and that, once it has been discovered, it will be severely *punished*.

The *welfare model* stresses the importance of looking after the needs of the offender in order to ensure that the individual’s problems are *treated* so that more crime will not occur in the future.

The crime-control model is based on the philosophy of **deterrence**, while the welfare model is primarily based on the tenets of **rehabilitation** and a medical model of treatment.

rehabilitation

The treatment of offenders in order to prevent future criminal activity; a planned intervention that targets some aspect of the offender that is thought to cause the offender’s criminality (e.g., attitude, cognitive processes, social relationships, and employment).

SIDEBAR

Deterrence

Deterrence is a philosophical approach to crime that focuses on what forms of punishment are necessary to prevent crime from happening. It has two forms: specific and general. Specific deterrence seeks to punish the individual offender just enough to stop her from committing any future crimes. The assumption is that the offender will have learned the consequences of crime and will choose not to suffer them again. General deterrence seeks to punish offenders severely enough that the general population will choose not to commit crime. This approach aims to make an example of the offender so as to teach everyone the “costs” of crime.

In addition to these two theoretical models, other considerations have been adopted and codified over the years. A variation on the crime-control model has emerged that adds a measure of accountability for human fallibility. Known as the *justice model*, it still focuses on the protection of society through deterrence principles, but it also suggests that there may be human errors in the discovery and subsequent finding of guilt for those accused of criminal conduct. As such, the justice model focuses on making sure that punishments are not only severe enough to deter crime but also applied equally and fairly to everyone. Therefore, this approach focuses on the crime and not the individual who commits it, arguing that the criminal justice system should not apply differential treatment in any circumstances. Not surprisingly, the justice model is a strong proponent of mandatory minimum sentences.

Similarly, with respect to the treatment model of intervention, a great deal of work in the criminological literature has pointed to the strong positive correlation (link) between poverty and crime. This link has led many researchers to emphasize the need to consider the impact of external socio-demographic factors, known as the **root causes of crime**. The *community change model* focuses on these root causes to suggest that the lack of access to resources and the disadvantages experienced by some members of society form the basis for the underlying factors leading to the commission of crime. From this perspective, all members of the community have a responsibility for the ongoing prevention and rehabilitation of individuals who come in conflict with the law (Reid & Reitsma-Street, 1984).

Based on some of the tenets of the community change model is the approach commonly referred to as “restorative justice.” Restorative justice is a model that fits within the treatment approach to crime, emphasizing the importance of healing those relationships that have been broken by conflict and crime. Viewed through this lens, crime is understood as a violation of people and their relationships, and a disruption of the peace of the community as opposed to being simply an offence against the state or an injury suffered solely by the victim. Restorative justice encourages the participation of victims, offenders, and the community in finding solutions that will achieve reconciliation and restore

harmony. It also recognizes that sometimes the use of measures outside the criminal justice system (e.g., victim–offender mediation, circle sentencing) is the best response to the crime. Further, the restorative justice approach focuses on the importance of engaging the community in a meaningful dialogue about what the most suitable way of repairing the harm done might be. This model aims to involve all those affected by the crime in its solution, and to work toward a mutually beneficial resolution for the victim and offender that will ensure that the offender understands how his or her behaviour has affected others (Reid & Zuker, 2005).

A comparison of the approach of each of these models is found in Table 1.2.

We will be asking you to think about these ideological underpinnings throughout the remainder of this text. By including an analysis of the historical development of the structures and processes of the criminal justice system and an examination of the

root causes of crime

Social factors in our societies, cultures (family values), economy, and systems that are more likely to lead an individual to commit crime.

Examples include peer influence, poverty, unemployment, poor neighbourhoods, and poor literacy.

What Do You Think?

How do you think the case study that opened this text might fit within these theoretical models? Was Matt’s behaviour made worse by the system or was his “criminal mind” simply beyond aid? Here, in the consideration of an actual case, the links between criminal justice theory and criminal justice practice become evident. How does your sentence fit within the punishment–treatment dichotomy identified by Packer? Do you view Matt’s criminal career as an inevitable aspect of his personality and his choices? Or does the criminal justice system have a role to play in perpetuating Matt’s criminal attitude and activities?

TABLE 1.2 A Comparison of Theoretical Models

	Restorative justice	Community change	Welfare	Justice	Crime control
Main tenet	When a crime is committed, it has an impact not only on the victim and the offender, but on the wider community as well.	Society is responsible for the promotion of the welfare of its citizens and must work to prevent crime and delinquency.	The treatment needs of the individual offender and his or her family must be attended to.	Interference with an individual's freedom is limited and procedures for criminal justice matters are based on consent by all parties as much as possible.	It is the responsibility of the state and the courts to maintain order in society.
Crime causation (free will vs. determinism)	All citizens have a role to play in the prevention of crime and repair of the harm done when a crime is committed.	Behaviour is seen as being determined by life consequences (e.g., poverty, lack of opportunity, social structure).	Behaviour is seen as being determined by social/psychological forces.	Freely determined: an individual chooses to commit offences.	Freely determined: an individual chooses to commit offences.
Individual or collective response	Collective: families, victims, and the community are involved to the greatest extent possible in rehabilitation, community safety initiatives, and holding offenders accountable.	Focus is on collective society rather than on the individual offender as being responsible for criminal conduct.	Individual: focus is on criminal conduct as being part of other social events affecting the individual, who needs rehabilitation and/or treatment (family dysfunction, alcohol/substance abuse, victim of family violence).	Individual: focus is on the repression of crime, but with a recognition that there is a high probability of error in informal fact finding (i.e., legal safeguards are needed to protect individual liberty and rights).	Collective: repression of criminal conduct through punishment, denunciation, and individual and general deterrence.
Criminal justice response	The individual is required to face the personal harm that his or her offending behaviour has done to the victim and the wider community; restitution, victim-offender mediation, and community service form part of the restoration of the victim, the offender, and the community.	Focus is on changing social processes that lead persons to engage in criminal conduct and to improve the quality of life for all citizens.	Focus is on evaluation of the whole individual and his or her life circumstances; the person is brought to court to be aided and assisted.	Focus is on formal adversarial system of justice; key is the protection of rights for the public and accused, legal safeguards, due process rights (e.g., right to a lawyer, right to appeal, and right to legal representation at all stages of proceedings).	Focus is on a screening process that diverts the innocent out of the courts (i.e., only the guilty go to court); no need for legal safeguards.

Source: Reid and Zuker (2005).

nature of the behaviour of criminals and the legislators, professionals, and others who manage the system, we believe that you will be equipped with the tools to reconsider any of your deeply held assumptions and beliefs about crime, and be open to new ideas and evidence.

Conclusion

Although the contributors to this text have expertise within their respective criminal justice fields, it is important to remain inquisitive about what you read, keeping in mind that many different sides exist to each story. In a number of places throughout the text, you will be asked to stop and “take a sidebar” in order to think critically about specific events, theories, or approaches to crime and punishment. Each part in this text opens with a case study, profiling a particular criminal event or case in Canadian history. Some of these cases may be familiar to you. Perhaps you will read them and immediately form an opinion about the people and events described. Try to take note of these initial thoughts and trace any changes or developments in these first impressions that may occur as you read the chapters that follow the case studies. Ideally, we would like you to leave this text thinking differently from when you first opened it up. The next time you hear a news story about an arrest or investigation, or about the government’s latest “war” on crime or drugs, we hope you will be able to engage in the debate in a more informed fashion, with the perspectives you encountered in this text helping you to form your own criminal justice mind.

The expression “take a sidebar,” which is picked up in the Sidebar boxes throughout this text, comes from the practice among lawyers to discuss legal issues with the judge “on the side” of the bar. It is what happens when counsel are asked to approach the bench.



Crime is always featured prominently in the news media, and is often very sensational. The old saying “if it bleeds, it leads” still very much applies to journalism today and demonstrates the priorities of most news organizations. The media play a central role in shaping the public’s attitudes toward crime, but critical thinkers know they must look beyond sensational headlines and examine the evidence in order to properly understand the issues.

IN-CLASS EXERCISE

Understanding the Differences Between Criminology and Criminal Justice

How well do you understand the differences between criminology and criminal justice? Discuss these two related disciplines in small groups and, using a table like the one below, fill in a few of the key areas of concern or major types of activity found in each field. When you have finished, compare your answers with those of a neighbouring group. Did you miss any? Do you disagree with anything your colleagues wrote? What types of research interests or activities did not fit as neatly into the table as others? Why do you think this might be?

Criminology	Criminal Justice

DISCUSSION QUESTIONS

1. Take a moment to revisit your decision with respect to the case study that opened this text. Which of the five models of criminal justice discussed in this chapter best represents the goals you had when sentencing Matt? Does your determined sentence reflect more than one of the models? In which ways? Are there any models that clearly do not fit your sentence or that case? Why or why not?
2. Think about the issue of attrition of cases through the criminal justice system. Which analogy—the crime funnel or the crime net—do you think best defines why some people end up in jail while others do not? How might these analogies help to explain the overrepresentation of some groups in Canada’s prison system? Compare your answers with those of a colleague. What are your major areas of agreement? Where do your assessments differ?
3. Given how much crime is left unreported, how helpful are national crime rates in gaining a picture of what crime occurs in Canada? Do you see value in victimization and self-report surveys like the General Social Survey? What other methods might help criminologists learn more about the *dark figure of crime*? How does knowing that so much unreported crime exists inform your views on what Canada’s approach to crime prevention should be?

NOTES

- 1 The medical record confirmed that there was only one stab wound.
- 2 The three levels of sexual assault are as follows:

Sexual assault level 1: Any form of touching that is of a sexual nature that is performed without the consent of the complainant. The severity of the offence is determined by the part of the body touched, the nature of the contact, the situation in which it occurred, and any words or gestures that accompanied the act. This touching can range from an unwanted kiss to forced penetration and is found in s 271 of the *Criminal Code*.

Sexual assault level 2: Occurs when a person is sexually assaulted by someone who

 - uses a weapon or threatens to use a weapon (imitation or real);
 - threatens to cause harm to a third person (friend, family member, or children);
 - causes bodily harm to a third party; or
 - commits the assault with any other person—multiple assailants (s 272(1)).

Sexual assault level 3: Occurs when a person brutally beats, wounds, maims, disfigures, or endangers the life of someone during an assault (aggravated sexual assault, s 273(1)).

SUGGESTED FURTHER READINGS

- Adler, J. (2014). The amazing results when you give a prison inmate a liberal arts education. *Smithsonian*. Retrieved from <http://www.smithsonianmag.com/innovation/amazing-results-when-you-give-prison-inmate-liberal-arts-education-180953041/?no-ist=&page=1>.
- Boyce, J. (2015, July). Police-reported crime statistics in Canada, 2014. *Juristat*, 35(1). Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2015001/article/14211-eng.pdf>.
- Brannigan, A. (1984). *Crimes, courts and corrections: An introduction to crime and social control in Canada*. Toronto: Holt Rinehart and Winston.
- Bureau of Justice Statistics. (2014, April 22). Recidivism of prisoners released in 30 states in 2005: Patterns from 2005 to 2010. Retrieved from <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=4986>.
- Kivanç, J. (2015, November). Thunder Bay takes Regina's title of Canada's murder capital. *Vice*. Retrieved from http://www.vice.com/en_ca/read/thunder-bay-takes-reginas-title-of-canadas-murder-capital.
- Perkel, C. (2015, November). Aboriginal people make up 5 per cent of Canada's population—but nearly a quarter of its murder victims. *National Post*. Retrieved from <http://news.nationalpost.com/news/canada/aboriginal-people-make-up-5-per-cent-of-canadas-population-but-nearly-a-quarter-of-its-murder-victims>.
- Scott, D. (2008). *Penology*. London: Sage.
- Statistics Canada. (2016). General Social Survey—Victimization. Retrieved from <http://www23.statcan.gc.ca/imdb/p2SV.pl?Function=getSurvey&SDDS=4504>.
- Toronto Police Service. (2017). TPS crime statistics. Retrieved from http://torontopolice.on.ca/statistics/ytd_stats.php.

REFERENCES

- Allen, M. (2016). Police-reported crime statistics in Canada, 2015. *Juristat*, 36(1). Catalogue No. 85-002-X. Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2016001/article/14642-eng.pdf>.
- Angus Reid Global. (2014, August 12). Six-in-ten Canadians support legalizing marijuana, but say it's not a top justice priority. Retrieved from <http://angusreidglobal.com/wp-content/uploads/2014/08/ARG-Marijuana-Opinions2.pdf>.
- Angus Reid Strategies. (2009, June 26). Canadians endorse federal anti-crime proposals.
- Bard Prison Initiative. (n.d.). Mission statement. Retrieved from <http://bpi.bard.edu>
- Brennan, S. (2011). *Canadians' perceptions of personal safety and crime, 2009*. Ottawa: Minister of Industry. Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2011001/article/11577-eng.pdf>.
- Carlan, P. (2007). The criminal justice degree and policing: Conceptual development or occupational primer? *Policing: An International Journal of Police Strategies & Management*, 30(4), 608–619.
- Charette, Y., & van Koppen, V. (2016). A capture-recapture model to estimate the effects of extra-legal disparities on crime funnel selectivity and punishment avoidance. *Security Journal*, 29(4), 561–583. doi:10.1057/sj.2015.30.
- Cohen, T. (2011). College-in-prison for inmates serving life sentences. *Morningside Review*. Retrieved from <http://morningsidereview.org/essay/college-in-prison-for-inmates-serving-life-sentences/>.
- Criminal Code of Canada*, RSC 1970, c C-34.
- Doob, A.N. (2011). The unfinished work of the Canadian Sentencing Commission. *Canadian Journal of Criminology & Criminal Justice*, 53(3), 279–297.
- Doob, A.N. (2014). Research on public confidence in the criminal justice system: A compendium of research findings from *Criminological Highlights*. Paper presented at the Sixth Annual Reinventing Criminal Justice Symposium, Ottawa, ON. Retrieved from <http://criminology.utoronto.ca/wp-content/uploads/2013/09/PublicConfidence-Doob-ICCLR-11Dec2013.pdf>.
- Editorial: Most of Canada's prisoners have never been convicted of anything. Why are they in jail? [Editorial]. (2015, July 17). *Globe and Mail*. Retrieved from <http://www.theglobeandmail.com/opinion/editorials/most-of-canadas-prisoners-have-never-been-convicted-of-anything-why-are-they-in-jail/article25559599/>.
- Eichenwald, K., & Richtel, M. (2002, October 12). Enron trader pleads guilty to conspiracy. *New York Times*, C-1.
- Gendreau, P., Goggin, C., Cullen, F.T., & Paparozzi, M. (2002). The common sense revolution and correctional policy. In J. McGuire (Ed.), *Offender rehabilitation and treatment: Effective programs and policies to reduce re-offending* (pp. 359–386). Chichester, UK: John Wiley & Sons.
- Gendreau, P., Little, T., & Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: What works! *Criminology*, 34, 575–607.
- Gerber, M.M., & Jackson, J. (2016). Authority and punishment: On the ideological basis of punitive attitudes towards criminals. *Psychiatry, Psychology and Law*, 23(1), 113–134.
- Hagan, J. (2010). *Who are the Criminals? The politics of crime policy from the age of Roosevelt to the age of Reagan*. Princeton, NJ: Princeton University Press.
- Jenish, D'A. (1997). Faint hope: Background. *Canadian Encyclopedia*. Retrieved from <http://www.thecanadianencyclopedia.ca/en/article/faint-hope-background/>.
- Jones, H., & Bonner, H.S. (2016). What should criminal justice interns know? Comparing the opinions of student interns and criminal justice practitioners. *Journal of Criminal Justice Education*, 27(3), 381–409.

- Lee, I. (2011). *Myths & urban legends concerning crime in Canada*. Ottawa: Macdonald-Laurier Institute. Retrieved from http://www.macdonaldlaurier.ca/files/pdf/Ian_Lee_March_2011.pdf.
- Martinson, R. (1974, Spring). What works?—Questions and answers about prison reform. *Public Interest*, 22–54.
- Martinson, R. (1979). New findings, new views: A note of caution regarding sentencing reform. *Hofstra Law Review*, 7, 243–258.
- Maxwell, A. (2015, November). Adult criminal court statistics in Canada, 2013/2014. *Juristat*, 35(1). Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2015001/article/14226-eng.pdf>.
- Miladinovic, Z., & Mulligan, L. (2015, November). Homicide in Canada, 2014. *Juristat*, 35(1).
- Packer, H. (1964). Two models of the criminal process. *University of Pennsylvania Law Review*, 113(1), 1–68.
- Perreault, S. (2015). Criminal victimization in Canada, 2014. *Juristat*, 35(1). Retrieved from <http://www.statcan.gc.ca/pub/85-002-x/2015001/article/14241-eng.htm>.
- Qin, Y. (2015, July 9). Want to keep ex-cons from returning to prison? Give them a liberal arts education. *Washington Post*. Retrieved from <https://www.washingtonpost.com/posteverything/wp/2015/07/09/want-to-help-prisoners-stay-out-of-jail-teach-them-to-speak-chinese/>.
- R v Jordon*, [2016] SCJ No 27 (QL).
- RCMP. (2014). *Missing and murdered Aboriginal women: A national operational overview*. Retrieved from <http://www.rcmp-grc.gc.ca/wam/media/460/original/0cbd8968a049aa0b44d343e76b4a9478.pdf>.
- Reid, S.A., & Reitsma-Street, M. (1984). Assumptions and implications of new Canadian legislation for young offenders. *Canadian Criminology Forum*, 7(1), 1–19.
- Reid, S.A., & Zuker, M.A. (2005). A conceptual framework for understanding youth justice in Canada. In K. Campbell (Ed.), *Youth Justice in Canada*. Toronto: Pearson.
- Reimen, J.H. (1979). *The rich get richer and the poor get prison: Ideology, class and criminal justice*. Boston: Allyn and Bacon.
- Roberts, J. (2001). *Fear of crime and attitudes to criminal justice: A review of recent trends, 2001–02*. Ottawa: Public Works and Government Services Canada.
- Roberts, J. V., Crutcher, N., & Verbrugge, P. (2007). Public attitudes to sentencing in Canada: Exploring recent findings. *Canadian Journal of Criminology and Criminal Justice*, 49(1), 75–107.
- Saranghi, S. (2012). Compensation to Bhopal gas victims: Will justice ever be done? *Indian Journal of Medical Ethics*, 9(2), 118–120.
- Sherman, L.W. (1981). *The study of ethics in criminology and criminal justice curricula*. Chicago: University of Illinois.
- Statistics Canada. (2013). General Social Survey: An overview, 2013. (Ottawa: Minister of Industry, 2013. Retrieved from <http://www.statcan.gc.ca/pub/89f0115x/89f0115x2013001-eng.pdf>.
- Statistics Canada. (2015, July 22). Police-reported crime statistics, 2014. *The Daily*. Retrieved from <http://www.statcan.gc.ca/daily-quotidien/150722/dq150722a-eng.htm>.
- Tripp, T., & Cobkit, S. (2013). Unexpected pathways: Criminal justice career options in the private sector. *Journal of Criminal Justice Education*, 24(4), 478–494.
- Wallace, M., Turner, J., Babyak, C., & Matarazzo, A. (2009). *Measuring crime in Canada: Introducing the Crime Severity Index and improvements to the Uniform Crime Reporting Survey*. Ottawa: Statistics Canada. Retrieved from <http://www.statcan.gc.ca/pub/85-004-x/85-004-x2009001-eng.htm>.
- Webster, C.M., & Doob, A.N. (2015). US punitiveness “Canadian style”? Cultural values and Canadian punishment policy. *Punishment & Society*, 17(3), 299–321.
- Williams, E.J., & Robinson, M.B. (2004). Ideology and criminal justice: Suggestions for a pedagogical model. *Journal of Criminal Justice Education*, 15(2), 373–392.