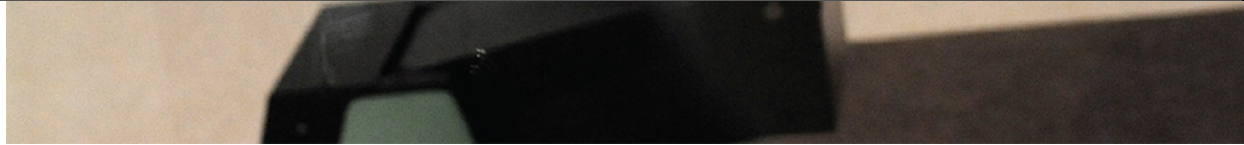


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### **3 The Classical School of Criminological Thought**





Wally Skalij/Los Angeles Times/Getty Images

## Learning Objectives

As you read this chapter, consider the following topics:

- Identify the primitive types of “theories” explaining why individuals committed violent and other deviant acts for most of human civilization.
- Describe how the Age of Enlightenment drastically altered the theories for how and why individuals commit crimes as well as how it changed criminal justice policies.
- Explain how Cesare Beccaria’s book in 1764 drastically influenced various criminal justice systems throughout the world, and be able to list the concepts and propositions recommended in his book.
- Summarize what Jeremy Bentham contributed to this movement toward the Classical School of criminological thought.
- Explain what the Neoclassical School of criminology contributed to the propositions of the Classical School that led most of the Western world (including the United States) to embrace this model as the major paradigm for the criminal justice system.

## Introduction

A 2009 report from the Death Penalty Information Center, citing a study based on FBI data and other national reports, showed that states with the death penalty have consistently higher murder rates than states without the death penalty.<sup>4</sup> The report highlighted the fact that if the death penalty were acting as a deterrent, the gap between these two groups of states would be expected to converge, or at least lessen over time. But that has not been the case. In fact, this disparity in murder rates has actually grown over the past two decades, with states allowing the death penalty having a 42% higher murder rate (as of 2007) compared with states that do not—up from only 4% in 1990.

Thus, it appears that in terms of **deterrence theory**, at least when it comes to the death penalty, such potential punishment is not an effective deterrent. This chapter deals with the various issues and factors that go into offenders’ decision-making about committing crime. While many would likely anticipate that potential murderers in states with the death penalty would be deterred from committing such offenses, this is clearly not the case, given the findings of the study discussed above. This type of deterrence, or rather the lack thereof, regarding the death penalty and related issues makes up a key portion of this chapter.

This chapter examines explanations of criminal conduct that emphasize individuals’ ability to make decisions based on the potential consequences of their behavior. The natural capability of human beings to make decisions based on expected costs and benefits was acknowledged during the **Age of Enlightenment** in the 17th and 18th centuries. This understanding of human capability led to what is considered the first rational theory of criminal activity—namely, deterrence theory. Of any other perspective to date, deterrence theory has had the most profound impact on justice systems in our nation. Furthermore, it is easy to see examples in contemporary life of offenders engaging in such rational decision-making, and a number of variations of this theoretical model have been developed that focus on the reasoning processes of people considering criminal acts.

Such theories of human rationality stand in stark contrast to the theories perpetuated for most of human civilization, up to the Age of Enlightenment—theories that focused on religious or supernatural causes of crime. Additionally, the **Classical School** theories of crime are distinguished from the other theories we examine in future chapters by their emphasis on free will and rational decision-making, which modern theories of crime tend to ignore. Specifically, the theoretical perspectives discussed in this chapter all focus on the human ability to choose one’s own behavior and destiny, whereas paradigms popular before the Enlightenment and in contemporary times tend to emphasize the influence of external factors on individual choice. Therefore, the Classical School is perhaps the paradigm best suited for analysis of what types of calculations go on in someone’s head before committing a crime.

**deterrence theory:** theory of crime associated with the Classical School; proposes that individuals will make rational decisions regarding their behavior.

**Age of Enlightenment:** a period of the late 17th to 18th century in which philosophers and scholars began to emphasize the rights of individuals in society.

**Classical School:** a model of crime that assumes that crime occurs after a rational individual mentally weighs the potential good and bad consequences of crime and then makes a decision about whether to engage in a given behavior.

## Case Study

**Deborah Jeane Palfrey**

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Deborah Jeane Palfrey, known as the “DC Madam,” was brought up on charges of racketeering and money laundering related to running a prostitution ring in Washington, DC, and surrounding suburbs in Maryland and Virginia. The clientele of this prostitution ring included some notable politicians, such as state senators and other elected officials. Palfrey faced a maximum of 55 years in prison but likely would have received far less time had she not committed suicide before her sentencing. Her body was found in a storage facility at her mother’s home in Tarpon Springs, Florida.

News reports revealed that she had served time before (for prostitution). Author Dan Moldea told *Time* magazine that she had contacted him for a book he was working on and told him “she had done time once before . . . and it damned near killed her. She said there was enormous stress—it made her sick, she couldn’t take it, and she wasn’t going to let that happen again.”<sup>1</sup> The situation could have been worsened by the heightened media attention this case received; while most prostitution cases are handled by local or state courts, this one was handled by federal courts because it concerned Washington, DC.

It is quite likely that the impending maximum prison sentence led her to take her own life, given what she had said to Moldea. This shows the type of deterrent effect that jail or prison can have on an individual—in this case, possibly leading her to choose death over serving time. Ironically, Palfrey had commented to the press, after the suicide of a former employee in her prostitution network—Brandy Britton, who hanged herself before going to trial—“I guess I’m made of something that Brandy Britton wasn’t made of.”<sup>2</sup> It seems that Palfrey had the same concerns as Britton, and she ended up contradicting her bold statement when she ended her own life.

This case study provides an example of the profound effects legal sanctions can have on individuals. Legal sanctions are not meant to inspire offenders to end their lives, but this case does illustrate the potential deterrent effects of facing punishment from the legal system. We can see this on a smaller scale when a speeding driver’s heart rate increases at the sight of a highway patrol or other police vehicle (which studies show happens to most drivers). Even though this offense would result in only a fine, it is a good example of deterrence in our everyday lives. We will revisit the Palfrey case at the conclusion of this chapter, after you have had a chance to review some of the theoretical propositions and concepts that make up deterrence theory.

Deborah Jeane Palfrey, known as the “D.C. Madam,” committed suicide before being sentenced. Her case reveals the potentially powerful effects of formal sanctions on individuals’ decision-making.



© AP Photo/Jacquelyn Martin

On a related note, a special report from the U.S. Department of Justice, Bureau of Justice Statistics, concludes that the suicide rate has been far higher among jail inmates than among prison inmates (see [Figures 3.1](#) through [3.3](#)).<sup>3</sup> Specifically, suicides in jails have tended over the past few decades to occur 300% (or three times) more often than among prison inmates.

A likely reason for this phenomenon is that many persons arrested and/or awaiting trial (which is generally the status of those in jail) have more to lose, such as in their relationships with family, friends, and employers, than do the typical chronic offenders that end up in prison. Specifically, many of the individuals picked up for prostitution and other relatively minor, albeit embarrassing, offenses are of the middle- and upper-class mentality and, thus, are ill-equipped to face the real-world consequences of their arrest. The good news is, this same Department of Justice report showed that suicides in both jails and prisons have decreased during the past few decades, likely due to better policies in correctional settings regarding persons considered at “high risk” for suicide.

### Think About It:

1. Do you think that some of the clientele (e.g., notable politicians) should have also been charged for a criminal offense?
2. Do you think it made a difference that this case was handled by federal courts rather than local or state courts?
3. Do you think prostitution should be legal?

“SHE HAD DONE TIME ONCE BEFORE . . . AND IT DAMNED NEAR KILLED HER. SHE SAID THERE WAS ENORMOUS STRESS—IT MADE HER SICK, SHE COULDN’T TAKE IT, AND SHE WASN’T GOING TO LET THAT HAPPEN AGAIN.”

**Figure 3.1** Causes of Death in State Prisons and Local Jails, 2013

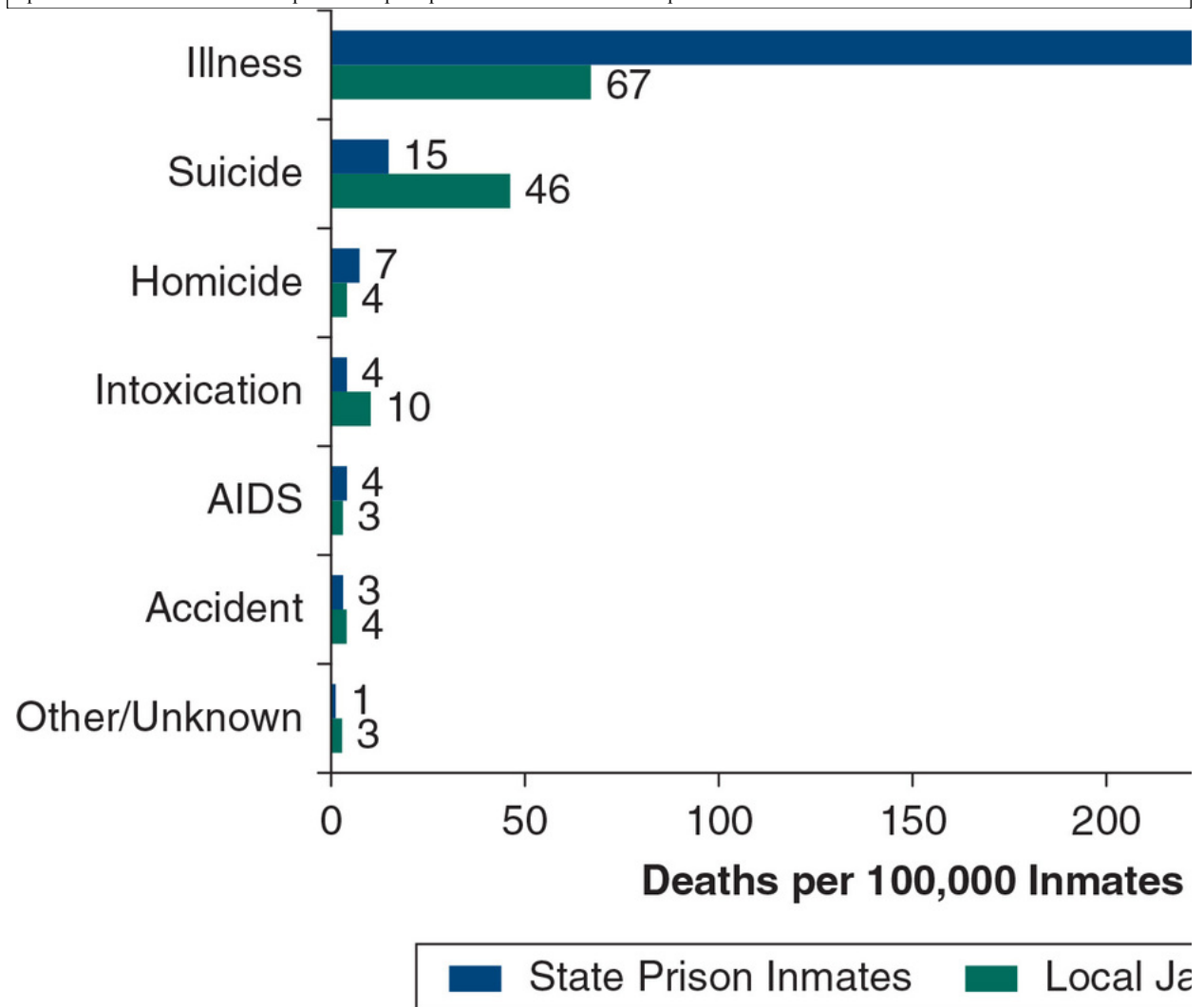
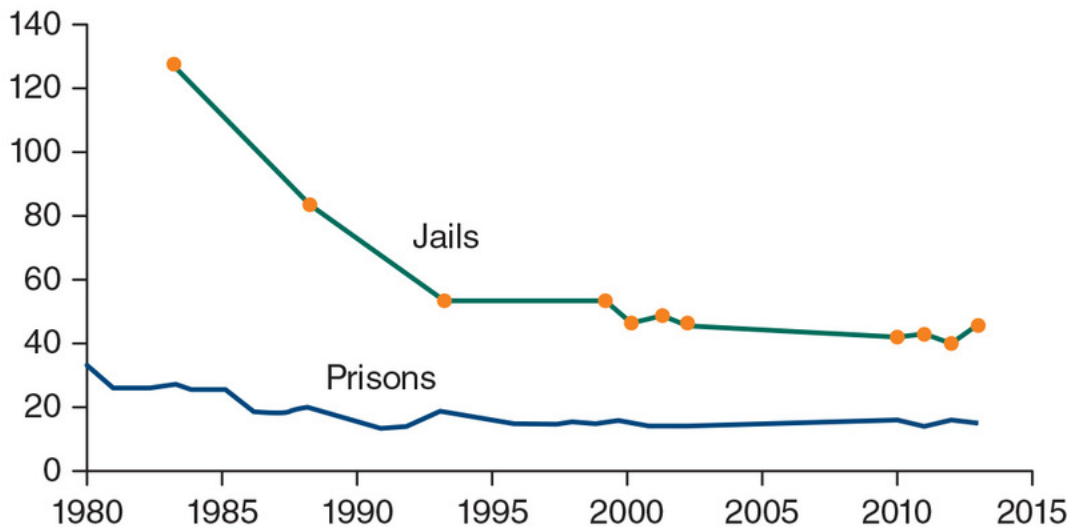


Figure 3.2 Suicide in State Prisons and Local Jails



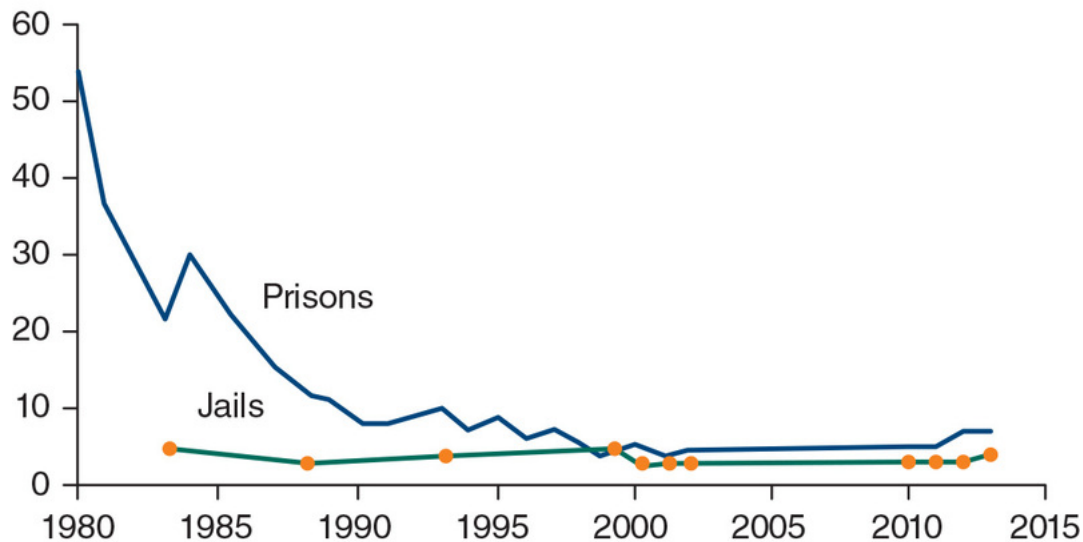
### Suicides per 100,000 inmates



Suicide was the leading cause of death in local jails in 2013 (34% of all jail deaths) and has been the leading cause of death in local jails each year since 2000. The mortality rate for suicide among male jail inmates (43) was 1.5 times the rate for female inmates (28) from 2000 to 2013. Violent offenders in both local jails (92 per 100,000) and state prisons (19 per 100,000) had suicide rates more than twice as high as those of nonviolent offenders (31 and 9 per 100,000, respectively).

**Figure 3.3** Homicide in State Prisons and Local Jails

### Homicides per 100,000 inmates



A third of homicides in state prisons in 2013 involved prisoners age 45 or older between 2001 and 2013. While 67% of homicide victims in state prisons had served at least two years, 37% had served at least five years.

Violent offenders were the victims of most state prison homicides (61%), and their jail homicide rate (5 per 100,000) was over twice that of nonviolent offenders (2 per 100,000).

Sources: Mumola, C. J. (2005, August). Suicide and homicide in state prisons and local jails. Washington, DC: U.S. Department of Justice, Office of Justice Programs; Noonan, M. (2015, August). Mortality in local jails and state prisons, 2000–2013—Statistical tables. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

The aspects of Classical School theory presented in this chapter vary in many ways, most notably in what they propose as the primary constructs and processes by which individuals determine whether or not to commit a crime. For example, some Classical School theories emphasize only the potential negative consequences of criminal actions, whereas others focus on the possible benefits. Still others concentrate on the opportunities and circumstances that predispose one to engage in criminal activity. Regardless of their differences, all the theories examined in this chapter emphasize a common theme: Individuals commit crimes because they identify certain situations and actions as beneficial due to a perceived lack of punishment and a perceived likelihood of profits, such as money or peer status. In other words, the potential offender weighs out the possible costs and pleasures of committing a given act and then behaves in a rational way based on the conclusions of that analysis.

The most important distinction of these Classical School theories, as opposed to those discussed in future chapters, is that they emphasize

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individual decision-making regardless of any extraneous influences on a person's free will, such as the economy or bonding with society. Although many outside factors may influence an individual's ability to rationally consider offending situations—and many of the theories in this chapter deal with such influences—primary responsibility rests on the individual to take all influences into account when deciding whether to engage in criminal behavior. Given this emphasis on individual responsibility, it is not surprising that Classical School theories are used as the basis for U.S. policies on punishment for criminal activity. After all, the Classical School theories are highly compatible and consistent with the conservative “get-tough” movement that has existed since the mid-1970s because they focus on individual responsibility. Thus, the Classical School still retains the highest influence in terms of policy and pragmatic punishment in the United States as well as throughout the Western world.

As you will see, the Classical School theoretical paradigm was presented as early as the mid-1700s, and it is still the dominant model of offending behavior in criminal justice systems. The Classical School paradigm remains the most popular theoretical framework among U.S. legislators and society and throughout the world. Although the Classical School theories have remained dominant in most Western societies, scientific and academic circles have somewhat dismissed many of the claims of this perspective. For reasons we explore in this chapter, the assumptions and primary propositions of the Classical School theories have been neglected by most recent theoretical models of criminology, which is likely premature given the impact this perspective has had on understanding human nature as well as its profound influence on most criminal justice systems, especially in the United States.

## Pre-Classical Perspectives of Crime and Punishment

For the vast majority of human civilization's history, people believed that criminal activity was caused by either supernatural or religious factors. Some primitive societies believed that crime increased during major thunderstorms or droughts. Most primitive cultures believed that when people engaged in behavior that violated the rules of the tribe or clan, the devil or evil spirits were making them do it.<sup>5</sup> For example, in many societies at that time, if a person had committed a criminal act, it was common to perform an exorcism or primitive surgery, such as breaking open the offender's skull to release the demons thought to be lodged there. Of course, this almost always resulted in the death of the accused, but it was seen as a liberating experience for the defendant.

Exorcism was just one form of dealing with criminal behavior, but it epitomizes the nature of primitive cultures' understanding of what causes crime. However, as the movie *The Exorcist* showed, the Catholic Church, among other religious institutions, still uses exorcism in extreme cases. Exorcisms are performed in the 21st century by representatives of a number of religions, including Catholicism, “to get the devil out.” For instance, in June 2005, a Romanian monk and four nuns acknowledged engaging in an exorcism that led to the death of a 23-year-old woman. During the procedure, the woman was chained to a cross, had a towel stuffed in her mouth, and was deprived of food for three days.<sup>6</sup> When the monk and nuns were asked to explain why they did this, they were defiant and said they were trying to take the devils out of the woman. Although they were prosecuted by Romanian authorities, many governments around the world still believe in and condone such practices and may not have prosecuted in this case.

One of the most common supernatural beliefs of primitive cultures was that the moon, in its fullest state, was a trigger for criminal activity. Then, as now, there was much truth to that theory. But in primitive times, this influence was believed to be caused by higher powers, such as the “destructive influence” of the moon itself. Modern studies have shown that this connection between the full moon and crime is primarily due to a Classical School theoretical model: There are simply more opportunities to commit crime when the moon is full. Specifically, there is more light during the full-moon phase, which means there are more people on the streets and more opportunities for crime. Also, nighttime is well established as a higher-risk period for adult crime, such as sexual assault.

Some of the primitive theories of crime had some validity in determining when crime was more likely to occur; however, virtually none of the primitive theories accurately predicted who would commit the offenses. During the Middle Ages and before, nearly all individuals were part of the lower classes, and only a subsection of that group engaged in offending against the normative society. So, for most of human civilization, there was close to no rational theoretical understanding for why certain individuals violated the laws of society.

Thus, for most of human civilization's history, people believed that crime was caused by supernatural or religious factors, leading to theories of crime such as “the devil made me do it.” There were many variations on this perspective, such as crime caused by the full moon or excessive thunder. Due to the assumption that evil spirits were driving the motivations for criminal activity, punishments for criminal acts—especially for those deemed particularly offensive to the norms of a given society—were often quite inhumane by modern standards.

## Punishments Under Pre-Classical Perspectives

For example, during the Middle Ages (Dark Ages), common punishments included beheading, torturing, burning alive at the stake, drowning, stoning (still used by many Islamic courts in portions of Africa and the Middle East), and quartering (in which the limbs of a convicted criminal are tied to four horses and then the horses are made to run in opposite directions, ripping limbs from the torso). These punishments seem harsh by contemporary standards, but given the context of the times, they were fairly standard and widely accepted.<sup>7</sup>

Although many would find primitive forms of punishment and execution quite barbaric, many societies still practice some of them. Recent examples can be seen among Islamic court systems (as well as in other religious/ethnic cultures), which are often allowed to carry out executions and other forms of corporal punishment. For instance, a number of offenders were flogged (i.e., whipped) for what is considered a relatively minor crime—or no crime at all—in most of the United States: gambling. Gambling was the most serious offense committed by the



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15 individuals in Aceh, Indonesia (a highly conservative Muslim region of that country), who were publicly caned outside a mosque.<sup>8</sup>

Medieval punishments were quite brutal, compared to how we execute offenders in current times. Most developed countries would never use such forms of execution today.





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It is interesting to note that a relatively recent Gallup Poll addressing the practice of caning (i.e., publicly whipping) convicted individuals revealed support for the practice from most of the American public. More extreme forms of corporal punishment, particularly the methods of public execution carried out by many religious courts and countries—such as stoning, in which persons are buried up to the waist and local citizens throw small stones (but not large stones, as those lead to death too quickly)—are drawn out and painful compared with modern forms of punishment in the United States. In most of the Western world, such brutal forms of punishment and execution were done away with in the 1700s due to the impact of the Age of Enlightenment.

## The Age of Enlightenment

In the midst of the extremely draconian times of the mid-1600s, Thomas Hobbes, in his book *Leviathan* (1651), proposed a rational theory for why people are motivated to form democratic states of governance.<sup>2</sup> Hobbes proclaimed that people are rational, so they will logically organize a sound system of governance to create rules that will help alleviate the constant fear of offense by others. It is interesting that the very emotion (fear) that motivates individuals to cooperate in the formation of government is the same emotion that inspires these individuals to obey the laws of the government created—because they fear the punishment imposed for breaking the rules.

Hobbes clearly stated that until citizens in such societies received a certain degree of respect from their governing bodies, as well as from their justice systems, they would never fully buy in to the authority of government or the system of justice. Hobbes proposed a number of extraordinary ideas that came to define the Age of Enlightenment. He suggested a drastic paradigm shift with this new idea of social structure, which had extreme implications for justice systems throughout the world.

Specifically, Hobbes declared that human beings are rational beings who choose their destiny by creating a society. Hobbes further proposed that individuals in such societies democratically create rules of conduct that all members of society must follow. These rules that all citizens decide on become laws, and the result of not following these laws is a punishment determined by the democratically instituted government. It is clear from Hobbes's statements that the government, as instructed by the citizens, not only has the authority to punish individuals who violate the rules of the society but, more important, is bound by duty to punish such individuals. If such an authority fails to fulfill this duty, it can quickly result in a breakdown in the social order.

The arrangement of citizens agreeing to abide by the rules or laws set forth by a given society in return for protection is commonly referred to as the **social contract**. Hobbes introduced this idea, but it was emphasized by all the other Enlightenment theorists after him, such as Rousseau, Locke, Voltaire, and Montesquieu, and it embodies their underlying philosophies. Although all the Enlightenment philosophers had significant differences of belief, the one belief they had in common was that in the social contract. This idea that people invest in the laws of their society in exchange for the guarantee that they will be protected from others who violate those laws is universal across all the Enlightenment philosophers.

Another shared belief among Enlightenment philosophers was that each individual should have a say in the government, especially in the justice system. Virtually all the Enlightenment philosophers also emphasized fairness in determining who was guilty, as well as the appropriate punishments or sentences for misconduct. During the time in which they wrote, Enlightenment philosophers saw individuals who stole a loaf of bread to feed their families receive death sentences, while upper-class individuals who had stolen large sums of money or even committed murder were pardoned. This not only goes against common sense but also violates the social contract. After all, if citizens observe certain persons being excused from punishment for violation of the law, their belief in the social contract will break down. This same standard can be applied to modern times. For example, when Los Angeles police officers who were filmed beating a suspect were acquitted of criminal charges, a massive riot erupted among members of the community. This is a good example of the social contract breaking down, largely due to the realization that the government failed to punish members of the community (significantly, police officers) who had violated the rules.

Perhaps the most relevant concept the Enlightenment philosophers highlighted, as mentioned above, was the idea that human beings are rational and therefore have free will. The philosophers of this age focused on the ability of individuals to consider the consequences of their actions, and the philosophers assumed that people freely choose how to behave, especially in regard to criminal activity. We shall see that this was an extremely important part of Enlightenment philosophy, which the Father of Criminal Justice assumed in his formulation of what is considered to be the first bona fide theory for why people commit crime.

**social contract:** an Enlightenment ideal or assumption that stipulates an unspecified arrangement among citizens in which they promise the state or government not to commit offenses against other citizens and in turn gain protection from being violated by other citizens.

### Learning Check 3.1

1. According to the text, which type of theory was dominant throughout most of human civilization?
  1. Rational/deterrence
  2. Psychological/Freudian
  3. Supernatural/religious
  4. Positive/empirical
2. According to the text, what concept was NOT one of the key propositions of the Age of Enlightenment theorists?
  1. Democracy
  2. Social contract
  3. Determinism
  4. Free will
  5. Rationality
3. According to the text, which emotion did Hobbes claim was the motivation for groups of people both creating a state/government and enforcing its laws/rules?
  1. Shame
  2. Fear
  3. Guilt
  4. Empathy

Answers located at [www.edge.sagepub.com/schram2e](http://www.edge.sagepub.com/schram2e)

## The Classical School of Criminology

The foundation of the Classical School of criminological theorizing can be traced to the Enlightenment philosophers discussed above, but the more specific and well-known origin of the Classical School is considered to be the 1764 publication of *On Crimes and Punishments* by Italian scholar Cesare Bonesana, Marchese di Beccaria (1738–1794), commonly known as Cesare Beccaria. He wrote this book at the age of 26 and published it anonymously, but after its almost instant popularity, he came forward as the author. Because of this significant work, most experts consider Beccaria not only the Father of Criminal Justice and the Father of the Classical School of Criminology but, perhaps most important, the Father of Deterrence Theory. All this will be explained in the following sections, in which we comprehensively survey the ideas and impact of Beccaria and the Classical School.

Cesare Beccaria (1738–1794), considered the Father of Criminal Justice, Father of Deterrence Theory, and Father of the Classical School of Criminology, due to the influence of his *On Crimes and Punishments* (1764).



[http://commons.wikimedia.org/wiki/File:Cesare\\_Beccaria\\_1738-1794.jpg](http://commons.wikimedia.org/wiki/File:Cesare_Beccaria_1738-1794.jpg)

### Influences on Beccaria and His Writings

As discussed previously in this chapter, the Enlightenment philosophers profoundly impacted the social and political climate of the late 1600s and 1700s. Growing up in this time, Beccaria was a child of the Enlightenment; as such, he was highly influenced by the concepts and propositions introduced by these great thinkers. The Enlightenment philosophy is readily evident in Beccaria's writing, and he incorporates many of these philosophers' assumptions into his work. As a student of law, Beccaria had a solid background for determining what was rational in legal policy as well as what was not. But his loyalty to the Enlightenment ideal is ever present throughout his work.

Specifically, Beccaria emphasized the social contract and incorporated the idea that citizens give up certain rights in exchange for protection from the state or government. He also claimed that actions or punishments carried out by the government that violate the overall sense of unity will not be accepted by the populace, largely due to the requirement that the social contract be a fair deal. Beccaria stated that laws are compacts of free individuals in a society. Additionally, he appealed to the ideal of the greatest happiness shared by the greatest number, otherwise known as **utilitarianism**. This, too, was a focus of the Enlightenment philosophers. Finally, the importance of free will and individual choice is key to his propositions and theorizing. Although these points are the main assumptions of his reforms and ideas on motives for committing crimes, taken directly from Enlightenment theorists, we shall see in the following sections that Enlightenment philosophy is present in virtually all his propositions, most clearly shown in his directly citing Hobbes, Montesquieu, and others in his work.<sup>10</sup>

**utilitarianism:** a philosophical concept that relates to the idea of the greatest good for the greatest number.

### Beccaria's Proposed Reforms and Ideas of Justice



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Beccaria wrote at a time when authoritarian governments ruled the justice system, which was actually quite unjust. For example, back then, it was not uncommon for a person who stole food for his or her family to be imprisoned for life. A good example of this is the story of *Les Misérables*, in which the protagonist, Jean Valjean, receives a lengthy prison sentence after stealing a loaf of bread for his starving loved ones. On the other hand, a person at that time who had committed several murders could be excused by the judge if that person was from a prominent family.

As Beccaria claimed, “The true measure of crimes is namely the harm done to society”<sup>11</sup> (i.e., to the social contract). Thus, Beccaria was very clear that for a given act, a particular punishment should be administered as established by law, regardless of the contextual circumstances. (This point is the subject of much scrutiny later in this chapter.)

However, this principle did not take into account the offender’s intent in committing the crime. In most modern justice systems, intent plays a key role in the charges and sentencing of defendants for many types of crimes. Most notably, the degrees of homicide in most jurisdictions of the United States include first-degree murder (which requires proof of planning or “malice aforethought”), second-degree murder (which typically involves no evidence of planning but, rather, is the spontaneous act of killing), and various degrees of manslaughter (which generally include some level of provocation on the part of the victim).

The degrees of homicide are just one example of the importance of intent—legally known as **mens rea** (literally, “guilty mind”)—in most modern justice systems. Many types of offending are graded by degree of intent as opposed to the act itself—known legally as **actus reus** (literally, “guilty act”). Beccaria’s propositions focus on only the actus reus, because he claimed that an act against society was harmful regardless of the intent, or mens rea. Despite his recommendation, most societies factor in the offender’s intent in criminal activity. Still, this proposal that “a given act should be given equal punishment” certainly seemed to represent a significant improvement over the arbitrary punishments doled out by the regimes and justice systems of the 1700s.

Another sweeping reform Beccaria proposed was to do away with certain practices common in justice systems at the time. For example, he proposed that secret accusations not be allowed; rather, witnesses should be publicly confronted and cross-examined. Although some modern countries still accept and use secret accusations, as well as disallowing the cross-examination of so-called witnesses, Beccaria set the standard for most modern systems of justice in guaranteeing such rights to defendants in the United States and most other Western societies.

**mens rea:** concept regarding whether offenders actually knew what they were doing and meant to do it.

**actus reus:** in legal terms, whether the offender actually engaged in a given criminal act.

Additionally, Beccaria claimed that torture should not be used against defendants. Although some countries, such as Israel and Mexico, explicitly allow the use of torture for eliciting information and confessions, most countries now abstain from the practice. However, former U.S. Attorney General Alberto Gonzalez (the highest law enforcement rank in the country) wrote a memo stating that torture of terrorist suspects by the U.S. military is condoned. Despite this relatively recent change in U.S. philosophy regarding torture, the United States has traditionally agreed with Beccaria, who claimed that any information or oaths obtained under torture were relatively worthless. And our country apparently still agrees with Beccaria, at least in terms of domestic criminal defendants. Beccaria’s belief in the worthlessness of torture is further expressed in this statement: “It is useless to reveal the author of a crime that lies deeply buried in darkness.”<sup>12</sup>

Beccaria believed that this use of torture was one of the worst aspects of the criminal justice systems of his time and a manifestation of the truly barbaric acts common in feudal times in the Middle Ages (or “Dark Ages”). Beccaria expressed his doubt about the relevance of any information obtained via torture, a doubt best represented in this statement: “The impression of pain may become so great that, filling the entire sensory capacity of the tortured person, it leaves him free only to choose what for the moment is the shortest way of escape from pain.”<sup>13</sup>

Beccaria addresses the possible policy implications of using torture in stating that, “of two men, equally innocent or equally guilty, the strong and courageous will be acquitted, the weak and timid condemned.”<sup>14</sup>

Beccaria also asserted that defendants should be tried by fellow citizens or peers, not only by judges. He stated, “I consider an excellent law that which assigns popular jurors, taken by lot, to assist the chief judge . . . that each man ought to be judged by his peers.”<sup>15</sup> Beccaria clearly felt that the responsibility for determining the facts of a case should be placed in the hands of more than one person (such as a judge). Related to prior discussions in this chapter, Beccaria’s feelings on this subject were likely driven by his Enlightenment beliefs on democratic philosophy, in which citizens should have a voice and serve in judging the facts and in making ultimate justice decisions in criminal cases. This proposition is representative of Beccaria’s overall philosophy toward fairness and democratic process, which all the Enlightenment philosophers shared.

Formal, public processing and trial of criminal defendants (rather than secret accusations and closed courtrooms) is a key part of Beccaria’s proposed reforms of justice systems as well as of deterrence theory.



Al Seib/Los Angeles Times via Getty Images

Like other reforms discussed in this section, the right of all U.S. citizens to a trial by a jury of their peers is often taken for granted. It may surprise some readers to know that many modern developed countries have not provided this right. For example, Russia just recently held its first jury trials since Vladimir Lenin banished the practice 90 years ago. During Lenin's rule, the "bench-trials" of the old system produced almost a 100% conviction rate (99.6%, to be exact). This means that virtually every person convicted of a crime in Russia was found guilty, whether or not they were actually guilty. Given the relatively high percentage of persons found innocent of crimes (such as murder) in the United States—not to mention the numerous persons in our country recently released from death row after DNA analysis proved them not guilty—it is frightening to think of how many individuals were falsely convicted and unjustly sentenced in Russia over the past century.

Another important aspect of Beccaria's reforms involves his emphasis on making the justice system, particularly the laws and decisions made in processing, more public and understandable. After all, this fits the Enlightenment assumption that individuals are rational and that if individuals know the consequences of their actions, they will act accordingly. Specifically, Beccaria stated, "When the number of those who can understand the sacred code of laws and hold it in their hands increases, the frequency of crimes will be found to decrease."<sup>16</sup> In Beccaria's time, the laws were often unknown to the populace. This was somewhat due to widespread illiteracy but perhaps more due to current laws not being publicly declared. Even when laws were posted, they were often printed in languages (e.g., Latin) that the citizens did not read or speak. So Beccaria stressed the need for society to ensure that citizens were educated on current laws, explaining that this alone would lead to a significant decrease in law violations.

Furthermore, Beccaria believed that the important stages and decision-making processes of any justice system should be public knowledge rather than being held secretly or decided behind closed doors. As Beccaria stated, "Punishment . . . must be essentially public."<sup>17</sup> This statement has a highly democratic and Enlightenment feel to it, in the sense that citizens of a society have the right to know what vital judgments are being made. After all, in a democratic society, the citizens assign the government the profound responsibility of distributing punishment for crimes against the society. Citizens are entitled to know what decisions their government officials are making, particularly regarding justice. This provides not only knowledge and an understanding of what is going on but also a form of "checks and balances." Furthermore, the public nature of trials and punishments inherently produces a form of deterrence for those individuals who may be

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considering criminal activity, which is explored in the following sections of this chapter.

One of Beccaria's most profound and important proposed reforms is one of the least noted; in fact, it is largely ignored by every other review of his work. Specifically, Beccaria claimed to know the most certain way to reduce crime: "The surest but most difficult way to prevent crimes is by perfecting education."<sup>18</sup> Although he clearly expressed this as his primary recommendation for reducing crime, we know of no other review of his work that notes this hypothesis, which is amazing considering that most of the reviews are written for an educational audience. Furthermore, the importance placed on education makes sense given Beccaria's emphasis on knowledge of laws and consequences of criminal activity, as well as his focus on deterrence, which is explored in the following sections of this chapter.

Although the United States typically uses torture methods only in times of war, such as in the recent war against terrorism, many countries still commonly use this practice against citizens accused of criminal activity.



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## Beccaria's Ideas of the Death Penalty

Another primary area of Beccaria's suggested reforms dealt with the use—and, in his day, abuse—of the death penalty. First, let it be said that Beccaria was against the use of capital punishment. (Interestingly, he was not against corporal punishment, which he explicitly stated was appropriate for violent offenders.) Perhaps this was due to the times in which he wrote, when a large number of people were put to death, often by harsh methods. Still, Beccaria provided several rational reasons for why he felt the death penalty was not an efficient and effective punishment.

First, Beccaria claimed that the use of capital punishment inherently violated the social contract:

Is it conceivable that the least sacrifice of each person's liberty should include sacrifice of the greatest of all goods, life? . . . The



punishment of death, therefore, is not a right, for I have demonstrated that it cannot be such.<sup>19</sup>

The second reason that Beccaria felt the death penalty was an inappropriate form of punishment was that the government's endorsing the death of a citizen would provide a negative example for the rest of society. Beccaria claimed, "The death penalty cannot be useful, because of the example of barbarity it gives men."<sup>20</sup> Although some studies show evidence that use of the death penalty in the United States deters crime,<sup>21</sup> most show no effect or even a positive correlation with homicide.<sup>22</sup> Researchers have called this increase of homicides after executions the **brutalization effect**, and a similar phenomenon can be seen at sporting events, such as boxing matches, hockey games, and soccer/football games, when violence breaks out among spectators. In recent years, there have even been notable incidents of fighting among spectators at youth sporting events.

To further complicate the possible contradictory effects of capital punishment, some analyses show that both deterrence and brutalization occur at the same time for different types of crime, depending on the level of planning or spontaneity of a given act. For example, one sophisticated analysis of homicide data from California examined the effects of a high-profile execution in 1992, largely because it was the first one in the state in 25 years.<sup>23</sup> As predicted, the authors of the study found that nonstranger felony-murders (which typically involve some planning) significantly decreased after the high-profile execution, whereas the level of argument-based stranger murders (typically more spontaneous) significantly increased during the same time period. Thus, the effects of both deterrence and brutalization were observed at the same time and in the same location following this execution.

**brutalization effect:** the predicted tendency of homicides to increase after an execution, particularly after high-profile executions.

Another primary reason why Beccaria was against the use of capital punishment was that he believed it was an ineffective deterrent. Specifically, he thought that a quick punishment, such as the death penalty, could not be an effective deterrent compared with a more drawn-out penalty. As Beccaria stated, "It is not the intensity of punishment that has the greatest effect on the human spirit, but its duration."<sup>24</sup> Many readers can likely relate to this type of argument even if they do not necessarily agree with it; the idea of spending the rest of one's life in a cell is a scary one for most people. And for many, such a concept is more frightening than death, which supports Beccaria's idea that a more extended punishment may be a more effective deterrent than a short, albeit extremely severe, punishment such as execution.

Fights among spectators at sporting events illustrate the type of "brutalization effect" Beccaria predicted in connection with the death penalty. Some individuals who see aggressive or violent acts are more likely to behave aggressively.



AP Photo/Mark J. Terrill

This idea seems to be supported by the case study at the beginning of this chapter. As you will recall, Deborah Jeane Palfrey, known as the "D.C. Madam," committed suicide rather than go back to prison. So for many, prison is just as effective as a punishment as the death penalty;

after all, Palfrey chose death over a lengthy prison sentence.

## Beccaria's Concept of Deterrence and the Three Key Elements of Punishment

As noted previously in this chapter, Beccaria is widely considered the Father of Deterrence, and this is for good reason. After all, Beccaria was the first known scholar to write a work that summarized such extravagant ideas regarding the role of choice in human behavior as opposed to the influence of fate or destiny. Prior to his work, the common wisdom on the issue of human destiny in criminal behavior was that it was controlled by the gods or God. At that time, governments and society generally believed that certain persons were born either good or bad. Beccaria, as a child of the Enlightenment, defied this belief by proclaiming that persons freely choose their destinies and, thus, whether or not to engage in criminal behavior.

Specifically, Beccaria claimed that three characteristics of punishment make a significant difference in whether an individual will commit a criminal act—in other words, they deter crime. These vital deterrent characteristics of punishment include celerity (swiftness), certainty, and severity.

### Swiftness of Punishment.

The first of these characteristics is celerity, which we will refer to as **swiftness of punishment**. Beccaria claimed that swiftness of punishment was important for two reasons. The first dealt with Beccaria's claim, consistent with his reforms discussed previously in this chapter, that some defendants were spending many years awaiting trial. Often, this was a longer incarceration than their alleged offenses would have warranted, even if the maximum penalty were imposed. As Beccaria stated, "the more promptly and the more closely punishment follows upon the commission of a crime, the more just and useful will it be."<sup>25</sup> Thus, Beccaria's first reason for recommending swiftness of punishment was that reformation of punishment was severely lacking in the time when he wrote.

The second reason Beccaria emphasized swift sentencing was related to the deterrence aspect of punishment. At the time when Beccaria wrote, some accused individuals would spend years in detention awaiting trial. A swift trial and punishment were important because, as Beccaria stated, "privation of liberty, being itself a punishment, should not precede the sentence."<sup>26</sup> Not only was this unjust in the sense that some of these defendants would not have been incarcerated for as long even if they received the maximum sentence for the charges against them; it also was detrimental in terms of deterrence, because the individual did not link the sanction with the violation. Specifically, Beccaria believed that persons build an association between the pains of punishment and their criminal acts. As Beccaria stated,

Promptness of punishments is more useful because when the length of time that passes between the punishment and the misdeed is less, so much the stronger and more lasting in the human mind is the association of these two ideas, crime and punishment . . . one as the cause, the other as the necessary inevitable effect.<sup>27</sup>

A parallel can be drawn with training animals or teaching children: You have to catch them in or soon after the act, or the punishment given does not matter because the offender does not know why he or she is being punished. Ultimately, Beccaria claimed that, for both reform and deterrent reasons, punishment should occur immediately after the act. Regarding the reform aspect, the defendant may spend a longer time in detention than the crime merits, and more important, the deterrent effect may be lost because the person will not relate the punishment with the negative act if punishment comes much later. Despite the commonsense aspects of swift punishment, this has not been examined by modern empirical research and is therefore the most neglected of the three elements of punishment Beccaria emphasized.

### Learning Check 3.2

1. Beccaria's seminal work, published in 1764, regarding criminal justice reforms was titled (translated from Italian)
  1. *The Criminal Man*.
  2. *A General Theory of Crime*.
  3. *On Crimes and Punishments*.
  4. *Criminals in the Making*.
2. According to the text, Beccaria proposed the use of the following in his book to make the criminal justice system more effective.
  1. Jury trials
  2. Secret/anonymous accusations
  3. Public trials
  4. All of the above
3. According to the text, Beccaria believed that the death penalty/capital punishment could be used as an effective deterrent if done correctly. True or false?
4. According to the text, Beccaria claimed that punishments should be based on which of the following?
  1. Actus reus
  2. Mens rea

Answers located at [www.edge.sagepub.com/schram2e](http://www.edge.sagepub.com/schram2e)

### Certainty of Punishment.

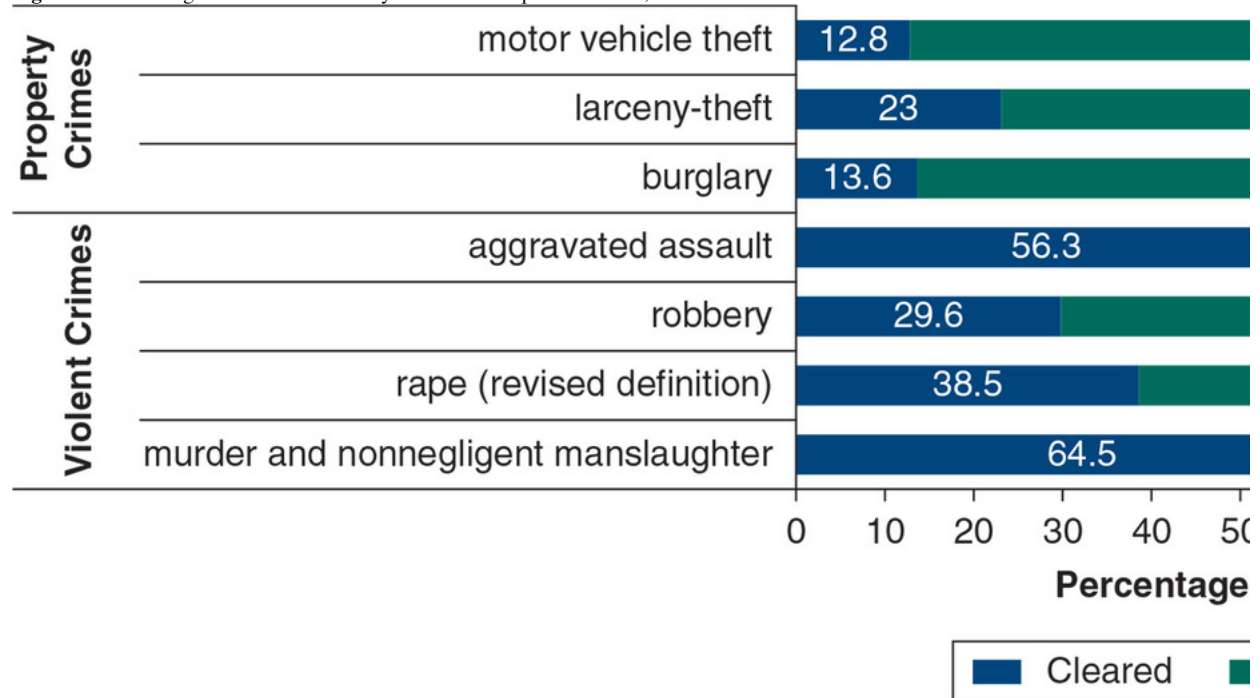
The second characteristic Beccaria felt was vital to the effectiveness of deterrence was **certainty of punishment**. Beccaria considered this the most important quality of punishment, which is evident in his statement, “Even the least of evils, when they are certain, always terrify men’s minds.”<sup>28</sup> It is obvious from this statement that Beccaria felt that certainty was the most important aspect of punishment—specifically, more important than severity and more important than swiftness/celerity by implication. He makes this clear when he says, “The certainty of punishment, even if it be moderate, will always make a stronger impression than the fear of another which is more terrible but combined with the hope of impunity.”<sup>29</sup> As will be shown by scientific studies discussed later in this chapter, Beccaria was accurate in his assumption that perceived certainty or risk of punishment is the most important aspect of punishment.

It is interesting to note that the aspect of punishment Beccaria believed, and recent studies have shown (see below), to be most important in deterring crime—namely, certainty—is also the least likely to be enhanced in modern criminal justice policy. For example, over the past few decades, the rate of criminals being caught and/or arrested has not increased. Specifically, over the past few decades, law enforcement officials have been able to clear only about 21% of known felonies. Such clearance rates are based on the rate at which known suspects are apprehended for crimes reported to police. As shown in [Figure 3.4](#), law enforcement officials are no better at solving serious crimes known to police than they were in past decades, despite increased knowledge and resources for solving such crimes.

**swiftness of punishment:** assumption that the faster punishment occurs after a crime is committed, the more an individual will be deterred in the future.

**certainty of punishment:** one of the key elements of deterrence; the assumption that when people commit a crime, they will perceive a high likelihood of being caught and punished.

**Figure 3.4** Percentage of Crimes Cleared by Arrest or Exceptional Means, 2014



Source: Federal Bureau of Investigation. (2015). Crime in the United States 2014. Washington, DC: Department of Justice.

### Severity of Punishment.

The third characteristic Beccaria emphasized was **severity of punishment**. Specifically, Beccaria claimed that in order for a punishment to be effective, the set penalty must outweigh the potential benefits (e.g., financial payoff) of the given crime. However, this came with a caveat: This aspect of punishment was perhaps the most complicated of the three, primarily because while the punishment must exceed any benefits expected from the crime, Beccaria thought too much severity would lead to more crime. Specifically, Beccaria stated,

For a punishment to attain its end, the evil which it inflicts has only to exceed the advantage derivable from the crime; in this excess of



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evil one should include the . . . loss of the good which the crime might have produced. All beyond this is superfluous and for that reason tyrannical.<sup>30</sup>

Beccaria makes clear in this statement that punishments should equal or outweigh any benefits of a crime if they are to deter individuals from considering engaging in such acts; however, he also explicitly states that any punishments that exceed the reasonable punishment for a given crime not only are inhumane but also may lead to further criminality.

A modern example of how punishments can be taken to an extreme, thereby causing more crime rather than deterring it, is shown by current “three-strikes-you’re-out” laws. Such laws have become common in many states, such as California. In such jurisdictions, individuals can be sentenced to life imprisonment for committing a crime, even a nonviolent crime, that fits the state statutes’ definition of a “serious felony” if it is their third offense. Such laws have been known to drive some relatively minor property offenders to wound or even kill people to avoid apprehension, knowing that they face life imprisonment if caught. The effectiveness of such “three-strikes” laws in reducing crime will be examined in a later chapter, but it is worthwhile to note here that a recent review of the impact of such laws across the nation shows them to be minimally effective; specifically, the authors analyzed the impact of three-strikes laws in virtually all large cities (188) in the 25 states with such laws and concluded that there was no significant reduction in crime rates due to the laws. Furthermore, the areas with three-strikes laws typically had higher homicide rates.<sup>31</sup>

**severity of punishment:** the assumption that a given punishment must be serious enough to outweigh any potential benefits gained from a crime.

Ultimately, Beccaria’s philosophy on the three characteristics—swiftness, certainty, and severity—that make up a good punishment in terms of deterrence is still highly respected and adhered to in most Western criminal justice systems. Despite its contemporary flaws and caveats, perhaps no other traditional framework is followed as closely as Beccaria’s—with only one exception, as we shall see in the coming sections.

## Beccaria’s Conceptualization of Specific and General Deterrence

Beyond the three characteristics of punishment Beccaria emphasized for improving the deterrent effect of punishment, he also developed the concepts of two identifiable forms of deterrence: **specific deterrence** and **general deterrence**. Although these two forms of deterrence tend to overlap in most sentences assigned by judges, they can be distinguished in terms of the intended target of the punishment. Sometimes the emphasis is clearly on one or the other, as Beccaria noted in his work.

Although Beccaria did not coin the terms *specific deterrence* and *general deterrence*, he makes the case that they are both important. Specifically, regarding punishment, Beccaria stated, “The purpose can only be to prevent the criminal from inflicting new injuries on its citizens and to deter others from similar acts.”<sup>32</sup> The first portion of this statement, involving punishment preventing “the criminal” from reoffending, focuses on the defendant and only the defendant, regardless of any possible offending by others. Punishments that focus on the individual are considered *specific deterrence* (also referred to as special or individual deterrence). This concept is appropriately labeled because the emphasis is on the specific individual who offended. On the other hand, the latter portion of Beccaria’s quote above emphasizes the deterrence of “others,” regardless of whether the individual criminal is deterred. Punishments that focus primarily on potential criminals, and not on the criminal in the present case, are referred to as *general deterrence*.

Readers are probably wondering how a punishment would not be inherently both a specific and a general deterrent. After all, in today’s society, virtually all criminal punishments for individuals (i.e., specific deterrence) are decided in court, a public venue; thus, other people are made somewhat aware of the sanctions (i.e., general deterrence). However, at the time in which Beccaria wrote in the 18th century, much if not most sentencing was done behind closed doors and was unknown to the public, thereby having no power to deter potential offenders. Therefore, Beccaria saw much utility in letting the public know what punishments were handed out for given crimes. This fulfilled not only the goal of general deterrence, which was essentially scaring others away from committing criminal acts, but also his previously discussed reforms of assuring the public that fair and balanced justice was being administered.

Despite the obvious overlap, there are some identifiable distinctions between specific and general deterrence in modern sentencing strategy. For example, some judges have chosen to hand down punishments that obligate defendants, as a condition of their probation/parole, to walk along the town’s main streets wearing a sign that says something such as “Convicted Child Molester” or “Convicted Shoplifter.” Other cities have implemented policies whereby pictures and identifying information of individuals arrested for prostitution or for soliciting prostitutes are printed in the paper or even displayed on billboards.

**specific deterrence:** punishments given to an individual meant to prevent or deter that particular individual from committing crime in the future.

**general deterrence:** punishments given to an individual meant to prevent or deter other potential offenders from engaging in such criminal activity in the future.

These punishment strategies are likely not much of a specific deterrent. After all, these individuals have now been labeled, so they may be psychologically encouraged to do what the public expects them to do (for more discussion and studies, see [Chapter 11](#)). So the specific deterrent effect may not be particularly strong in such cases. However, there is likely a strong general deterrent effect, which is what authorities are counting on in most of these cases. Specifically, they are expecting that many of the people who see these sign-laden individuals walking through the streets or publicly displayed in pictures are going to be frightened away from criminal activity.

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Public arrest is a formal sanction due to the embarrassment and trauma of going through the booking process, even if charges are later dismissed. Arrest is a form of both specific deterrence and general deterrence.



REUTERS/Dominick Reuter

On the other hand, numerous diversion programs, particularly for juvenile, first-time, and minor offenders, seek to punish offenders without engaging them in public hearings or trials. The goal of such programs is to hold the individuals accountable and have them fulfill certain obligations without dragging them through the often-public government system. The goal in such cases is specific deterrence, without using the person as a “poster child” for the public, which thus negates any possibility of general deterrence.

So while most judges likely invoke both specific *and* general deterrence in many of the criminal sentences they hand down, in notable cases either specific or general deterrence is emphasized, sometimes exclusively. Ultimately, Beccaria seemed to emphasize general deterrence and overall crime prevention, suggested by this statement: “It is better to prevent crimes than to punish them. This is the ultimate end of every good legislation.”<sup>33</sup> In other words, he claimed that it is better to deter potential offenders before they offend rather than imposing sanctions after the fact. Beccaria’s emphasis on prevention (rather than reaction) and general deterrence is also evident in his claim that education is likely the best way to reduce crime, as discussed previously in this chapter. After all, the more educated an individual is regarding the law and potential punishments as well as public cases in which offenders have been punished, the less likely he or she will be to engage in criminal activity. As mentioned previously, Beccaria did not coin the terms *specific deterrence* and *general deterrence*; however, his explicit identification of the differential emphases in terms of punishment was a key element in his work and is still considered important today.

## Summary of Beccaria’s Ideas and Influence on Policy

Ultimately, Beccaria summarized his ideas on reforms and deterrence with this statement:

In order for punishment not to be, in every instance, an act of violence of one or of many against a private citizen, it must be essentially

public, prompt, necessary, the least possible in the given circumstances, proportionate to the crimes, dictated by the laws.<sup>34</sup>

Beccaria is saying here that the processing and punishment administered by justice systems must be known to the public that delegates to the state the authority to make such decisions. Furthermore, he claims that the punishment must be appropriately swift, certain (i.e., necessary), and severe, in keeping with his concept of deterrence. Finally, he reiterates the need to standardize the punishments for given criminal acts as opposed to allowing arbitrary punishments imposed by a judge. These are just some of the many ideas Beccaria proposed, but he apparently saw them as being most important.

Although we, as U.S. citizens, take for granted the rights proposed by Beccaria and reviewed above, they were quite unique in the 18th century. In fact, the ideas Beccaria proposed were so revolutionary then that he published his book anonymously. He was worried that the church would accuse him of blasphemy and the government would persecute him for his views.

Regarding the first worry, Beccaria was right; the Roman Catholic Church excommunicated him when the book's authorship became known. In fact, his book remained on the list of condemned works until relatively recently (the 1960s). On the other hand, the government officials of the time embraced his work. Not only did the Italian government endorse Beccaria's book; most European and other world officials, particularly dictators, embraced it as well. Specifically, Beccaria was invited to visit many countries' capitals, even those of the most authoritarian states at that time, to help reform their criminal justice systems. For example, Beccaria was invited to meet with Catherine the Great, empress of Russia during the late 1700s, to help revise and improve that country's justice system. Most historical records suggest that Beccaria was not an ideal diplomat or representative of his ideas, largely because he was not physically or socially equipped for such endeavors. However, his ideas were strong and stood on their own merit.

### Learning Check 3.3

1. According to the text, which element of deterrence did Beccaria believe was the most important in ensuring that individuals were deterred from committing crime?
  1. Swiftness of punishment
  2. Certainty of being caught
  3. Severity of punishment/sentences
  4. All were equally important
2. According to the text, Beccaria claimed which crime was the absolute worst offense?
  1. Murder
  2. Rape
  3. Robbery
  4. Treason
3. According to the text, Beccaria's book was well received by dictators around the world, even in those countries with more draconian criminal justice systems. True or false?

Answers located at [www.edge.sagepub.com/schram2e](http://www.edge.sagepub.com/schram2e)

It is likely that the reason dictators and authoritarian governments liked his reformatory framework so much was that it explicitly named treason as the most serious crime. Beccaria stated,

The first class of crime, which are the gravest because most injurious, are those known as crimes of lese majeste [high treason]. . . . Every crime . . . injures society, but it is not every crime that aims at its immediate destruction.<sup>35</sup>

After all, treason was the criminal offense that most directly violated the government. To clarify, according to Enlightenment philosophy, not only are violations of law criminal acts against the direct victims, but such behaviors directly attack society as a whole by breaking the social contract. As Beccaria stated, the most heinous criminal acts are those that directly violate the social contract—treason and espionage. Therefore, it is not surprising that treason and similar offenses were considered the most serious crimes.

This is likely the reason why dictators of the time invited him to visit and presented him to the citizens as a “reformer” of their systems. These dictators likely saw a chance to pacify the revolutionary citizens, who the dictators could sense were about to overthrow their governments. In many of these cases, it was only a temporary solution. After all, the American Revolution occurred in the 1770s, the French Revolution in the 1780s, and other revolutions soon after this period.

We will see in later sections that governments that tried to apply Beccaria's ideas to the letter experienced problems, but most European (and American) societies that incorporated his ideas were more fair and democratic in their justice systems than those societies implementing any framework in existence prior to Beccaria. This is why he is, to this day, considered the Father of Criminal Justice.

## Impact of Beccaria's Work on Other Theorists

As discussed above, Beccaria's work had an immediate impact on the political and philosophical state of affairs in the late 18th century. In addition to being invited to help reform other countries' justice systems, his propositions and theoretical model of deterrence were incorporated



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into many countries' newly formed constitutions, most written after major revolutions. The most notable of these was the U.S. Constitution and Bill of Rights.

It is apparent that the many documents constructed before and during the time of the American Revolution in the late 1700s were heavily influenced by Beccaria and other Enlightenment philosophers. Specifically, the concept that our government is "of the people, by the people, and for the people" makes it clear that the Enlightenment idea of democracy and having a voice in the government is of utmost importance in the United States. Another clear example is the emphasis on due process and individual rights in the U.S. Bill of Rights. Specifically, the important concepts of right to trial by jury, right to confront and cross-examine witnesses, right to a speedy trial, requirement that the public be informed of all decisions regarding their justice system (charges, pleas, trials, verdicts, sentences, etc.), and many other rights contained in our Constitution are all products of Beccaria's work.

Beyond the incredible influence the Enlightenment and Beccaria had on individual rights in the United States via the Constitution and Bill of Rights, the impact of Beccaria's propositions on the working ideology of our justice system cannot be overstated. Specifically, the public nature of our justice system comes from Beccaria, as does the emphasis on deterrence. After all, our criminal justice system (as well as those of virtually all Western countries) uses the method of increasing the certainty and severity of punishment to reduce crime. This system of deterrence remains the dominant model in criminal justice, in which the goal is to deter potential and previous offenders from committing crime by enforcing punishment that will make them reconsider the next time they think about engaging in such activity. This model assumes a rational thinking human being, as described by Enlightenment philosophy, who can learn from past experiences or from seeing others punished for offenses that he or she is rationally thinking about committing. Thus, Beccaria's work has had a profound impact on the philosophy and workings of the justice systems in most countries throughout the world.

## Jeremy Bentham

Beyond his influence in the workings of justice systems, Beccaria also had a large impact on further theorizing about human decision-making related to criminal behavior. One of the more notable theorists inspired by Beccaria's ideas was Jeremy Bentham (1748–1832) of England, who has become a well-known Classical theorist in his own right, perhaps because he helped spread the Enlightenment/Beccarian philosophy to Britain. His influence in the development of Classical theorizing is debated, with a number of major texts not covering his writings at all.<sup>36</sup> Although he did not contribute a significant amount of theorizing beyond Beccaria's propositions regarding reform and deterrence, Bentham did further refine the ideas presented by previous theorists, and his legacy is well known.

One of Bentham's more important contributions was the concept of "hedonistic calculus," which was essentially the weighing of pleasure versus pain. This, of course, is strongly based on the Enlightenment/Beccarian concept of rational choice and utility. After all, if the expected pain outweighs the expected benefit of committing a given act, the rational individual is far less likely to do it. On the other hand, if the expected pleasure outweighs the expected pain, a rational person will likely engage in the act. Bentham listed a set of criteria that he thought would go into a rational individual's decision-making process. One analogy for this is a theoretical two-sided balance scale on which the pros and cons of crimes are weighed, with the individual then making a rational decision either to commit the crime or not.

Jeremy Bentham (1748–1832), one of the seminal theorists of the Classical and Neoclassical perspectives of criminology, insisted that his body be displayed at University College London. His preserved skeleton, with a wax head, sits there still.



Public domain

Beyond the idea of hedonistic calculus, Bentham's contributions to the overall assumptions of Classical theorizing did not significantly revise the theoretical model. Perhaps the most important contribution he made to the Classical School was helping popularize the framework in Britain. Bentham became best known for his design of a prison structure, known as the "Panopticon," that was used in several countries, including the United States in early Pennsylvania penitentiaries. (This model used a type of wagon-wheel design, in which a post at the center allowed a 360-degree visual observation point for the various "spokes," or corridors, containing the inmate cells.) Thus, Beccaria remains the primary figure in the formation and articulation of the Classical School, and his conceptualization is the one that persisted for most of the late 18th and early 19th centuries.

## The Neoclassical School of Criminology

As discussed in prior sections, a number of governments, including the newly formed U.S. government, incorporated Beccaria's concepts and propositions in the development of their justice systems. However, the government that most strictly applied Beccaria's ideas—the French government after that country's revolution in the late 1780s—found that his concepts worked pretty well, with just one exception. Beccaria had claimed that every individual who committed a given act against the law should be punished in the same manner and to the same extent. Although equality in punishment sounds like a good philosophy, what the French quickly realized was that not everyone who commits a given act should be punished identically.

Specifically, the French system found that sentencing a first-time offender the same as a repeat offender did not make much sense, especially if the first-time offender was a juvenile. Furthermore, there were many cases in which malice did not appear to motivate the defendant's actions, such as when the defendant had limited mental capacity or committed a crime out of necessity. Perhaps most important, Beccaria's framework specifically dismisses the intent (i.e., *mens rea*) of criminal offenders and focuses only on the harm done to society by a given act (i.e., *actus reus*). French society—as well as most modern societies, including the United States—deviated from Beccaria's framework in considering the intent of offenders, often in a crucial way, such as in determining what types of charges should be filed against those accused of homicide (see the previous discussion on degrees of homicide in this chapter). Therefore, a new school of thought regarding the Classical/deterrence model developed, which became known as the **Neoclassical School** of criminology.

The only significant difference between the Neoclassical School and the Classical School is that the Neoclassical (“neo” means new) takes into account contextual circumstances of the individual or situation that allow for increases or decreases in the punishment. For example, would a society want to punish a 12-year-old, first-time shoplifter the same way as a 35-year-old, previous offender who shoplifted the same item? Additionally, does a society want to punish a mentally challenged, one-time car thief to the same extent as it would a normally functioning person who has been convicted of stealing more than a dozen cars? The answer to both is, probably not. At least that is what most modern criminal justice authorities, including those in the United States, have decided.

**Neoclassical School:** assumes that aggravating and mitigating circumstances should be taken into account for purposes of sentencing and punishing an offender.

Why Do They Do It?



### The Harpe Brothers

The Harpe brothers, also known as the “Bloody Harpes,” were likely the first notable serial killers in the United States and certainly the first sibling team of serial killers, if one marks our beginning as the colonial era. In the late 1700s, Micajah “Big” Harpe and Wiley “Little” Harpe were basically river pirates and highway robbers (in the traditional sense) who were active in various states in the Appalachian region of the southeastern United States, including Tennessee, Kentucky, North Carolina, Mississippi, and Illinois. Despite the financial gains from their various crimes, they seemed more motivated by the act of kidnapping, raping, and killing. They were known to butcher all their enemies and their enemies' families, including infants. In one notable incident, Micajah Harpe bashed his own daughter's head against a tree because of her constant crying. It is claimed that this was the only crime for which he actually showed remorse when he confessed.

The brothers also took part in the kidnap and rape of several teenage girls in North Carolina and pillaged (in every sense of the word) various farms. They later joined several different militias and Native American tribes, such as the renegade Creek and Chickamauga Cherokees (whom they had lived with at certain points), to attack frontier settlements and forts, such as Fort Nashborough (now Nashville, Tennessee). They were also known for kidnapping women and forcing them to become their wives. Given the time when they offended, little can be certain regarding the number of their victims or extent of their offenses, outside of the fact that historical records report they killed no fewer than 40 people and seemed to take great joy in doing so.

Regarding their demise, Micajah Harpe was killed by a revenge posse (after he killed a woman); he died after being shot and then attacked with a tomahawk. Legend has it that his head was hung on a pole at a crossroads known as Harpe's Head or Harpe's Head Road in Webster County, Kentucky. Wiley Harpe lived under an alias for a while to elude the local authorities but was captured, tried, and hanged in 1804.

So why did they do it? Aside from the psychological motivation to kidnap, rape, and kill so many people, the primary reason likely was because they could. This sounds crude and harsh, but there have always been evil people in the world. With no systematic formal justice system in the colonial period, especially in the frontier areas of Tennessee, Kentucky, and other pioneer regions in the 1700s, there was likely a sense of “do whatever you want.” At that time, this was the Wild West of the colonies, and even if you violated local norms or rules, who was going to track you down and arrest you? After all, the first official law enforcement department did not form until the early 1800s in Texas (Texas Rangers, 1835), and the first municipal police force did not form until after that (Boston Police, 1838). Although some regions had a constable or similar officer who was supposed to enforce the rules or laws of that area, even such men were likely hesitant to go after two violent brothers who would likely attack anyone who came after them.

Without a certain formal policing authority, individuals can literally get away with murder. We have seen this happen in modern times when there is no stable law enforcement in place, such as in regions undergoing widespread chaos, whether it be Congo, Africa, or New Orleans, Louisiana, after Hurricane Katrina. The bottom line is that any time there is no formal, stable law enforcement authority in place, individuals can get away with any number of crimes without facing sanctions or accountability. This is perhaps why New Orleans recently ranked as the top city in the United States for violent crime; formal structures were thrown into complete chaos after the flooding and resulting disarray from Hurricane Katrina. So it is for this reason—the lack of any stable law enforcement or criminal justice system—that the Harpe brothers were able to get away with as much as they did, until they were finally apprehended by more informal authorities, such as the revenge posse made up of nonsworn individuals and local constables that had limited authority at that time. But by the time they were stopped, they had for years been brutalizing many victims without facing any accountability or formal sanctions for their crimes.

**Think About It:**

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1. Can you think of a theory that would explain why the Harpe brothers committed their crimes?
2. Do you think if formal police authorities had been in that area at that time, the Harpe brothers would not have offended so much and for so long?

Sources: Musgrave, J. (1998, October 23). Frontier serial killers: The Harpes. *American Weekend*; Rothert, O. A. (1927). The Harpes, two outlaws in pioneer times. *Filson Club Historical Quarterly*, 1(4), 155–163.

#### Applying Theory to Crime: Other Assaults (Simple)



The FBI's Uniform Crime Report Program defines "other assaults," or "simple assaults," as "assaults and attempted assaults where no weapon was used or no serious or aggravated injury resulted to the victim. Stalking, intimidation, coercion, and hazing are included."<sup>37</sup> In 2014, there were a total of 1,093,258 simple assaults. From 2005 to 2014, the number of simple assaults by males decreased by 18.3%; for the same period, the number of simple assaults by females decreased by 3.7%.<sup>38</sup>

Based on 2014 National Crime Victimization Survey data, the Bureau of Justice Statistics reported that there were 3,318,923 victims of simple assault, which means 12.4 simple assaults per 1,000 persons age 12 or older. Comparing this rate with the rate of simple assaults for 2005 (i.e., 19.2) reveals a significant decrease (35.4%). Men and women reported similar rates of victimization (12.8 and 12.1, respectively); however, when examining the relationships between victims and offenders, some interesting differences appear.

For the male victims of simple assault, 39.2% were nonstranger, 52.2% were stranger, and the remaining were "relationship unknown." Within the 39.2% nonstranger simple assaults, 3.7% involved intimate partners (i.e., current or former spouses, boyfriends, or girlfriends), 8.6% involved another relative, and 26.9% were between friends or acquaintances. For the female victims of simple assault, 72.2% were nonstranger, 22.4% were stranger, and the remaining were "relationship unknown." Within the 72.2% nonstranger simple assaults, 18.5% involved intimate partners, 11.9% involved another relative, and 41.8% were between friends or acquaintances. When examining the rates of intimate partner violence by gender, 0.5 per 1,000 persons age 12 or older were male victims compared with 2.2 per 1,000 for female victims.<sup>39</sup>

Police officers are a primary component of deterrence. Without the police, chaos might ensue, as seen during police strikes. However, studies show that concentrating officers in certain neighborhoods doesn't reduce crime in those areas.



It is essential to stress, however, that the scope and extent of domestic violence varies a great deal depending on the definition used to measure the incidence and prevalence of these assaults. Further, there is a general assumption that both official reports and self-reports understate the problem of domestic assault for a variety of reasons. For instance, a direct question pertaining to past victims or perpetrators of violence may not evoke a positive response. Some individuals may not remember or may not be willing to acknowledge or admit to illegal or inappropriate behavior.<sup>40</sup>

One area of study that has explored the application of deterrence theory is that of law enforcement responses to domestic violence. In the Minneapolis Domestic



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Violence Experiment, Sherman and Berk examined the effects of police responses in deterring domestic assaults.<sup>41</sup> Officers were randomly assigned to respond in one of the following manners: (a) separate the parties and order one of them to leave, (b) inform the parties of various alternatives (e.g., mediating disputes), or (c) arrest the abuser. The results revealed that 10% of those arrested, 19% of those advised of alternatives, and 24% of those ordered to leave subsequently engaged in further violence. Thus, Sherman and Berk concluded that arresting perpetrators of domestic violence has the strongest deterrent effect. Some researchers, however, noted methodological shortcomings of the Minneapolis Domestic Violence Experiment. For instance, some officers involved in the experiment claimed to have prior knowledge of what type of action they were to take when responding to a domestic violence call. Thus, they would reclassify the offense in an effort to have it omitted from the study.<sup>42</sup>

The Minneapolis Domestic Violence Experiment had a tremendous policy impact:

Within 1 year of the study's first publication, almost two thirds of major police departments had heard of the Minneapolis experiment, and three quarters of the departments correctly remembered its general conclusion that arrest was the preferable police response. Similarly, the number of police departments encouraging arrests for domestic violence tripled in 1 year from only 10% to 31%.<sup>43</sup>

It has also been suggested that the Minneapolis experiment was favorable among policy makers given the emerging support for deterrence theory. Due to the major policy impact of this experiment, the National Institute of Justice funded six experimental replications of the Minneapolis Domestic Violence Experiment; these have been collectively referred to as the "Replication Studies."<sup>44</sup> Essentially, these replications failed to confirm the earlier findings of the Minneapolis experiment. Buzawa and Buzawa contend that there may be a "middle ground." Specifically, deterrence may result for some offenders but not all offenders.<sup>45</sup>

To further highlight key aspects of deterrence theory, we apply this perspective to the crime of simple assault, specifically domestic violence. Doug and Emily have been living together for more than three years. They have a two-year-old son and are expecting their second child in a few months. Throughout their relationship, Doug has become increasingly violent toward Emily. At first, he would shout at and belittle her; soon after, he was pushing and shoving her. Now, Doug has started to hit, slap, and kick Emily. One evening, the violence became so overwhelming, Emily called the police. Following department policy, the officers arrested Doug for simple assault. Doug was convicted and sentenced to probation and mandatory counseling.

Doug's arrest incorporates the concepts associated with deterrence theory. For instance, the certainty of punishment is supported by the departmental policy to make an arrest in such instances of domestic violence. The concept of swiftness is also evident, with Doug being arrested soon after Emily called the police. One may ask, however, whether the punishment of probation and counseling was too severe or not severe enough. Also, one might consider whether such punishment will deter Doug from assaulting Emily again.

### Think About It:

1. How do the rates of simple assault vary between males and females?
2. What did the Minneapolis Domestic Violence Experiment show regarding different ways to deal with cases of domestic violence?
3. What did the replication studies of domestic violence reveal about the original Minneapolis study on domestic violence?

This was also the conclusion of French society, and although French authorities for some time fully embraced the idea of equal punishment for a given act against society (i.e., equal harm done to society, as Beccaria advised), they quickly realized that the system was neither fair nor effective in terms of deterrence. So they came to acknowledge that circumstantial factors play an important part in how malicious or guilty a defendant is. A number of contextual factors either alleviate or increase the level of malicious intent involved in engaging in criminal activity.

Thus, the French revised their laws to take into account both mitigating and aggravating circumstances. This Neoclassical concept became the standard in all Western societies' justice systems. Fortunately, the United States also follows this model and considers such contextual factors in virtually all decision-making related to charges and sentences. For example, if a defendant is a juvenile, he or she is processed in a completely different system from the criminal court. Furthermore, first-time offenders are generally given the option of a diversion program or probation, as long as their offense is not serious.

The Neoclassical School is an important caveat to the previously important Classical School. Still, the Neoclassical School assumes virtually all the other concepts and propositions of the Classical School. For example, the Neoclassical School also endorses the idea of the social contract, due-process rights, and rational beings who are deterred by the certainty, swiftness, and severity of punishment. So, with the exception of aggravating and mitigating circumstances in sentencing and punishment, the Neoclassical School is identical to the Classical School. And this Neoclassical School is the model used by all Western societies in their justice systems. Thus, this framework had and continues to have an extremely important influence around the world.

## Loss of Dominance of Classical/Neoclassical Theory

For about 100 years after Beccaria wrote his book, the Classical/Neoclassical School was dominant in criminological theorizing. During this time, most governments, especially those in the Western world, shifted their justice frameworks toward the Neoclassical model. This has not changed, even in modern times. After all, virtually every society still uses the Neoclassical/Classical model as the framework for their systems of justice.

However, the Classical/Neoclassical framework lost dominance among academics and scientists in the 19th century, especially after Charles Darwin's publication of *The Origin of Species* in the 1860s, a book that introduced the concept of evolution and natural selection. This perspective shed new light on other influences of human behavior (e.g., genetics, psychological deficits) beyond that of free will and rational choice (covered in [Chapters 5](#) and [6](#)). Despite this shift in emphasis among academic and scientific circles, it remains true that the actual workings of the justice systems in most Western societies retained use of the Classical/Neoclassical model.

## Policy Implications

Even now, when authorities want to crack down on certain crimes such as drugs or gang activity, they focus on law enforcement and enhanced punishments to create more certainty and severity of being caught, respectively. So, although the Classical/Neoclassical perspective fell out of favor with researchers and academics over the past 150 years, it remains the primary model in terms of policy implications favored by most officials in the criminal justice system, legislators, and the general public. Many policies are based on deterrence theory: the premise that increasing punishment sanctions will deter crime. This is seen throughout the system of law enforcement, courts, and corrections.

This is interesting given the fact that Classical/deterrence theory has not been the dominant explanatory model among criminologists for decades. In fact, a recent poll of close to 400 criminologists in the nation ranked Classical theory as 22 out of 24 in terms of being the most valid explanation for serious and persistent offending.<sup>47</sup> Still, given the dominance of Classical/deterrence theory in most criminal justice policies, it is important to discuss the most common strategies.

For example, “three-strikes” laws have become prevalent in many states, as have police department gang units and injunctions (which condemn any observed loitering by or gathering of gang members in a specified region by listing members of established gangs). Furthermore, some states, such as California, have created gang enhancements in which juries decide whether the defendant is guilty of a given crime and also make a separate decision as to whether the person is a gang member. If a jury in California determines that the defendant is a gang member (usually with evidence provided by local police gang units), this automatically adds more time to any sentence assigned by the judge if the individual is convicted of the crime. However, some states are starting to reconsider this hard-line approach to locking up offenders for life for nonviolent felonies, such as in the case of Shane Taylor in California, who was sentenced to life under the “three-strikes” law after being convicted of two burglaries (a property crime, according to the FBI definition) and then possession of 0.14 grams of methamphetamine.<sup>48</sup>

### Comparative Criminology: Homicide Rates

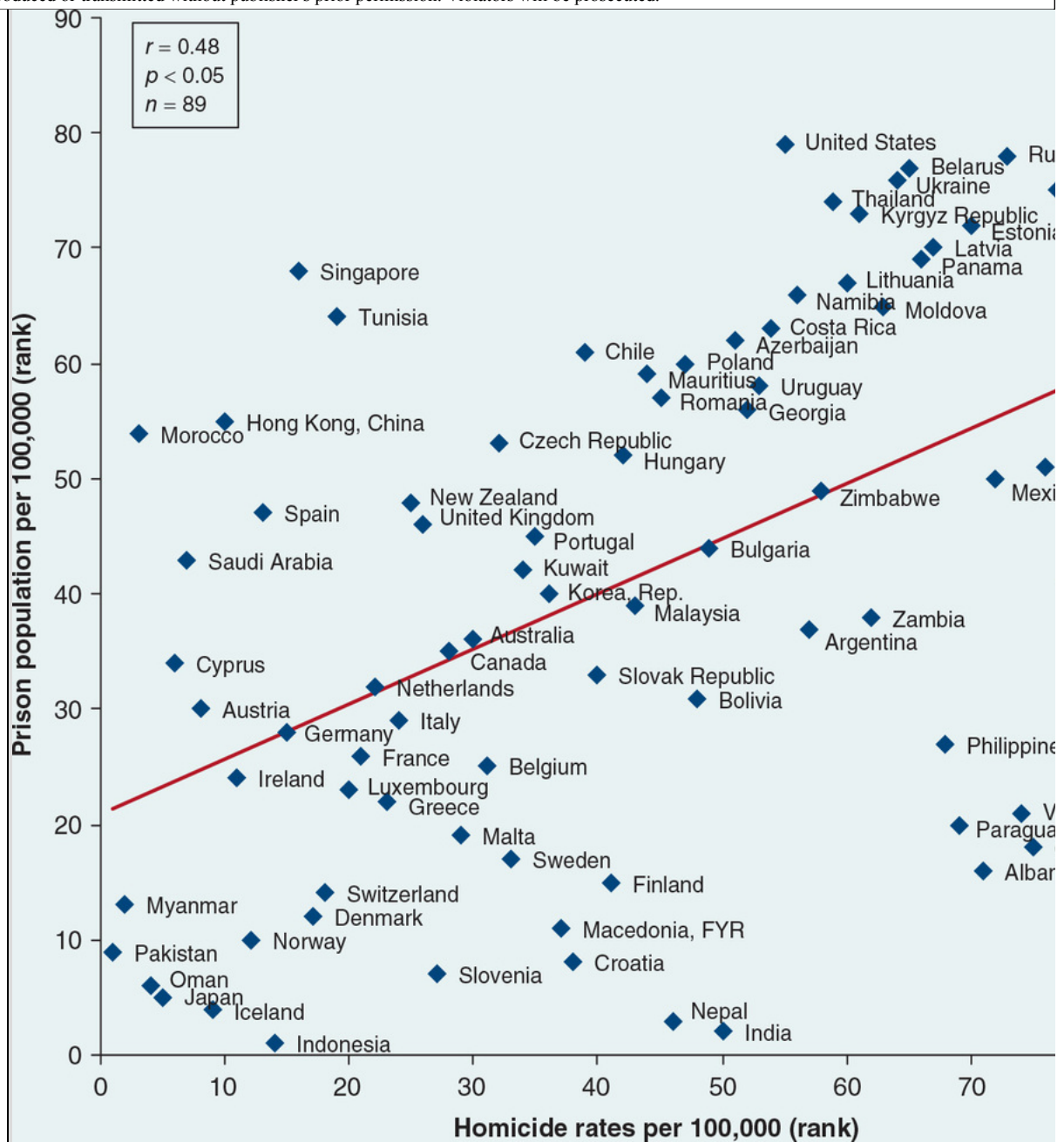


### Ranking Countries by Rate of Prison Population and Homicide Rates

This box continues the book's theme of comparing the United States with foreign nations in terms of various aspects of criminology and criminal justice (see Comparative Criminology 1.1 in [Chapter 1](#), which provides an introduction to this feature). In this section, we will examine the findings and conclusions from the eighth United Nations Crime Survey,<sup>46</sup> specifically the portion dealing with rates of incarceration compared with rates of homicide in 89 countries. This comparison provides a recent analysis of the extent to which more severe sentences (as indicated by rate of incarceration) correlate with homicide rates in various countries. Readers should note that although most of the inmates in these countries were not convicted of murder, it is assumed that the countries that incarcerate the most offenders are also the most likely to be punitive in terms of a serious offense such as murder—an assumption supported by empirical research.

According to the research findings from the eighth United Nations Crime Survey, the trend is that the higher the ranking of countries in terms of prison population, the higher the homicide rates (see [Figure 3.5](#)). As can be seen in the figure, a higher prison population in a given country is strongly and positively associated with the homicide rate in that country. The estimated correlation for this association was significant, and the estimated coefficient was strong to moderate ( $r = 0.48$ ). To clarify, the rate of incarceration is positively correlated with the occurrence of murder in most of the reporting countries, while the countries that reported the lowest incarceration rates are also the most likely to report the lowest murder rates. For example, the rate of incarceration is highest (of the 89 countries) in the United States, and the rate of homicide is also high. Regarding other countries, the Russian Federation, South Africa, Swaziland, Estonia, Latvia, Panama, Belarus, and Ukraine also have high rates of incarceration, as well as high rates of homicide (see [Figure 3.5](#)).

**Figure 3.5** Ranking of Countries on Prison Population per 100,000 Population and on Homicide Rates per 100,000 Population



Sources: www.unodc.org; 8th UN Crime Survey; World Prison Population List (Seventh Edition), King's College, London, UK, 2007.

On the other hand, a number of countries have low rates of incarceration and low rates of murder. Such countries include Japan, Iceland, Indonesia, and Norway (see [Figure 3.5](#)). Again, countries that experience low levels of violence likely do not need to lock up such violent offenders; however, this analysis is done per capita, or by rate, so such comparisons are applicable. Of course, this observed association of countries that have the highest rates of murder tending to have the most punitive sanctions could be spurious, in the sense that sanctions in these countries are so punitive because they have higher rates of violence. But the bottom line of this analysis is that despite more punitive sanctions in some countries (e.g., the United States, Russia), there appears to be no deterrent effect among individuals who commit murder. Perhaps this is due to the offenders not actually thinking about the sentences or penalties likely to result from the act of homicide, which will be explored more in the [next section](#) of this book.

**Think About It:**

1. When comparing various countries, how do incarceration rates correlate with homicide rates?
2. Which countries seem to incarcerate the most by rate? How do such nations tend to rank on homicide rates?
3. Which countries tend to have the lowest incarceration rates, and how do such countries rank on homicide rates?

Source: Van Dijk, J. (2008). *The world of crime*. Thousand Oaks, CA: SAGE.

Also, the still-common use of the death penalty and programs such as “scared straight” are based heavily on the deterrence framework of the Classical/Neoclassical perspective, despite much evidence showing that neither tends to be effective in deterring individuals from committing crimes and both may have even led to more recidivism by participants of such programs.<sup>49</sup> Furthermore, in terms of individuals’ decision-making when it comes to crime, formal deterrence elements such as law enforcement or possible severe sanctions for a given act tend to have little impact. This is because such a model assumes people are rational and think carefully before engaging in criminal behavior, whereas most research findings suggest that people often engage in behaviors they know to be irrational or that offenders tend to engage in behaviors without rational decision-making, which criminologists often refer to as “bounded rationality.” This means that individuals tend to be oblivious to many of the risks that may result from their behavior.<sup>50</sup> On the macro or group level, the same can be said for adding more officers to random street patrol in a given neighborhood or area, which shows negligible effects in crime reduction.<sup>51</sup> Rather, most deterrence effects and reductions of crime are more highly influenced by informal elements, such as families and communities having strong ties and “policing” their own neighborhoods, which we discuss in the [next chapter](#).

These are just some examples of how the justice system in the United States, as well as most other Western systems, still relies primarily on deterrence of criminal activity through increased formal controls, such as law enforcement and enhanced sentencing, despite much evidence showing that these changes likely have little impact on individuals’ decisions to engage in illegal behavior. The bottom line is that modern justice systems still base most of their ideology on the ability of individuals to be deterred by the certainty, severity, and swiftness of punishment—namely, the Classical/Neoclassical School of thought—despite the fact that this theoretical framework fell out of favor among scientists and philosophers in the mid- to late 1800s.

## Conclusion

This chapter began with a discussion of the dominant perspectives throughout most of human civilization, which were supernatural- or religious-based theories. Once the Age of Enlightenment presented a more logical framework of individual decision-making and rationality in the 18th century, the Classical School of criminological thought became dominant, largely due to the propositions in Beccaria’s *On Crimes and Punishments* (1764). Along with many proposed reforms, his perspective focused on the assumption that individuals have free will and make a rational choice to commit a given offense after first considering the risk of getting caught and punished, a proposition that established the deterrence theory of reducing offender behavior. Thus, the goal was to deter individuals from engaging in criminal activities by increasing their likelihood of being caught and/or punished via formal sanctions.

We also started this chapter with a case study of Deborah Jeane Palfrey, the “D.C. Madam,” who committed suicide before she could be sentenced for her crimes. Although this is an extreme example, it shows the pressing influence of incarceration on the human psyche. Ms. Palfrey killed herself when facing a prison sentence, and given that she had been incarcerated before, this shows the negative effects of such a sentence. This is proof that there is a lot to be said for the deterrent effect of formal sanctions, which is the keystone of the Classical School. Thus, there is still a case to be made for the deterrent effects of formal sanctions, such as incarceration, among many potential offenders in our society.

The Classical School as originally proposed by Beccaria included some elements that virtually all countries had problems implementing, which led to the Neoclassical perspective that allowed for consideration of contextual aspects in sentencing decisions. This improved Neoclassical framework became the dominant model for close to a century, until the late 19th century, but is still commonly used as the basis for most criminal justice systems in the Western world, especially in the United States. We will see in the [next chapter](#) that the concepts and propositions of the Classical/Neoclassical framework were recently expanded to develop a more logically valid and empirically supported theory of offending behavior.

## Summary of Theories in Chapter 3



THEORY	CONCEPTS	PROPONENTS
Supernatural/religious/metaphysical theories	Full moon Lightning God/gods	Various pre-Classical groups  Most common belief among societies prior to Enlightenment period
Classical theory	Rationality Free will Social contract Deterrence theory Swiftness of punishment Certainty of punishment Severity of punishment	Cesare Beccaria  Jeremy Bentham
Neoclassical perspective	Takes into account the contextual factors in a given crime in terms of punishment but assumes all other propositions of the Classical School (e.g., rationality, free will, deterrence)	No one key proponent, but this is the model all criminal justice systems in the Western world are based on (e.g., United States)

## Key Terms

actus reus, 67  
 Age of Enlightenment, 59  
 brutalization effect, 69  
 certainty of punishment, 71  
 Classical School, 59  
 deterrence theory, 59  
 general deterrence, 73  
 mens rea, 67  
 Neoclassical School, 77  
 severity of punishment, 72  
 social contract, 65  
 specific deterrence, 73  
 swiftness of punishment, 70  
 utilitarianism, 66

## Discussion Questions

1. How do pre-Enlightenment perspectives of crime differ from those in the Age of Enlightenment?
2. What Enlightenment philosophy do you feel was most important for criminal policy?
3. Can you think of modern examples of violations of Enlightenment philosophy in criminal justice systems, or in society in general?
4. What concept/proposition of Beccaria's reforms do you find least practical? Most practical?
5. Which of the three elements of deterrence do you find to be most important? Least important?
6. Do you agree with Beccaria's assessment of the death penalty? What portions of his reasoning do you most agree or disagree with?
7. Can you define and explain the differences between general and specific deterrence? Give examples of each.

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8. How did the Neoclassical school differ from the traditional Classical school? Do you believe it was an improvement? Why or why not?
9. What modern-day applications and policies do you think were inspired or influenced by Beccaria and Bentham?

#### Web Resources

For most of human civilization, theories of crime were based on supernatural or spiritual theories, such as “the devil made them do it.”

<http://www.salemweb.com/memorial/>

The Age of Enlightenment established that individuals are rational and make decisions regarding their behavior, breaking from the belief that criminal behavior is caused by demons or other supernatural explanations.

[http://history-world.org/age\\_of\\_enlightenment.htm](http://history-world.org/age_of_enlightenment.htm)

Hobbes was one of the first, and perhaps the most notable, Enlightenment theorists, in his focus on individuals being rational and having free will, thereby placing criminal behavior as a choice to be made and not up to fate.

<http://www.philosophypages.com/hy/3x.htm>

Beccaria was highly influenced by the Enlightenment and proposed the theory of deterrence and many reforms, which is why he is considered the Father of Deterrence as well as the Father of Criminal Justice and the Father of the Classical School of criminology.

[http://www.constitution.org/cb/beccaria\\_bio.htm](http://www.constitution.org/cb/beccaria_bio.htm)

Deterrence is one of the key propositions of the Classical School of criminology and assumes that individuals have free will and weigh out the benefits versus punishments of their behavior.

<http://nij.gov/five-things/pages/deterrence.aspx>

Bentham extended the ideas and concepts advanced by Beccaria and proposed a hedonistic calculus that further specified how individuals decide whether or not to commit crime based on a cost/benefit ratio.

<http://www.utilitarianism.com/bentham.htm>  
<http://www.ucl.ac.uk/Bentham-Project/who>

The Neoclassical School of criminology added the consideration of aggravating and mitigating circumstances to sentencing of offenders, thus putting the context of the offense as a primary consideration, which the Classical School did not.

<http://study.com/academy/lesson/neoclassical-criminology-school-theory.html>

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Revisiting the Last Witch Trial



Help Wanted: The Philippines Needs More Exorcists



Deterrence or brutalization: What is the effect of executions?



Boundary-crossing in perceptual deterrence: Investigating the linkages between sanction severity, sanction certainty, and offending



Two hundred and fifty years since the publication of On Crimes and Punishments: The currency of Cesare Beccaria's thought



Tracey Meares (1 of 6): Understanding Deterrence and Legitimacy in Law Enforcement



Philosophy-Ethics: Utilitarianism, Part 1



Crime and Punishment: Guilty as Charred Tony Robinson



Death in Cell 49: How the Prison System Lost Track of Nelson Rodriguez



Methods of Execution-Death Row: The Final 24 Hours



Exorcism



Stoning



Torture



Dismemberment



Flagellation

PREMIUM VIDEO:

Check out the Interactive eBook for premium videos, including videos from author Stephen Tibbetts, who discusses real-world examples and strange crimes; and videos from former offenders, who share their stories from a first-person view, and touch on key theories and concepts from the chapter.