

## THE EARLY SCHOOLS OF CRIMINOLOGY AND MODERN COUNTERPARTS

**L**isa” is a 30-year-old mother of three children ages 8, 6, and 4. Her husband left her a year ago for another woman, and his present whereabouts are unknown. Because Lisa only has a 10th-grade education and cannot afford child care costs, she was forced onto the welfare rolls. As Christmas approached, she realized that she had no money to buy her children any presents, so she took a temporary Christmas job at the local Wal-Mart store, where she earned \$1,200 over a 2-month period. Lisa did not report this income to the welfare authorities as required by law; a welfare audit uncovered her crime. The terrified and deeply ashamed Lisa pled guilty to grand theft, which carries a possible sentence of 2 years in prison, and was referred to the probation department for a presentence investigation report (PSI) and sentencing recommendation.

“Chris” is a 30-something male with a record of thefts and other crimes committed since he was 10 years old. Chris also pled guilty before the same judge on the same day and was likewise referred for a PSI. Chris had stolen money and parts totaling \$1,200 from an auto parts store during one of his very brief periods of employment.

These two cases point to a perennial debate among criminal justice scholars, with one side favoring the so-called classical school position and the other favoring the positivist position. Both positions are ultimately about the role of punishment in deterring crime, but the classical position maintains that punishment should fit the crime and nothing else—that is, all people convicted of similar crimes should receive the same punishment regardless of any differences they may have. Both Lisa and Chris freely chose to commit the crime, and the fact that Chris has a record and Lisa does not is irrelevant. The positivist position is that punishment should fit the offender and be

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*appropriate to rehabilitation. Lisa and Chris's crimes were motivated by very different considerations, they are very different people morally, and blindly applying similar punishments to similar crimes without considering the possible consequences is pure folly.*

*Think about these two cases as you read about classical and positivist thought about human nature, punishment, and deterrence in this chapter.*

### The Classical Scholars

Modern criminology is the product of two main schools of thought: the classical school originating in the 18th century and the positivist school originating in the 19th century. The early contributors to criminology were amateur dabblers—a mixed bag of philosophers, physicians, lawyers, judges, theologians, and anthropologists whose primary interests lay in penology (prison management and the treatment of offenders) rather than criminology per se. The study of crime and criminal behavior arose as a secondary consequence of the interest shown by these pioneers in penal reform.

You may ask yourselves why a discussion of the “old masters” is necessary; after all, you don't see such discussions in physics, chemistry, or biology texts. The reason for this is that unlike those disciplines, modern criminology is still confronted by the same problems that confronted its pioneers, particularly the problem of explaining crime and criminality. Thus, their works are of more than passing interest to us.

### Preclassical Notions of Crime and Criminals

Prior to the 18th century, explanations of a wide variety of phenomena tended to be of a religious or spiritual nature. Good fortune and disaster alike were frequently attributed to benevolent or malevolent supernatural forces. A simple extension of this worldview was to define crime as the result of demonic possession or the evil abuse of free will. Because of the legacy of Original Sin, all human beings were considered born sinners, and so it made no sense to ask questions like, “What causes crime?” The gift of the grace of God kept men and women on the straight and narrow, and if they deviated from this line, it was because God was no longer their compass.

Demonological explanations of crime began to wane in the 18th century with the beginning of a period that cultural historians call the **Enlightenment**, which was essentially a major shift in the way people began to view the world and their place in it. This new worldview questioned traditional religious and political values, such as absolute monarchy and demonic possession. In their place they substituted humanism, rationalism, and a belief in the primacy of the natural over the supernatural world. Enlightenment thinkers believed in the dignity and worth of the individual, a view that would eventually find expression in the law and in the treatment of criminal offenders.

### The Classical School

#### Cesare Beccaria and Reform

The father of classical criminology is generally considered to be the Italian nobleman and professor of law, Cesare Bonesana, Marchese di Beccaria. In 1764, Beccaria published what was to become the manifesto for the reform of judicial and penal systems throughout Europe—*Dei Delitti e della Pene* (*On Crimes and Punishment*).<sup>1</sup> The widespread acclaim of this book among

intellectuals eventually led to its acceptance by the legal and political authorities. The book is an impassioned plea to humanize and rationalize the law and to make punishment more just and reasonable.

Beccaria's humanist philosophy stood in sharp contrast to the treatment of criminals at the time, which included torture for all manner of offenses, for the extraction of statements from suspects, and even at times from witnesses. Judges of the period often levied vicious and arbitrary penalties against convicted criminals, with the harshness of punishment often based on the respective social positions of offenders and victims and on a judge's penchant for mercy or cruelty. Public punishment was viewed both as social vengeance and as a means of instilling a deterrent fear into the population; the crueller the punishment, the greater its deterrent effect was assumed to be.

Beccaria did not question the need for punishment, but he believed that laws should be designed to preserve public safety and order, not to avenge crime. He also took issue with the common practice of secret accusations, arguing that such practices led to general deceit and alienation in society. He argued that accused persons should be able to confront their accusers, know the charges brought against them, and enjoy the benefit of a public trial before an impartial judge as soon as possible after arrest and indictment.

If offenders are found guilty, punishment should fit the crime (i.e., be proportionate to the harm done to society), be identical for identical crimes, and be applied without reference to the social status of either the offender or the victim. Beccaria championed not only the abolition of the death penalty but also the cause of merciful punishments, which he believed should only minimally exceed the level of damage done to society. Punishment, however, must be certain and swift to make a lasting impression on the criminal. To ensure a rational and fair penal structure, punishments for specific crimes must be decreed by written criminal codes and the discretionary powers of judges severely curtailed. The judge's task was to determine guilt or innocence and then to impose the legislatively prescribed punishment if the accused is found guilty.

### Jeremy Bentham and Human Nature

Perhaps an even more prominent figure of the classical school was British lawyer and philosopher Jeremy Bentham, a contemporary and an admirer of Beccaria. In the English-speaking world, Bentham's legacy extended beyond the reformation of the criminal law to embrace police and correctional reforms.<sup>2</sup> His major work, *A Fragment on Government and an Introduction to the Principles of Morals and Legislation*,<sup>3</sup> is essentially a philosophy of social control based on the



▲ Photo 3.1 Cesare Beccaria (1738–1794)



▲ **Photo 3.2** Jeremy Bentham, often credited as the founder of University College London, insisted that his body be put upon display there after his death. You can visit a replica of it today.

principle of utility, which prescribed “the greatest happiness for the greatest number.” The principle posits that any human action at all should be judged moral or immoral by its effect on the happiness of the community. Thus, the proper function of the legislature is to promulgate laws aimed at maximizing the pleasure and minimizing the pain of the largest number in society—“the greatest good for the greatest number.”<sup>24</sup> Having its basis in the natural human need for happiness, the principle of utility can be seen as a principle of natural law.

If legislators are to legislate according to the principle of utility, they must understand human motivation, which for Bentham was easily summed up as follows: “Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do.”<sup>25</sup> This was essentially the Enlightenment concept of human nature, which was seen as hedonistic, rational, and endowed with free will. The classical explanation of criminal behavior—and even how to prevent it—can be derived from these three assumptions about human nature.

**Hedonism** is a doctrine with the central tenet that the achievement of pleasure or happiness is the main goal of life. We don’t have to learn to be hedonistic; pleasure is intrinsically desirable, and pain is intrinsi-

cally undesirable. All other life goals are seen only as instrumentally desirable; that is, they are only desirable as means to the end of achieving pleasure or avoiding pain. Thus, hedonism is the greatest single motivator of human action.

**Rational** behavior is behavior that is consistent with logic. People are said to behave rationally when we observe a logical “fit” between the goals they strive for and the means they use to achieve them. Rationality is not to be confused with morality. Crime is rational (at least in the short run) if the criminal employs reason and acts purposely to gain desired ends. The goal of human rationality is self-interest, and self-interest governs our behavior whether in conforming or deviant directions.

Hedonism and rationality are combined in the concept of **hedonistic calculus**, a method by which individuals are assumed to logically weigh the anticipated benefits of a given course of action against its possible costs. If the balance of consequences of a contemplated action is thought to enhance pleasure and/or minimize pain, then individuals will pursue it; if not, they

will not. If people miscalculate, as they frequently do, it is because they are ignorant of the full range of consequences of a given course of action, not because they are irrational.

**Free will** enables human beings to purposely and deliberately choose to follow a calculated course of action. If people seek to increase their pleasures illegally, they do so freely and with full knowledge of the wrongness of their acts. Given this knowledge, society has a perfectly legitimate right to punish those who harm it.

It follows from the classical assumptions about human nature that if crime is to be deterred, punishment (pain) must exceed the pleasures gained from the fruits of crime. Hedonistic and rational criminals will weigh the costs against the benefits of crime and desist if, on balance, the costs exceed the benefits. Estimations of the value of various pleasures and pains are to be considered with reference to four circumstances: intensity (severity), duration, certainty, and propinquity (how soon after the crime that pleasure or pain is forthcoming).<sup>6</sup>

### The Legacy of the Classical School

The **classical school** of criminology, so called because its mode of inquiry was the armchair philosophy practiced by the ancient “classical” Greek philosophers,<sup>7</sup> was a school of philosophical jurisprudence bent on establishing a set of reformist moral values in criminal justice, not a school of empirical data collection and analysis attempting to build a theory of criminality. Regardless of their influence on criminological theory, the influence of the classical theorists on the legal and penal systems of Europe and North America is immeasurable. Many European monarchs (the “Enlightened Despots”) of the 18th century were moved to adopt their principles, and the American Constitution and the 1789 French *Declaration of the Rights of Man* were very much influenced by them.<sup>8</sup> All modern criminal justice systems in the world assume the classical position that persons are free agents who deserve to be punished when they transgress the law. We may also recognize many of the ideas championed by Beccaria in such rights as freedom from cruel and unusual punishment, the right to a speedy trial, the prohibition of ex post facto laws, the right to confront one’s accusers, and equality under law, contained in the U.S. Bill of Rights and other documents at the heart of Western legal systems today. The emphasis on rationality, on free will, and on personal responsibility within the modern legal system reflects the once radical image of human beings posited by the great Enlightenment thinkers.

## ✎ The Rise of Positivism

### What Is Positivism?

Classicists tended to define criminal acts as natural consequences of the unrestrained human tendency to seek pleasure—as simply hedonistic abuses of free will. The problem with such an explanation, if accepted without qualification, is that it provides little possibility of further investigation. In the 19th century, criminologists began to move away from the classical assumptions, especially the assumption of free will as it is commonly understood, and toward a more scientific view of human behavior. This is not to say that hedonism, rationality, and free will are mythical human attributes. They may, in fact, define the “essence” of human nature, but to accept these constructs in pure form poses great difficulties for science, a method of inquiry that seeks measurable “causes” of the phenomena it explores. The increasingly popular view among criminologists of this period was that crime resulted from internal and/or external forces impinging

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on individuals, biasing or even completely determining their behavioral choices. This position became known as *determinism*, and its adherents were known as *positivists*.

Just as the spirit of rationalism in the 18th century ushered in the classical school, the spirit of science in the second half of the 19th century ushered in the positivist school. The term **positivism** is used to designate the extension of the scientific method—from which more *positive* knowledge can be obtained—to social life. Positivists in the human sciences insisted on divorcing science from metaphysics and morals and looking only at what is, not what ought to be. The writings of natural scientists, particularly those of Charles Darwin on evolution, generated a major new way of thinking about human nature among intellectuals just as revolutionary as the writings of the Enlightenment philosophers a century earlier. The flattering image of human beings that emerged from the Enlightenment gave way to the evolutionary view that we are different only in degree from other animal forms and that science could explain human behavior just as it could explain events in the nonhuman world. Positivist criminologists were more concerned with discovering biological, psychological, or social determinants of criminal behavior than with the classical concerns of legal and penal reforms.

Enrico Ferri, one of the early positivists, gives us perhaps the best short description of the differences between classical and positivist criminologists. Note that even back then, criminologists from different schools of thought were taking jabs at one another: “We are empirical *scientists*; you lot are just armchair speculators”:

For [the classicists] the facts should give place to syllogisms [reasoning from a taken-for-granted premise to a logical conclusion]; for us [positivists] the facts govern and no reasoning can occur without starting from the facts. For them science only needs paper, pen, and ink and the rest comes from a brain stuffed with . . . abundant reading of books. . . . For us science requires spending a long time in examining the facts one by one, evaluating them, reducing them to a common denominator, [and] extracting the central idea from them. For them a syllogism or an anecdote suffices to demolish a myriad of facts gathered by years of observation and analysis; for us, the reverse is true.<sup>9</sup>

### A Bridge Between the Classical and Positivist Schools

There is not always the sharp discontinuity between the classical and positivist schools that we are sometimes led to believe. For instance, although traditionally placed firmly in the classical camp, the work of Jeremy Bentham may be considered a bridge between the two schools. Despite Bentham’s classical view of human nature, he never lost sight of its intricacies. While always maintaining the freedom of the will, he argued that it was moved by “motives” arising from the “bodily senses,” which were differentially felt by people according to certain internal and external factors. He devoted an entire chapter of *A Fragment on Government* to 32 biological, psychological, and social factors (e.g., intelligence, temperament, personality, gender, age, education, occupation) that he thought of as “circumstances influencing sensibility.”<sup>10</sup> Although he only devoted a single paragraph to each one, the fact that he recognized internal and external constraints on free will and rationality leads us to believe that Bentham may have been both the last of the old classical criminologists and the first of the positivist criminologists.

### Cartographic Criminology

Some of the earliest positivist attempts to leave the armchair and collect facts about crime to understand it came from cartographers. Cartographers are scholars who employ maps and

other geographic information in their research, and those who employ these methods to study crime are called **cartographic criminologists**. Rather than exploring why individuals commit crimes, cartographic criminologists are more interested in where and when criminal behavior is most prevalent.

The first publication of detailed statistics relating to criminal activity for an entire country occurred in France in 1827, more than 100 years before the publication of the first edition of the *Uniform Crime Reports (UCR)* in the United States. This work was used by two scholars to make statements about crime and its causes that anticipated by about a century those of two theories we will explore in the next chapter. Two scholars used this work to make statements about crime and its causes. They were prescient in that they made statements relevant to crime causation that would be made 100 years later. The first was a Frenchman named Andre-Michel Guerry, and the other was a Belgian named Lambert-Adolphe-Jacques Quetelet. Quetelet compared crime rates in France across ages, sexes, and seasons. He saw the same reflections in his data that we see today in the American *UCR*—that is, young males living in poor neighborhoods commit the most crime. He thought sociologically about crime before the discipline officially existed, writing that “society prepares the crime and the guilty is only the instrument by which it is accomplished.”<sup>11</sup>

Both Quetelet and Guerry discounted the idea that crime is caused by poverty, noting that the wealthiest regions of France had the greatest level of property crimes. However, Guerry noted that the level of wealth in a region does not necessarily correspond to the level of wealth among all its citizens and that being poor amid riches (as in urban France), not being poor per se (as in rural France), is the condition that produces the most “misery” (today we call this *relative deprivation*). He also noted that among the factors affecting crime are areas “where a frequent mixture of people takes place, and where the inequality of fortune is most felt.”<sup>12</sup>

Guerry produced many fine-shaded ecological maps to represent crime rates in different areas. This method of presenting data crossed the English Channel to influence British researchers Henry Mayhew and Joseph Fletcher. Using British crime data from the 1830s to 1840s, both men independently mapped out the concentration of various kinds of criminal activity across England and Wales, as well as other factors such as population density and rates of illegitimacy. They came to many of the same conclusions that U.S. researchers would later come to (i.e., crime and delinquency are concentrated in poor neighborhoods undergoing population changes). Many British cities were experiencing the same demographic changes in the early 1800s that American cities were to experience in the early 1900s. Rural people flocked to the big cities to obtain work in the new factory system, and in the obscurity of these cities of strangers, social bonds weakened, morals declined, and crime flourished.<sup>13</sup>

Given the many conclusions of the cartographic school that are consistent with many modern criminological positions, it is surprising that more attention is not paid to it. The influence of the school declined in the latter part of the 19th century as interest started to focus more on the individual criminal and less on his or her environment. It would reemerge in the Chicago in the early 20th century as human ecology.

### Biological Positivism: Cesare Lombroso and the Born Criminal

Five years after Charles Darwin shocked the world with the publication of his theory of evolution, an Italian army psychiatrist named Cesare Lombroso published *Criminal Man*,<sup>14</sup> which is considered the first book devoted solely to the causes of criminality ever written. Lombroso is

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▲ **Photo 3.3** Cesare Lombroso (1836–1909)

widely acclaimed as the father of modern criminology, although he is often criticized for the views put forth in his book. His basic idea was that many (not all, as is commonly assumed) criminals are born criminal and that they are evolutionary “throwbacks” to an earlier form of life. The term used to describe the appearance of organisms resembling ancestral (prehuman) forms of life is **atavism**. Lombroso was influenced by Ernst Haeckel’s famous **biogenetic law**, which stated that ontogeny (individual development) recapitulates phylogeny (evolutionary development of the species).<sup>15</sup> Criminals were thus “throwbacks” to a more primitive stage of evolution and could be identified by a number of measurable physical stigmata. These stigmata included protruding jaws, drooping eyes, large ears, twisted and flatish noses, long arms relative to the lower limbs, sloping shoulders, and a coccyx that resembled “the stump of a tail.”<sup>16</sup>

The concept of atavism highlights an important point of difference between the classical and positivist schools: While the classicists viewed

criminals and noncriminals as essentially similar beings who simply chose different pathways, positivists viewed them as being quite different beings. Lombroso was just one of many who sought to understand behavioral phenomena with reference to the principles of evolution as they were understood at the time. If humankind was just at one end of the continuum of animal life, it made sense to many people that criminals—who acted “bestly” and lacked reasoned conscience—were biologically inferior beings.

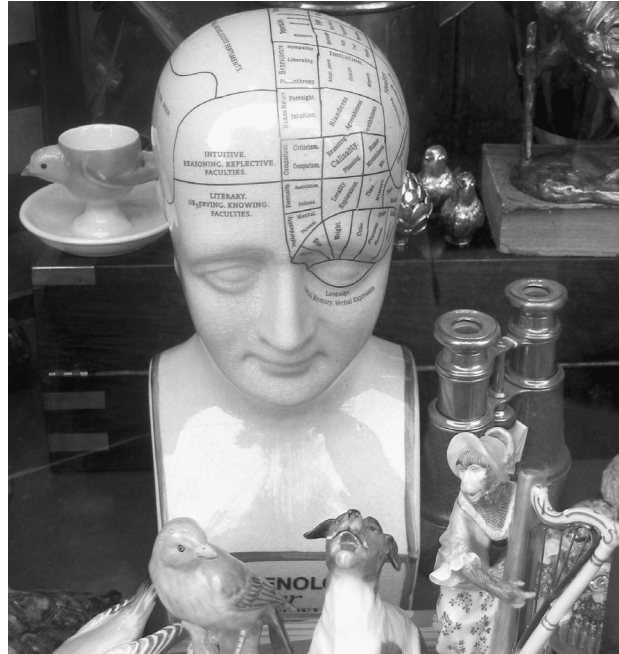
In addition to the *atavistic-born criminal*, Lombroso identified two other types: the **insane criminal** and the **criminaloid**. Although insane criminals bore some stigmata, they were not born criminals; rather, they become criminals as a result “of an alteration of the brain, which completely upsets their moral nature.”<sup>17</sup> Among the ranks of Lombroso’s insane criminals were alcoholics, kleptomaniacs, nymphomaniacs, and child molesters. Criminaloids had none of the physical peculiarities of the born or insane criminal and were considered less dangerous. Criminaloids were further categorized as *habitual criminals*, who become so by contact with other criminals, the abuse of alcohol, or other “distressing circumstances”; *juridical criminals*, who fall afoul of the law by accident; and the *criminal by passion*, hot-headed and impulsive persons who commit violent acts when provoked.

Although Lombroso is best remembered for his concept of the atavistic-born criminal, his later work, *Crime: Its Causes and Remedies*,<sup>18</sup> listed a bewildering variety of possible “causes,” including unlikely candidates such as tobacco, hair color, and “goitrous districts.” Notwithstanding Lombroso’s recognition that crime has multiple causes, he still argued that “organic causes” accounted for 35% to 40% of the “fatal influence” on crime.<sup>19</sup>

Perhaps it is because of this latter point that Lombroso has been reviled and ridiculed as a biological determinist. Some criminologists, while acknowledging Lombroso’s many errors



► **Photo 3.4** This porcelain head for sale in a New Orleans antique store shows the sections of the brain, as detailed by 19th-century phrenologists. They believed that each section was responsible for a particular human personality trait. If a section were enlarged or shrunken, the personality would be likewise abnormal. Doctors, particularly those doing entry examinations at American prisons, would examine the new inmate's head for bumps or cavities to develop a criminal profile. For example, if the section of brain responsible for "acquisitiveness" was enlarged, the offender probably was a thief. Lombroso and his school combined phrenology with other models that included external physical appearance traits that could single out criminals from the general population.



in logic, research design, measurement, and elitist and sexist ideas, insist that his contributions are both misunderstood and undervalued. His methodology, although very badly flawed by modern standards, was an improvement over previous attempts at positivistic criminology.<sup>20</sup> From Lombroso on, there has been an enduring commitment to sort, sift, and measure all sorts of physical, psychological, economic, and social phenomena in an attempt to get to the bottom of crime and criminality.

#### FOCUS ON . . .

### Lombrosism Before and After Lombroso

There have always been those for whom human character and personality are transparent in physical appearance. In Shakespeare's play, Julius Caesar distrusts Cassius because he "has a lean and hungry look." Such folk wisdom was systematized almost 300 years before the publication of Cesare Lombroso's *Criminal Man* by another Italian physician, Giambattista della Porta, who developed a theory of human personality called *Physiognomy*. Porta claimed that the study of physical appearance, particularly of the face, could reveal much about a person's personality and character. Thieves, for instance, were said to have large lips and sharp vision.

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Almost 200 years later, Johann Kasper Lavater published his three-volume *Essays on Physiognomy*, which was highly acclaimed in medical and scientific circles. Lavater went further than Porta in claiming that the “higher” character of the English aristocrat and the “lower” character of the London thief could be discerned simply from a detailed study of their faces. In a similar vein, Hubert Lauvergne’s 1844 study of French convicts concluded that they had faces that easily reveal their “brutal and impassible (incapable of feeling) instincts.” Lauvergne’s descriptions of the facial features of convicts (massive jaws and receding foreheads) conjured up the same ape-like image that Lombroso’s descriptions would 32 years later.

Lauvergne was a student of Franz Josef Gall, the founder, along with John Spurzheim, of another exotic system of assessing character from physical features called *phrenology*. Phrenologists claimed that the contours of an individual’s skull revealed his or her psychic makeup. The basic idea was that various cognitive functions are localized in the cerebral cortex (the thinking part of the brain). Parts of the cortex regulating the most dominant functions were thought to be bigger than parts regulating the less dominant ones. Thus, the relative sizes of a person’s cranial bumps pointed to the relative strengths of his or her personality and character. Criminals were said to have cranial maps showing large protuberances in parts of the cortex thought to regulate craftiness, brutishness, moral insensibility, and so on, as well as small bumps in such “localities” as intelligence, honor, piety, and so forth. Thus the measure (or is it the “mismeasure”?) of humanity had a rather long history predating Lombroso. Lombroso occupies his place in criminology because his work was solely criminological; the works discussed here are more general works having little influence on criminology.

Some late-20th-century criminologists have renewed interest in possible connections between physical appearance and criminal behavior. A survey of inmates in New York found that about half of them had at least a moderate degree of disfigurement other than tattoos,<sup>21</sup> and a review of the literature on the subject concluded that prisons house a disproportionate number of disfigured males.<sup>22</sup>

A 1993 article examined what are called *minor physical anomalies* (MPAs) and their relationship to crime.<sup>23</sup> These MPAs are not the obvious stigmata of Lombroso’s atavists; they are rather minor defects, some of which require expert observation. MPAs include webbed toes, extra toes, widely spaced eyes, and minor disfigurements of fingers and ears. The researchers hypothesize that genetic factors responsible for MPAs also affect aspects of the central nervous system (such as producing hyperactivity or impulsiveness) in such a way as to put the individual at risk for antisocial behavior. Evidence for this hypothesis is mixed. It was found that MPAs were related to violent crimes, but only if offenders came from unstable or broken homes.<sup>24</sup> Other studies find support for the MPA-crime relationship, while others do not. One major review of the literature concluded that with all the problems attending such studies, the relationship must be considered inconsistent at best.<sup>25</sup>

Advocates of rehabilitation have recognized for some time that unattractive physical features have a negative effect on rehabilitation efforts, probably because they may lead to low self-esteem and to rejection by others. Because of this, plastic surgery has been used in some U.S. prisons as a rehabilitative tool. A review of nine studies of prison plastic surgery outcomes found that six reported a reduction in the likelihood of recidivism, two reported no difference, and one found a higher recidivism rate among the surgery group.<sup>26</sup> Thus, the first scientifically researched correlate of crime has not entirely disappeared as a focus of interest for some criminologists, although none of them think of “disfigured” criminals as genetic “throwbacks” to an earlier evolutionary period.

### Raffael Garofalo: Natural Crime and Offender Peculiarities

Lombroso and two of his Italian contemporaries, Raffael Garofalo and Enrico Ferri, founded what became known as the **Italian school of criminology**. Both Garofalo and Ferri were lawyers who accepted as given the positivist notion that behavior has discoverable causes, but, like the classicists, they were more interested in criminal procedure and penology than in crime causation.

Garofalo<sup>27</sup> is perhaps best known for his efforts to formulate a “natural” definition of crime. Classical thinkers accepted the legal definition of crime uncritically: crime is what the law says it is. This appeared to be rather arbitrary and “unscientific” (like the Anglo-American system of linear measurement) to Garofalo, who wanted to anchor the definition of crime in something natural (like tying linear measurement to the circumference of the Earth, as in the metric system). Garofalo felt that definitions of crime should be anchored in human nature, by which he meant that a given act would be considered a crime if it was universally condemned, and it would be universally condemned if it offended the natural altruistic sentiments of probity (integrity, honesty) and pity (compassion, sympathy). Natural crimes are evil in themselves (*mala in se*), whereas other kinds of crimes (*mala prohibita*) are wrong only because they have been made wrong by the law.

Garofalo rejected the classical principle that punishment should fit the crime, arguing instead that it should fit the criminal. As a good positivist, he believed that criminals have little control over their actions. This repudiation of moral responsibility and fitting the punishment to the offender would eventually lead to sentencing aimed at the humane and liberal goals of treatment and rehabilitation. For Garofalo, however, the only question to be considered at sentencing was the danger the offender posed to society, which was to be judged by an offender’s *peculiarities*.

By “peculiarities,” Garofalo was not referring to Lombrosian stigmata but rather to particular characteristics that place offenders at risk for criminal behavior. He developed four categories of criminals, each meriting different forms of punishment: *extreme*, *impulsive*, *professional*, and *endemic*. Society could only be defended from extreme criminals by swiftly executing them, regardless of the crime for which they are being punished. Impulsive criminals, a category that included alcoholics and the insane, were to be imprisoned. Professional criminals are psychologically normal individuals who use the hedonistic calculus before committing their crimes and thus require “elimination,” either by life imprisonment or transportation to a penal colony overseas. Endemic crimes, by which Garofalo meant crimes peculiar to a given region, and *mala prohibita* crimes could best be controlled by changes in the law.

### Enrico Ferri and Social Defense

Ferri, like Garofalo, dismissed the notion of free will as myth, and he derived the same policy implications from its dismissal. Prepositivistic notions of culpability, moral responsibility, and intent were to be subordinate to an assessment of the offender’s strength of resistance to the criminal impulse, with the express purpose of averting future danger to society. He believed that moral insensibility and lack of foresight, underscored by low intelligence, were the criminal’s most marked characteristics: The criminal has “defective resistance to criminal tendencies and temptations, due to that ill-balanced impulsiveness which characterizes children and savages.”<sup>28</sup>

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Ferri's primary concern was social preservation, not the nature of criminal behavior. With Lombroso and Garofalo, Ferri was instrumental in formulating the concept of **social defense** as the rationale for punishment. This theory of punishment asserts that its purpose is not to deter or to rehabilitate but to defend society from criminal predation. Ferri reasoned that the characteristics of criminals prevented them from basing their behavior on rational calculus principles, so how could such behavior be deterred, and how could born criminals be rehabilitated? Given the assumptions of biological positivism, the only reasonable rationale for punishing offenders is to incapacitate them for as long as possible so that they no longer pose a threat to the peace and security of society. This theory of punishment provides us with an excellent example of how our assumptions about human nature drive our policies for dealing with crime and criminals.

### Charles Goring's Assault on Lombroso

The most famous of Lombroso's critics was a British physician named Charles Goring, who in 1913 published a book titled *The English Convict: A Statistical Study*.<sup>29</sup> This book contained the results of his study of more than 3,000 English convicts whose physical characteristics were compared to those of male university students and soldiers. The only significant differences he found were that the average criminal was shorter and lighter than the average noncriminal, a fact easily explained by the lower socioeconomic origins of the convicts. Goring's exhaustive comparisons found no other significant differences between criminals and noncriminals, leading him to the "inevitable conclusion" that "*there is no such thing as a physical criminal type*."<sup>30</sup>

Goring's work has been considered the first to adopt the modern view that criminality is probably the result of the interaction of a variety of hereditary and environmental factors at a time when most theorists thought in terms of either/or,<sup>31</sup> and as a link between early biological positivism and the less deterministic psychological and psychiatric schools.<sup>32</sup> For instance, Goring found strong associations between the criminality of parents and children, between siblings, and between spouses. Although family behavioral resemblances necessarily include genetic and environmental influences, Goring attributed these correlations predominantly to a characteristic he called "criminal diathesis," which he saw as a form of "defective intelligence" preventing the development of proper social and moral instincts.<sup>33</sup> Thus, much thought about the problem of criminal behavior was beginning to shift away from biological to psychological positivism.

### The Legacy of Positivism

The great legacy of the positivist school, as Enrico Ferri reminded us, was the shift from armchair philosophizing about human behavior to using the concepts and methods of science. An essential tenet of positivism is that human actions have causes and that these causes are to be sought in the uniformities that preceded those actions. Although early positivism produced ideas that many today consider false and even dangerous, even these provided valuable contributions by stimulating opposition. The whole business of science is a never-ending exchange of thesis, antithesis, and synthesis, molding and sharpening ideas on the wheel of criticism and counter-criticism. Few new ideas, especially in science, have been accepted uncritically, and even the most revered of ideas of one period may not survive the long haul as new ideas emerge and new methods and techniques of measurement are developed to test them.

There are no sharp discontinuities and clear-cut distinctions between classicism and positivism on all matters. The classical affirmation of human abilities and freedom of expression did much to push science into the forefront as a method of gathering knowledge, as did its abandonment of supernaturalism and its embrace of the natural. Positivism did not disprove or destroy classical principles; it simply shifted emphasis from crime and penology to the individual offender. Positivism enabled criminologists to escape the excesses of a simplistic free-will interpretation of criminality, but its own deterministic excesses have moved some criminologists to return to modified classical notions of human nature. This is not to say that these criminologists have abandoned positivistic empirical science; positivism is a *method*, a way of exploring things, not a theory about those things. It is unfortunate that for some people, positivism has come to connote absolute determinism—and only biological and psychological determinism at that<sup>34</sup>—such that “if X, then Y *will* follow,” but our reading of the literature reveals no hard determinism of this sort. To the extent that they use the scientific method to detect patterns predicting criminal behavior in a *probabilistic* way, almost all contemporary criminological theories are positivistic.

### Neoclassicism: Rational Choice Theory

The 1970s saw the beginnings of a swing away from the ideals of the positivist school, which implied that factors beyond the control of the offender were responsible for crime, and toward a return to the classical notion that offenders are free actors responsible for their own actions. Rational choice theorists believe that factors such as poverty, low IQ, impulsiveness, or broken homes are not required to explain crime. Although such factors may influence a person's choice to engage or not to engage in crime, the choice is made like any other choice to benefit the chooser. As opposed to the “hard” determinism of the positivists, neoclassicist criminologists are “soft” determinists because while criminal behavior is ultimately a choice, the choice is made in the context of personal and situational constraints and the availability of opportunities.

Rational choice theorists view criminal acts as specific examples of the general principle that all human behavior reflects the rational pursuit of *maximizing utility* (*utility* refers to benefits and advantages), which is the modern economists' version of Bentham's principle of maximizing pleasure and minimizing pain. People are conscious social actors free to choose crime, and they will do so if they perceive that its utility exceeds the pains they might conceivably expect if discovered.

Criminologists have long been aware that even their most sophisticated and comprehensive models of criminal behavior have failed to account for anywhere near half of the variation in offending, which leaves ample room for idiosyncratic reasons for engaging in it, such as “choice” or “free will.” **Rational choice theory** is not committed to a free-will position but strongly implies it.<sup>35</sup> The theory does not assume that we are all equally at risk to commit criminal acts or that we do or do not commit crimes simply because we do or do not “want to.” It recognizes that personal factors such as temperament, intelligence, and cognitive style, as well as background factors such as family structure, class, and neighborhood, affect our choices,<sup>36</sup> but it largely ignores these factors in favor of concentrating on the conscious thought processes involved in making decisions to offend.

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According to rational choice theory, rationality is the quality of thinking and behaving in accordance with logic and reason such that one's reality is an ordered and intelligible system. Rationality means that there is a logical correspondence between the goals we have and the means we use to obtain them. This does not mean that the theory contains an image of people as walking calculating machines or that the theory is even concerned about just how people actually go about their subjective calculations.

Rationality is both subjective and bounded, and unwanted outcomes can be produced by rational strategies.<sup>37</sup> We do not all make the same calculations or arrive at the same game plan when pursuing the same goals, for we contemplate our anticipated actions with less than perfect knowledge, with different mind-sets, and with different reasoning abilities. Our emotions (guilt, shame, anxiety, etc.) also function to keep our temptations in check by "overriding" purely rational calculations of immediate gain.<sup>38</sup> We do the best we can to order our decisions relating to our self-interest with the knowledge and understanding we have about the possible outcomes of a particular course of action. All people have mental models of the world and behave rationally with respect to them, even if others might consider our behavior to be irrational. Criminals behave rationally from their private models of reality, but their rationality is constrained, as is everyone's, by ability, knowledge, emotional input, and time.<sup>39</sup>

As previously noted, however, rather than focusing on these things, rational choice theory focuses on *criminal events* and not on offenders and how they came to be. Rational choice theory simply assumes a criminally motivated offender and focuses on the process of the choice to offend. Cornish and Clarke refer to this process as **choice structuring** and define it as "the constellation of opportunities, costs, and benefits attaching to particular kinds of crime."<sup>40</sup> Thus, a criminal event requires motivated offenders meeting situations that they perceive as an opportunity to acquire something they want. Each event is the result of a series of choice structuring decisions to initiate the event, continue, or desist, and each particular kind of crime is the result of a series of different decisions that can only be explained on their own terms: The decision to rape is arrived at quite differently than the decision to burglarize.

Explanations of criminal *events* must be crime specific because offenses have properties of their own (expected payoff, risk and skills involved, whether or not a partner is needed, etc.). Certain offenses are differentially attractive to different offenders because of these properties, which interact with the characteristics of the offender (degree of risk willing to take, "professional pride," loner or team player). Thus, offenders make their decisions by appraising how potential offense properties "fit" with their personal characteristics. Properties of offenses provide potential offenders with a basis for selecting among alternative courses of action, thus *structuring* their choices.<sup>41</sup>

### Cohen and Felson's Routine Activities Theory and Victimization

Lawrence Cohen and Marcus Felson<sup>42</sup> have devised a neoclassical theory in the tradition of rational choice theory that may explain high crime rates in different societies and neighborhoods without invoking individual differences—it simply points to the routine activities in that society or neighborhood. Routine activities are defined as "recurrent and prevalent activities which provide for basic population and individual needs."<sup>43</sup> In other words, they are the day-to-day activities characterizing a particular community. In disorganized communities, the routine activities are such that they practically invite crime.

According to Cohen and Felson, crime is the result of (a) *motivated offenders* meeting (b) *suitable targets* that lack (c) *capable guardians*. Cohen and Felson take motivated offenders for granted and do not attempt to explain their existence. The theory is thus very much like rational choice theory in that it describes situations in which criminal victimization is likely to occur. In poor disorganized communities, there is never a shortage of motivated offenders, and although the pickings are generally slim in such areas, victimization is more prevalent in them than in more affluent areas.<sup>44</sup> One of the obvious reasons for high victimization rates in poor disorganized areas (besides the abundance of motivated offenders) is that they tend to lack capable guardians for either persons or property.

**Routine activities theory** looks at crime from the points of view of both the offender and crime prevention. A crime will only be committed when a motivated offender believes that he or she has found something worth stealing or someone to victimize who lacks a capable guardian. A capable guardian is a person or thing that discourages the motivated offender from committing the act. It can be the presence of a person, police patrols, strong security protection, neighborhood vigilance, or whatever. Because of disrupted families, transient neighbors, poverty, and all the other negative aspects of disorganized neighborhoods, except for police patrols, capable guardians are in short supply. Crime is a “situation,” and crime rates can go up or down depending on how these situations change without any changes at all in offender motivation. Recurring situations conducive to acquiring resources with minimal effort may also tempt more individuals to take advantage of them. In other words, in terms of Figure 1.3 (see Chapter 1), higher levels of environmental instigation lower the threshold for more individuals to become motivated offenders.

### Deterrence and Choice: Pain Versus Gain

The principle that people respond to incentives and that they are deterred by the threat of punishment is the philosophical foundation behind all systems of criminal law. Rational choice theory evolved out of deterrence theory and the economic principle of expected utility, both of which can be encapsulated by the principle of behaviorist psychology that states that *behavior is governed by its consequences*. A positive consequence of crime for criminals is that it affords them something they want for little effort; a negative consequence is the punishment attached to their crimes if they are caught. The hedonistic calculus predicts that punishment (pain) will deter crime only if it exceeds the pleasure (gain) it offers. These pleasures may be material (money, property, sex, drugs), psychological (self-esteem, feelings of power and control, excitement, reputation, revenge), or a combination of both.

**Deterrence**, the prevention of criminal acts by the use or threat of punishment, has long been considered the primary function of punishment. Deterrence may be either *specific* or *general*. **Specific deterrence** refers to the effect of punishment on the future behavior of the person who experiences the punishment. Punishment is said to have worked if the person desists from future criminal activity; if he or she continues to engage in criminal activity, it did not. For specific deterrence to work, a previously punished person must make a mental connection between an intended criminal act and the punitive consequences suffered as a result of similar acts committed in the past. Unfortunately, such connections, if made, rarely have



▲ **Photo 3.5** Cohen and Felson's routine activities theory argued that "target hardening" was a major deterrent to crime. While the number of surveillance cameras outside New Scotland Yard in London may seem to be excessive, there are thousands of these cameras all over the city. Using tapes from such cameras, local criminal justice officials were able to follow the paths taken by the suicide bombers who blew up mass transit vehicles in July 2005. However, the cameras had no deterrent effect as the criminals were highly "motivated offenders."

the socially desired effect, either because memories of the previous consequences were insufficiently emotionally strong or the offender discounted them.

Committing another crime after previously being punished for one is called **recidivism** ("falling back" into criminal behavior). Recidivism is a lot more common among ex-convicts than repentance and rehabilitation. Nationwide, about 33% of released inmates recidivate within the first 6 months, 44% within the first year, 54% by the second year, and 67.5% by the third year.<sup>45</sup> These are just the ones who are caught, so we can safely say that there is very little specific deterrent effect.

As Jeremy Bentham informed us long ago, the influence of punishment on future behavior depends on its certainty, celerity (swiftness), and severity. In other words, there must be a relatively high degree of certainty that punishment will follow a criminal act, will be administered very soon after the act, and will be quite harsh. As we saw in Chapter 2 when discussing clearance rates, the probability of getting caught is very low, especially for property crimes. If a person is actually caught, the wheels of criminal justice grind excruciatingly slowly, with many months passing between the act and the imposition of punishment. So much for certainty and celerity, which leaves us with severity as the only element of punishment we can realistically manipulate. It is unfortunate that the only element over which the criminal justice system has



a great deal of control (it can increase or decrease statutory penalties almost at will) is the least effective element.<sup>46</sup>

Studies using official data from the United States and the United Kingdom find substantial negative correlations between the likelihood of conviction (a measure of certainty) and crime rates for a variety of crimes but a much weaker negative correlation for the severity of punishment.<sup>47</sup> A negative correlation means that as one variable goes up (in this case, the likelihood of conviction), the other one (crime rate) goes down. As we saw in the previous chapter, it has been claimed that increased incarceration rates have accounted for about 25% of the decline in violent crime over the past decade or so.<sup>48,49</sup> Unfortunately, we cannot determine from raw incarceration rates if we are witnessing a *deterrent* effect (has violent crime declined because more people have perceived a greater punitive effect?) or an *incapacitation* effect (has violent crime declined because more violent people are behind bars and thus not at liberty to commit violent crimes on the outside?).

The effect of punishment on future behavior also depends on the **contrast effect**, which is the distinction between the circumstances of punishment and the usual life experience of the person being punished. The prospect of incarceration is a nightmarish contrast for those who enjoy a loving family and the security of a valued career. The mere prospect of experiencing the embarrassment of public disgrace that threatens the families and careers of those who have invested time, effort, and emotional energy in acquiring and nurturing them is a strong deterrent. For those lacking strong family ties and a commitment to a legitimate career, punishment has little effect because the contrast between the punishment and their normal lives is minimal. For people with little or nothing to lose, arrest may be perceived as little more than an inconvenience, an opportunity for a little rest and recreation and a chance to renew old friendships. Specific deterrence thus works least for those who need deterring the most.

**General deterrence** refers to the preventive effect of the threat of punishment on the general population; it is thus aimed at *potential* offenders. The punishment of offenders serves as examples to the rest of us of what may happen if we violate the law. As Radzinowicz and King put it, "People are not sent to prison primarily for their own good, or even in the hope that they will be cured of crime. Confinement is used as a measure of retribution, a symbol of condemnation, a vindication of the law. It is used as a warning and deterrent to others."<sup>50</sup> Put another way, the existence of a system of punishment for law violators deters a large but unknown number of individuals who might commit crimes if no such system existed.

Deterrence theorists tend to assume a more rational human being than do rational choice theorists, with their models being full of complicated mathematical models defining cost/benefit ratios. They are aware that criminals rarely have accurate information about the probabilities of punishment, but they assume that rough perceptions exist among criminals regarding these probabilities and that they act accordingly. For instance, deterrence theorists have explained the huge increase in crime between 1960 and the early 1990s as largely a function of criminal perceptions that punishment probabilities had been greatly reduced since the 1960s.<sup>51</sup>

Deterrence theorists will calculate the probability of imprisonment for a given crime, and they assume that the perception among criminals roughly matches their calculations. Reynolds<sup>52</sup> gives us an example based on the probability of imprisonment for the crime of burglary. The probability of an event (imprisonment) is the product of all preceding events

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(reporting, arrest, prosecution, indictment, conviction, and prison vs. probation). The resulting probability, multiplied by the median prison sentence for burglary (17 months), is equal to only 7.1 days. This probability was averaged over thousands of burglary events and will obviously vary from incident to incident and from person to person. A burglar could have committed many burglaries prior to arrest that may have netted him or her many thousands of dollars for a few hours of relatively effortless activity. Factoring out morality, burglary is a very rational career option for capable individuals. Although the probabilities of a burglary being reported and the burglar being arrested still remain about the same as Reynolds reported (see the 2004 clearance rate in Chapter 2), the subsequent probabilities assuming arrest (prosecution, conviction, imprisonment, and length of sentence) have considerably increased.

Reviews of deterrence research indicate that legal sanctions do have a “substantial deterrent effect.”<sup>53</sup> Punishment has a greater deterrent effect for instrumental crimes (crimes that bring material rewards) than for expressive crimes (crimes that bring psychological rewards). The more certain it is, and the more swiftly it is applied, but as we have seen, there is little evidence that increasing the severity of sanction (in the form of sentence length) has any effect.<sup>54</sup> These findings underscore the classical notions that individuals do (subconsciously at least) calculate the ratio of expected pleasures to possible pains when contemplating a course of action.

### Evaluation of Neoclassical Theories

Critics complain that neoclassical theories overemphasize the rationality of human beings and ignore the social conditions that may make it rational for some to engage in crime.<sup>55</sup> However, emphasizing rationality (albeit, bounded rationality) dignifies criminals as active participants in determining their own futures, not as passive recipients (or “victims”) of malignant social forces. Nevertheless, we do need to understand these forces, as well as psychological differences, that turn some people into “motivated offenders.” In economists’ terms, what makes some of us willing to expend one resource (our potential loss of freedom) to attain another (the fruits of crime)? Many of us don’t spend our resources all that wisely because of a tendency to favor immediate gain over long-term consequences, and we would like to know why some of us more strongly favor immediate gain than others. In short, it is claimed that these theories implicitly assume that everyone perceives the same reality similarly and ignore irrational and impulsive crimes that are preceded by little thought.<sup>56</sup>

In defense of neoclassical theories, advocates insist that they do not assume a model of “pure” rationality; rather, they assume a limited rationality constrained by ability, knowledge, and time.<sup>57</sup> These theories also do not claim to be theories exploring the role of social or psychological forces in producing crime or criminals; instead, they explore criminal events with the purpose of trying to prevent them. They seek to deny the motivated offender the opportunity to commit a crime by target hardening, which is a very practical thing. In addition, the notion that individuals are responsible for their own actions meshes well with American values. If this assumption grants society “permission” to punish criminals who make purposeful decisions to flout the law,<sup>58</sup> then so be it, for the act of punishment presupposes free human beings and thus dignifies them.

**Figure 3.1**

Summary and Comparisons of the Classical and Positivist Schools Pertaining to Certain Issues

	<b>Classical</b>	<b>Positivist</b>
<b>Historical Period</b>	18th-century Enlightenment, early period of Industrial Revolution.	19th-century Age of Reason, mid-Industrial Revolution.
<b>Leading Figures</b>	Cesare Becarria, Jeremy Bentham.	Cesare Lombroso, Raffael Garofalo, Enrico Ferri.
<b>Purpose of School</b>	To reform and humanize the legal and penal systems.	To apply the scientific method to the study of crime and criminality.
<b>Image of Human Nature</b>	Humans are hedonistic, rational, and have free will. Our behavior is motivated by maximizing pleasure and minimizing pain.	Human behavior is determined by psychological, biological, or social forces that constrain our rationality and free will.
<b>Image of Criminals</b>	Criminals are essentially the same as noncriminals. They commit crimes after calculating costs and benefits.	Criminals are different from noncriminals. They commit crimes because they are inferior in some way.
<b>Definition of Crime</b>	Strictly legal; crime is whatever the law says that it is.	Based on universal human abhorrence; crime should be limited to inherently evil ( <i>mala in se</i> ) acts.
<b>Purpose of Punishment</b>	To deter. Punishment is to be applied equally to all offenders committing the same crime. Judicial discretion to be limited.	Social defense. Punishment to be applied differently to different offenders based on relevant differences and should be rehabilitative.

### Connecting Criminological Theory and Social Policy

Theories of crime causation imply that changing the conditions that the theory holds responsible for causing crime can reduce and even prevent it. We say “imply” because few theorists are explicit about the public policy implications of their work. Scientists are primarily concerned with gaining knowledge for its own sake; they are only secondarily concerned with how useful that knowledge may be to practitioners and policy makers. Conversely, policy makers are less concerned with hypothesized “causes” of a problem and more concerned with what can be done about the problem that is both politically and financially feasible.

**Policy** is simply a course of action designed to solve some problem that has been selected from among alternative courses of action. Solving a social problem means attempting to reduce the level of the problem currently being experienced or to enact strategies that try to prevent it from occurring in the first place. Social science findings can and have been

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used to help policy makers determine which course of action to follow to “do something” about the crime problem, but policy makers must consider many other concerns that go beyond maintaining consistency with social science theory and data. The question of “what to do about crime” involves political and financial considerations, the urgency of other problems competing for scarce financial resources (schools, highways, environmental protection, public housing, national defense), and a host of other major and minor considerations.

Policy choices are, at bottom, value choices. As such, only those policy recommendations that are ideologically palatable are likely to be implemented. Given all of these extra-theoretical considerations, it would be unfair to base our judgment of a theory’s power solely, or even primarily, by its impact on public policy. Even if some aspects of policy are theory based, unless all recommendations of the theory are fully implemented, the success or failure of the policy cannot be considered evidence of theoretical failure anymore than a baker can blame a recipe for a lousy cake if he or she neglects to include all the ingredients it calls for.

Connecting problems with solutions is a tricky business in all areas of government policy making, but nowhere is it more difficult than in the area of criminal justice. No single strategy can be expected to produce significant results and may sometimes make matters worse. For example, we have seen that President Johnson’s “War on Poverty” was supposed to have a significant impact on the crime problem by attacking what informed opinion of the time considered its “root cause.” We also saw that programs and policies developed to reduce poverty did so, but that reducing poverty had no effect on reducing crime; in fact, crime rose as poverty was falling. Another high-profile example of failed policy is the Volstead Act of 1919, which prohibited the manufacture and sale of alcohol in the United States. Although based on a true premise (alcohol is a major factor in facilitating violent crime), it failed because it ushered in a wild period of crime as gangs fought over control of the illegal alcohol market. Policies often have effects that are unanticipated by policy makers, and these effects can be positive or negative.

Nevertheless, every theory has policy implications deducible from its primary assumptions and propositions. The deep and lasting effects of the classical theories of Beccaria and Bentham on legal systems around the world have already been noted, but the broad generalities about human nature contained in those theories offer little specific advice on ways to change criminals or to reduce their numbers. Although we caution against using the performance of a theory’s public policy recommendations as a major criterion to evaluate its power, the fact remains that a good theory *should* offer useful practical recommendations, and we will discuss a theory’s policy implications when appropriate.

### Policy and Prevention: Implications of Neoclassical Theories

If you were the kind of motivated rational criminal assumed by neoclassical theorists, what sort of questions would you ask yourself at the potential crime site before you made your decision to commit the crime or not? We bet that among them would be the following: “Is there a quick and direct route out of the area after the job is done?” “How vulnerable are the targets (is the car unlocked, is the door open, is the girl walking down a dark alley alone)?” “What are my chances of being seen by people in the area?” “If people in this area do see me, do they look likely to do something about it?” The policy implications of rational choice and routine activities theories boil down to trying to arrange things such that criminals will

dissuade themselves from committing crimes by the answers they arrive at to questions such as these—that is, making their choice structuring decisions as difficult as possible.

Rational choice and routine activities theories thus shift the policy focus from large and costly social programs, such as antipoverty, recreational, and educational programs, to target hardening and environmental designs that might dissuade a motivated offender from offending. In other words, they shift attention away from policies designed to change offenders' attitudes and behavior by trying to provide them with legitimate opportunities and better living conditions, as well as make it more difficult and more costly for them to offend. Examples of target hardening include antitheft devices on automobiles, the use of vandal-resistant materials on public property, improved city lighting, surveillance cameras in stores and at public gathering places, check guarantee cards, banning the sale of alcohol at sporting events, neighborhood watches, and curfews for teenagers.

Environmental designs (more associated with *routine activities* theory) primarily include the concept of *defensible space*, defined as “a model for residential environments which inhibit crime by creating the physical expression of a social fabric that defends itself.”<sup>59</sup> It endeavors to bring people together into a tribe-like sense of community, not by manipulating attitudes and values but by designing the physical environment so as to awaken the human sense of territoriality. The best possible physical environment for the growth of crime is the large barracks-like blocks of apartments with few entrances, few private spaces, and few demarcation barriers that say, “This space is mine.” Families must be given back a sense of ownership, for if everything is “owned” in common (elevators, walkways and staircases, balconies, grass and shrubberies), then no one takes care of it, and it deteriorates rapidly. Streets must be blocked off, both to generate a sense of belonging to “my special little neighborhood” and so that criminals cannot easily access or escape them.

City government can help to foster this sense of pride by removing abandoned cars and other trash from vacant lots and perhaps building miniature parks on those lots. It could also engage in concerted programs to raze deteriorating vacant houses, repave and weed sidewalks, and generally spruce up older neighborhoods. This could all be done cheaply with neighborhood associations, volunteers, jail inmates, and probationers providing the labor, along with private corporations and city agencies providing funds.<sup>60</sup> Dirty, deteriorating, graffiti-marred neighborhoods not only demoralize law-abiding inhabitants but also foster a sense among the criminal elements that nobody cares and therefore anything goes.

The policy recommendations of deterrence theory are straightforward and obvious: Increase the costs of committing crime, and there will be less of it. Nobel Prize-winning economist Gary Becker<sup>61</sup> is a major adherent of the position. Comparing crime rates in Great Britain and the United States, Becker showed how crime rates rose in the former as its penal philosophy became more and more lenient, but they fell in the United States as its penal philosophy became more and more punitive. He dismisses the idea that criminals lack the knowledge and the foresight to take the punitive probabilities into consideration when deciding whether to continue committing crimes. He says that “interviews of young people in high crime areas who do engage in crime show an amazing understanding of what punishments are, what young people can get away with, how to behave when going before a judge.”<sup>62</sup>

“Get tough” messages are the kinds of simple, easily implemented solutions that policy makers love—build prisons and fill ’em up. But getting tough is expensive, as many legislative

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bodies have found out. Many states started putting more and more offenders behind bars for longer periods and implemented mandatory sentencing laws in the 1980s but soon found their prisons so overcrowded that the courts intervened. This resulted in the repeal of some states' mandatory sentencing laws and the institution of early release programs. Thus, releasing offenders to the streets became the solution to a current problem, but that solution *was* the problem a few years earlier.<sup>63</sup> This goes to show how remarkably complicated and even perverse policy decisions can be and why we should not judge a criminological theory based on its impact (or lack of) on public policy.

In contrast to the classical notion that punishment should fit the crime and nothing else, Lombroso (who described himself as a humanist socialist) believed that punishment should be designed to fit the offender rather than the crime.<sup>64</sup> Lombroso felt that prisons were schools of vice and preferred fines, suspended sentences, and/or community service for minor offenders. Punishment should only be determined after a thorough assessment of offenders and their needs, and it should be aimed at rehabilitation. This requires wide judicial discretion and indeterminate sentences (both of which Beccaria disdained). These liberal treatment policy recommendations for offenders stand in stark contrast to Lombroso's recommendations for "congenital" offenders. For these individuals, he recommended either the death penalty (which he came to reluctantly support in his later years) or life imprisonment. He justified these penalties not in terms of just deserts but rather in terms of social defense.

## SUMMARY



Prior to the beginning of the classical school of criminology, criminal behavior was thought of as either demonic possession or the evil abuse of free will. Because of the doctrine of Original Sin, all human beings were considered born sinners but behaved in socially acceptable ways by the grace of God. This kind of thinking started to wane with the coming of the period that historians call the Enlightenment. It was out of this period that the classical school of criminology was born. The leading light of this school was Cesare Beccaria, an Italian nobleman whose aim was to reform an arbitrary and cruel system of criminal justice. Jeremy Bentham, best known for his concept of the "hedonistic calculus," was another leading figure. Classical thinking has had a tremendous impact on the great majority of legal systems in the world.

The next step in the evolution of criminology came with cartographic criminologists such as Guerry, Quetelet, Mayhew, and Fletcher. These scholars studied maps and statistics to pinpoint where and when crime was most likely to occur. Many of the conclusions derived from this method remain consistent with those arrived at from modern scholars employing the same methods. These included relative deprivation (poverty in the midst of wealth is worse than poverty per se), social disorganization (caused by the frequent mixing and movement of different groups in and out of neighborhoods), and the weakening of social and moral bonds.

With the advance of science in the 19th century came a new way of thinking about human nature and crime, much of it being greatly influenced by Darwin's work on evolution. Cesare Lombroso is widely considered the father of criminology, but he is much criticized for his ideas. Unlike classical thinkers, Lombroso saw criminals as being different from noncriminals in that they are atavistic "throwbacks" to an earlier evolutionary period and

could be identified by a number of bodily stigmata. Although he never said that all criminals are born criminals, he is widely thought to have done so and is thus often condemned as a biological determinist.

Other early positivists included Lombroso's fellow Italians, Raffael Garofalo and Enrico Ferri. Both men were more interested in penal philosophy than in criminology per se. Garofalo was interested in developing a "natural" definition of crime and in generating categories of criminals for the purpose of determining what should be done with them. Ferri was instrumental in formulating the concept of social defense as the only justification for punishment. This theory of punishment avers that criminals cannot be deterred (they lack the ability to understand moral behavior or deterrent consequences) or rehabilitated (how do you change born criminals?), so they must be incapacitated as long as possible.

Classical (or neoclassical) theories reemerged in the form of rational choice, routine activities, and deterrence theories in the 1970s. Rational choice, routine activities, and deterrence theories assume that humans are rational and self-seeking, although rationality is bounded by knowledge levels and thinking abilities. These theories downplay personal and background factors that influence choices in favor of analyzing the processes leading to offenders' choices to offend. These processes involve the properties of offenses interacting with properties of offenders to produce criminal events in a process known as choice structuring. Offenders make choices based on how they see their characteristics "fitting" the characteristics of criminal opportunities, all the time thinking about the ratio of expected rewards to possible punishments.

Routine activities theory looks at a criminal event as a motivated offender meeting a suitable target lacking a capable guardian. These ideas show how crime rates can go up or down without a change in the prevalence of motivated offenders by increasing or decreasing suitable targets and capable guardians.


Deterrence theory strongly emphasizes the hedonistic calculus and the utility of punishment to deter crime. If the pain of punishment is to deter crime, it must outweigh crime's pleasures. Punishment must be certain, swift, and sure, and it is most effective when it contrasts negatively with the person's everyday life. Punishment as applied today is ineffective because it is not swift, certain, or severe. Certainty of punishment has been shown to deter, but increasing the severity of punishment has not.

All theories have explicit or implicit recommendation for policy since they posit causes of crime or criminality. Removing those alleged causes should reduce crime if the theory is correct. However, the complex nature of crime and criminality makes policy decisions based on them very risky indeed. Policy makers must consider many other issues demanding scarce resources, so the policy content of a theory should never be used to pass judgment on the usefulness of theory for criminologists.

### On Your Own

Log on to the web-based student study site at <http://www.sagepub.com/criminologystudy> for more information about the vignettes and materials presented in this chapter, suggestions for activities, study aids such as review quizzes, and research recommendations including journal article links and questions related to this chapter.

## EXERCISES AND DISCUSSION QUESTIONS

1. What were the major changes brought about by the classical thinkers?
2. Is there any aspect of the early positivists that you think might still be useful and applicable to modern criminology?
3. If humans are primarily motivated by the hedonistic calculus, is simple deterrence the answer to the crime problem?
4. What advantages (or disadvantages) does positivism offer us over classicism?
5. Is Ferri's social defense rationale for punishment preferable to one emphasizing rehabilitation of offenders?
6. If a theory cannot inform public policy, is it any good? Why or why not?
7.  Go to <http://www.la.utexas.edu/research/poltheory/beccaria/delitti/delitti.c41.html> and click on the section entitled *Of the Means of Preventing Crime*. How do Beccaria's ideas compare with those of the positivists on preventing crime? What is Beccaria's idea of "real crime," and how does it compare with the discussion in Chapter 1?

## KEY WORDS

Atavism	Enlightenment	Positivism
Biogenetic law	Free will	Principle of utility
Cartographic criminologists	General deterrence	Rational
Choice structuring	Hedonism	Rational choice theory
Classical school	Hedonistic calculus	Recidivism
Contrast effect	Insane criminal	Routine activities theory
Criminaloid	Italian school of criminology	Social defense
Deterrence	Policy	Specific deterrence

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