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PART

II

SOURCES AND DIMENSIONS OF MISINFORMATION

This section represents the "meat" of the book and is arguably the most important. Detailed histories of criminal justice policies and practices in general, and corrections in particular, exist elsewhere (Friedman, 1993; Roth, 2009); and even policy discussions associated with the get tough movement in corrections are not in short supply (Cullen & Jonson, 2016; Currie, 1998). Nevertheless, the three chapters contained in this section demonstrate how the policy prescriptions of the last four decades (e.g., mandatory sentences, the "war on drugs," three strikes laws) have been based on three different (yet certainly interrelated) forms of misinformation.

CHAPTER

3

Misinformation About the Crime Problem

In recent decades, it has become fashionable for political figureheads to decry the nation's "crime problem." News-friendly quips from political pundits come in many flavors, but most often they are merely slight variations of the common theme that crime in the United States is "out of control." Such claims are aided by high-profile violent incidents such as the rise (or at least perceived rise) in the number of school shootings, including those at Virginia Tech University, Sandy Hook Elementary School, Parkland (FL) High School, not to mention those that occurred at Columbine and countless other schools, offices, and public places in recent years (Fox, 2018). These events are certainly tragic in their own right, yet they also tap into our deepest fear of crime: stranger-to-stranger violent victimization.

The end result of such tragedies is that policy makers have continued to feel justified in their message to the American citizenry that it is reasonable for all of us to be afraid of the random victimization experienced by those on television since, as evidenced by such horrific events, the crime problem in this country is off the charts. And it is not just crime, but the *kind* of crime—those offenses that citizens buy deadbolts for their doors to shield themselves against—that is important. After all, the message implies, this is not some socially constructed "moral panic" over nothing, but rather a rational response for us to want to protect ourselves from what John DiIulio and colleagues (including former Drug Czar and Department of Education Secretary William Bennett; see Bennett, DiIulio, & Walters, 1996) have dubbed "superpredators"—those intrinsically flawed evildoers who are apparently growing in number (Bennett et al., 1996). And if superpredators sounds a little old fashioned, it is not all that far away from "bad hombres" in the apparently preferred parlance of our times (Navarrette, 2018).

But all of that rhetoric about superpredators was at odds with the "crime drop" in the United States during the 1990s, which was described by criminologists as "extraordinary" (Conklin, 2003, p. vii) and "remarkable" (Blumstein &

Wallman, 2000, p. 1). Despite this potential call for optimism, some criminologists, such as James Alan Fox (who also frequently appears before Congress on matters of crime policy), still felt compelled to warn everybody of impending doom: "We are facing a potential bloodbath of teenage violence in years ahead that will be so bad, we'll look back at the 1990s and say those were the good old days" (as cited in Blomberg & Cohen, 2003, p.455).[1] Based on comments like this and others like it, DiIulio appeared to make the ongoing exponential growth of the prison system in this country a personal crusade during the 1990s. Such growth would be necessary, according to DiIulio (1995), to give us a fighting chance of winning the battle against the "fatherless, Godless, and jobless" superpredators who would run the risk of overtaking us all in the 2000s and beyond.

This chapter examines the validity of these claims by tracing how three misconceptions about the nature of crime in the United States have served as political fodder for advocates of the expanded use of incarceration. The first misconception is that increases in the "fear of crime" among Americans simply reflect increases in the objective probability of being victimized. This myth is necessary for policy makers to justify the continued growth of incarceration as a means of addressing the fears of their voters. The second misconception is that low-level offenders (e.g., drug and property offenders) will inevitably graduate to violent offending in the absence of a stiff criminal sanction. This erroneous assumption has been the key for stiffening the sanctions associated with virtually all criminal offenses—not just violent crimes. The third misconception is that chronic, life-course persistent offending can be accurately predicted using variables that are given the most "weight" in criminal justice processing: the severity of the offense and the offender's prior record. These factors play directly into enhanced sentencing schemes by being the primary axes for determining an offender's punishment in the sentencing grids that have been adopted by states. By themselves, the acceptance of any one of these mistruths would be enough to cause advocates of mass incarceration to salivate in anticipation and to cause critics of the current state of imprisonment to lose their appetites. When taken together, however, like the combination of heroin and cocaine, these individual slices of misinformation have merged to create a "speed-ball" political justification for sustaining the incarceration addiction.

VICTIMIZATION AND THE FEAR OF CRIME

Prior to the 1960s, crime was not cited by the American public as being a major issue of concern. Even when President Reagan formally launched his "War on Drugs" in 1982—which effectively tied the issues of crime and drugs together for years to come—less than 2% of American citizens cited drugs as the nation's most pressing problem. This figure had changed dramatically by the time Reagan's understudy, George Herbert Walker Bush, took office in 1988 (and appointed a "Drug Czar"), at which time 64% of Americans believed that the drug problem was the most salient issue facing the nation (Beckett, 1997).

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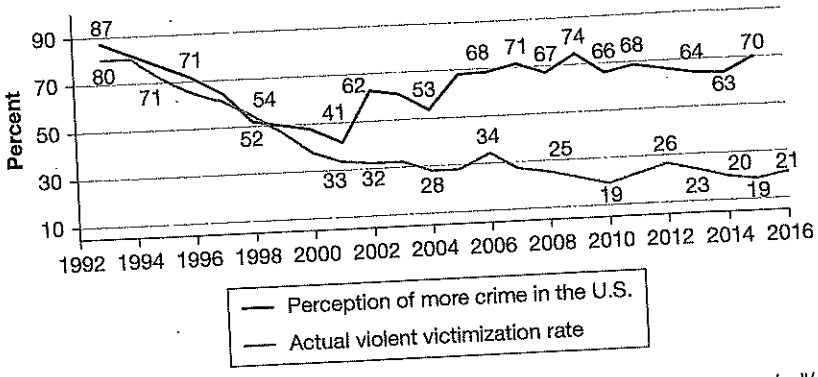
This trend also followed public concern over crime in general, where even as late as June of 1993—under the leadership of President Bill Clinton this time, and right before Congress began its debate over his "crime bill" proposal—only 7% of Americans cited crime as the nation's most important problem. Just 6 months later, and largely as a result of the intense publicity these legislative sessions received, that number had increased to 30% (Braun & Pasternak, 1994). By August of 1994, that figure had reached 52%, which public opinion pollsters attributed to Clinton's discussion of the crime bill in the State of the Union Address, and to the extensive media coverage of how Congress was considering the bill (Moore, 1994; see also Alderman, 1994).

But it is not just being concerned about crime that really matters. What is instead important with respect to public opinion is whether or not people think the problem is getting worse, because the idea that crime is getting worse is a primary driver of the fear of crime. And on that front, there seemed to be at least a reasonable association between public perception and reality during the Clinton years. As can be seen in Figure 3.1, as crime was dropping during the 1990s, the percentage of U.S. residents who thought that the crime problem was worse than it was the year before dropped accordingly. But as we entered the era of President George W. Bush—one that saw the terrorist attacks on September 11, 2001—there was a sharp uptick in the public's perception that the crime problem was getting worse, even though it clearly was not. And the disconnect between perception and reality never really got much better after that under the Obama years, with a steady increase in the public's perception that crime is continuing to get worse, all while actual rates of violent victimization continued to plummet.

Things look pretty similar when we look at trends in fear of crime over time. In Figure 3.2, for example, we see that fear of crime dropped in the early 2000s, which is when media attention over the crime drop of the 1990s was arguably at its peak. But even as actual rates of victimization continued to go down, fear of crime remained steady, with nearly half of U.S. citizens expressing concern over the crime problem. And after 2014, when both crime and the fear of it were at an historic low, fear of crime once again took a sharp jump upward to a 15-year high despite the absence of an upturn in violence that would justify such a spike. In short, the reality of criminal victimization, it turns out, bears a surprisingly inconsistent relationship with the perception of victimization. If crime itself does not drive such perceptions of crime, what does?

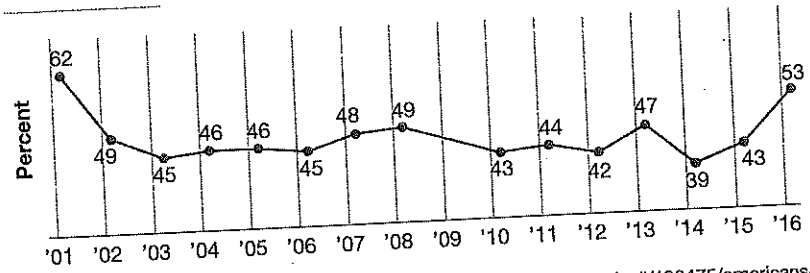
To answer that question, an understanding of the disconnect between citizens' perceptions of risk and the objective probability of victimization can be reached when it is examined through the lens of the American news media's reliance on crime-related issues to generate advertising revenue. For example, Klite, Bardwell, and Salzman's (1997) survey of 100 television stations found that 72 of them began their evening news programming with a crime story, and that a third of all stories dealt with crime-related issues. Furthermore, Angotti's (1997) study of local news programming in eight major media markets—including the 12 million citizens in New York City's market—found that

FIGURE 3.1 Citizens' Perceptions of Crime Rate Changes Versus Actual Rates of Violent Victimization



Adapted from McCarthy (2015). © Gallup, Inc. All rights reserved. http://news.gallup.com/poll/186308/americans-say-crime-rising.aspx

FIGURE 3.2 Americans' Fear of Crime, 2001–2016

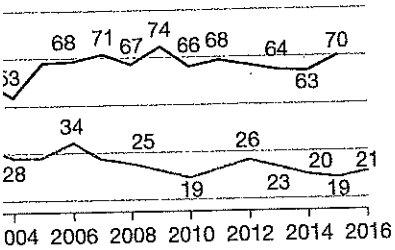


Davis (2016). © Gallup, Inc. All rights reserved. http://news.gallup.com/poll/190475/americans-concern-crime-climbs-year-high.aspx

instances of crime news were twice as common as instances of political news. The reliability of crime stories to attract viewers even led KREM 2 News in Spokane, Washington, to place the phrase "Crime Is Bad" in bold letters across the screen in their television promotional ads, as if their viewers were unaware of this bit of information and therefore needed to be informed of it.

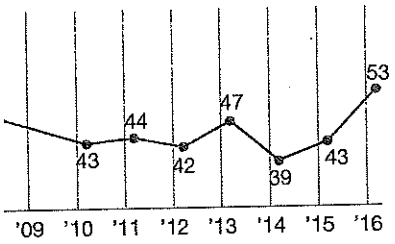
Put simply, the media have discovered that, in the United States, "crime sells," and Americans are constantly bombarded by images of crime and victimization whenever they turn on their television set or open a newspaper. Nevertheless, there have always been scholars who still contend that "media effects" on fear of crime are absent, and who have effectively dismissed the existence of a "knowledge gap" outright. For example, back in the 1980s, Young (1987) argued that "popular conceptions of crime . . . are, in the main, constructed out of the material experiences of people, rather than fantasies

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impressed upon them by mass media" (p. 337). Rubin, Perse, and Taylor (1988) made the similar argument that "television's influence on social reality is overshadowed by direct personal and interpersonal experience" (p. 126) with the reality of crime. A few years later, Sparks (1992) echoed these sentiments in his contention that "fear is so plainly a product of the real conditions of existence . . . as to leave no space for the role of the mass media in accounting for it" (p. 2).

But all of these past statements now seem like quaint little quips compared to where we are now. Take, for example, Newt Gingrich's comments following the Republican National Convention in the Fall of 2016. In an interview with CNN Gingrich stated that "[t]he average American—I'll bet you this morning—does not think crime is down, does not think they are safer" (Loofbourow, 2016). And when interviewer Alisyn Camerota—who had actual data at her disposal—countered by saying "But we *are* safer and it *is* down" (which is a factually true statement), Gingrich simply dismissed real data by saying, "No, that's your view," as if solid data and his uninformed opinion should carry equal weight. And it got worse from there when he noted that "liberals have a whole set of statistics that theoretically might be right, [but] as a political candidate, I'll go with how people feel" (Loofbourow, 2016).

Statements like these perpetuate the misconception that citizens' fear of crime is a natural consequence of their objective probability of victimization and that the media does nothing to elevate levels of fear beyond one's own personal experiences. The fundamental problem with these arguments, however, is that they are based merely on speculation as opposed to solid, social-scientific evidence. Recent empirical work, for example, has found that media coverage of crime

> disproportionately reports on violent crime, overrepresents the rarest of most serious types of offenses, underrepresents white offenders and non-white victims, and deemphasizes or ignores contextual causes of offending. (Pickett, Mancini, Mears, & Gertz, 2015, p. 503)

In addition, a recent analysis of data from four national surveys by Roche, Pickett, and Gertz (2016) found that people who self-report getting their news about crime primarily through the media (as opposed to their own experiences) are more likely to support repressive and punitive crime control responses and are more likely to overestimate how much crime actually occurs. And recent research on criminal victimization and the fear of crime also sheds light on the myth that American citizens' fear of crime—which has been used to justify the prison boom in recent decades—is solely a function of their own immediate experiences.

Media Influences on Fear of Crime

The relationship between media influences and fear of crime has been well studied (see Jewkes, 2015). Only a handful of studies of this relationship,

however, have been conducted using data more recent than 1981—the time at which rapid prison expansion began. Furthermore, few studies differentiate between local and national news media effects, or include controls for the crime rate (as a measure of the "reality" of crime); and studies that do control for the effect of personal victimization on fear of crime have been limited to single communities.

So in an effort to address these methodological shortcomings, Chiricos, Padgett, and Gertz (2000) conducted an early rigorous study of the effect of television news content on citizens' fear of crime to date. In a statewide survey of Florida residents, they isolated the independent effect of news media programming (both local and national) on fear of crime by controlling for citizens' prior victimization experiences and even their perception of the level of safety in their neighborhood. Their results indicated that, even after controlling for such experiences, exposure to both local and national news media sources significantly increased citizens' fear of crime. These effects are even more telling when the magnitude—or "strength of effects"—is taken into account. In particular, the magnitude of the media effects (local and national combined) on fear of crime was nearly twice as large as the effect of personal victimization experiences on fear of crime. These results were largely confirmed in a study using more contemporary data, where increased consumption of media portrayals of crime—independent of one's actual experience with criminal victimization—is an important source of fear of crime among community residents (Hollis, Downey, del Carmen, & Dobbs, 2017). These results therefore suggest that American citizens' fear of crime, while to a certain extent rooted in personal experience, is to a greater degree determined by their level of exposure to the spectacle of human horrors depicted by news media organizations.

Linking Fear to Leniency

Beckett's (1997) analysis of national public opinion surveys from 1964 to 1992 also found that changes in public concern over crime (which included indicators of concern over drugs) were unrelated to changes in crime rates. Like Chiricos and colleagues (2000), Beckett (1997) found that public concern was instead predicted by media coverage of issues associated with crime and drugs. Furthermore, and perhaps more important, public concern about crime over time was most closely tied to what she referred to as "political initiative," which is defined as "the number of speeches, statements, policy initiatives, or summaries pertaining to crime . . . made by federal officials and reported in the mass media" (p. 116).

After placing the crime issue at the top of the political agenda, policy makers—abetted by a willing media—were then able to cultivate the public's fear of crime. Even so, as stated in Chapter 1, throwing gasoline on the fear fire was not enough, by itself, to justify a dramatic increase in prison population growth. To do that, policy makers needed to frame the apparent crime problem as a consequence of excessive leniency on the part of the criminal justice system—the techniques for which have been honed to perfection by political

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elites over the last 40 years. It is clear, however, that their ability to do so has been predicated on misinformation about the degree to which citizens' fears about being victimized are driven by their own experiences versus the lurid images of crime and victimization they are flooded with on a regular basis. Facts and feelings are not the same thing; but feelings have consequences when policymakers prey on them, even when those feelings are far removed from reality. In short, our state of mass incarceration cannot be justified on the basis that it is necessary to allay the portion of citizens' fear of crime that can be attributed to instances of personal victimization since such experiences have little to do with fear of crime.

NONSERIOUS CRIME AS GATEWAY OFFENDING?

In 1981, Nancy Reagan's advisors sought to change her image from a china-buying White House decorator to something with more political substance. Determined not to be stuck in some budgetary role or in some policy job (after all, these were tasks tackled by her predecessors), Mrs. Reagan informed her projects director that she wanted to address the issue of drug abuse (see Baum, 1996). Despite the warnings from the media-savvy Communications Director, Michael Deaver—who instead suggested focusing on something "fun" along the lines of volunteerism or historic preservation—Nancy went forth with the drug abuse issue. What followed was the memorable "just say no" antidrug campaign, which spawned a number of subsequent generations of antidrug television spots, from "parents who use drugs have children who use drugs" (recall the defiant youth shouting at his father, "You, all right? I learned it by watching you!") to the father figure in the kitchen cracking eggs into a bacon grease-filled cast iron pan who says, "This is your brain; this is your brain on drugs." To push the "just say no" message a step further, Mrs. Reagan even made a cameo appearance alongside Gary Coleman on the television comedy *Diff'rent Strokes* in a storyline about drug use among school-aged children.

The underlying theme of the antidrug movement throughout the 1980s was not simply that drug use, in and of itself, is harmful. Rather, the message being sent to kids and, more important, to their parents was that drug use is a type of gateway offense that opens the door to the full spectrum of criminal behavior for youths. Rising levels of violent offending during the 1980s, which were often linked to inner-city drug markets by the media and by political entrepreneurs, led the public and policy makers to adopt a misconception about the escalation of the severity of offending by individuals.[2] Specifically, the political culture surrounding crime—especially since the early 1980s—makes the implicit assumption that if someone is committing low-level offenses now (such as drug abuse or theft), it is only a matter of time until the person graduates into committing violent offenses such as robbery, rape, and murder. It is my contention here that this concern is misplaced and that it is inconsistent with the reality of criminal-offending trajectories.

Categorical Contagion

The image of a young punk stealing someone's bike does not generally cause people to go and buy state-of-the-art alarm systems for their houses, to clip cans of pepper spray to their key rings, or to avoid walking home alone in the dark. These types of reactions are instead attributed to the fear of violent victimization, especially the threat of lethal violence, which is the major source of fear and anxiety for Americans. Of course, the fear of lethal violence is not unique to Americans. Kristof (1996) noted that the fear of gunshot wounds is even quite prevalent among Japanese citizens, despite the fact that there were only 32 gun-related homicides in 1995 (roughly half the total for Newark, New Jersey, in any given year). Citizens have also expressed a heightened fear of crime in the United Kingdom (Brunton-Smith & Sturgis, 2011), and surveys of Australian residents report a sizable proportion of citizens who are sufficiently fearful of crime that they will not go walking outside (Foster, Giles-Corti, & Knuiman, 2014). But the United States does experience a higher rate of homicide victimization than any other Western industrialized nation, so American citizens' fears of being murdered, in particular, are not necessarily unfounded relative to those of citizens of other nations. What *is* uniquely American, however, is that our fear of lethal violence has spread like a virus into a universal fear of all forms of crime—even those that pose no credible threat to our physical safety.

Zimring and Hawkins (1997) referred to this phenomenon as "categorical contagion," which they defined as "the agency whereby citizens come to fear many forms of criminal behavior because they imagine them all committed by extremely violent protagonists" (p. 13). Even some criminologists, such as James Q. Wilson and George Kelling (1982), have perpetuated this pattern of overgeneralization in their argument that low-level instances of incivility and disorder in a community will inexorably lead to direct, violent, predatory victimization in the absence of some formal intervention.[3] In short, today's thief or burglar is tomorrow's rapist and killer. Yet, if this is true, why do we not find the same level and quality of fear of crime among citizens living in nations where the rate of property offending is comparable to ours, such as the United Kingdom? If there really is some sort of "law of escalation" in the severity of offending, fear of crime should be directly commensurate with the supply of potential criminal offenders in any given social context.

Upon closer examination, this proposition simply does not hold up. There is no credible empirical evidence of a progression of increasing severity in the offenses committed over the length of a criminal career (Piquero, Farrington, & Blumstein, 2003). On the one hand, offenders—even chronic offenders—are quite versatile in their offending patterns (i.e., they generally are not too picky about which offense to commit when the opportunities to do so are easy). Nevertheless, recent work based on a large sample of high-risk, persistent offenders found no evidence either of offending specialization in violence or of systematic escalation of lower-level offending (e.g., drug and property

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offending) to violent personal crimes (McGloin, Sullivan, Piquero, & Pratt, 2007). In short, the evidence suggests that although offenders may exhibit a lot of bad behavior, we have no reason to believe that engaging in more mundane misbehavior will, by definition, lead to the kinds of serious violent offending that tend to *really* scare people.

To illustrate this point, Zimring and Hawkins (1997) noted that for every 10 theft offenses reported in Sydney, Australia, there are just over 13 reported in Los Angeles; and for every 10 burglaries reported in Sydney, there are 9 in Los Angeles. Thus, it appears as though the overall supply of criminal offenders is roughly the same across the two cities. And yet for every 100 homicides in Los Angeles, there are only 4.8 in Sydney. It is clear, therefore, that (1) despite comparable numbers of potential offenders, the nature of crime differs considerably across these two communities; and (2) a general fear of "crime" has little to do with crime at all, but rather with lethal violence, which, again, is a condition somewhat unique unto itself in the United States.

Implications for Corrections Policy

The problem is that this categorical contagion has had major implications for prison growth in this country. Here lies the fundamental paradox: As states create stiffer sanctions—presumably in an effort to rid the streets of those who would commit acts of life-threatening violence—the bulk of enforcement efforts will typically be directed toward *nonserious offenders*. Even before the creation of baseball metaphor-enhanced sentencing policies such as "Three Strikes and You're Out," offenses such as armed robbery, aggravated sexual assault, and murder almost always resulted in a prison sentence. Even with limited prison space, we can always find a bed for folks like Jeffrey Dahmer, Gary Ridgeway (the infamous Green River Killer), and Timothy McVeigh. As prison space expands, who are we going to fill prison cells with if we are already locking up serious violent offenders?

The answer, of course, is nonserious offenders. Austin and Irwin's (2012) analysis of prison admissions confirms this recent trend. Their work indicates that the most frequent crime resulting in a prison sentence is drug possession, which is followed by burglary, theft and fraud, and drug delivery, and that these four nonviolent crimes constitute three quarters of all prison admissions. It is therefore quite obvious that in our efforts to round up violent offenders, a sizeable portion of nonviolent—and nonserious—offenders have been caught in the net. This has resulted in a dramatic shift in the composition of the inmate population in this country. What we have now is a rather large gap between violence and imprisonment—one that is aided, at least in part, by the third misconception about crime in America: that we can accurately predict whether someone is likely to be a chronic, life-course persistent offender by taking into account the severity of his or her current offense and the extent of the person's prior record of offending.

INCAPACITATION AND ERRORS IN PREDICTION

The notion of incapacitation as a legitimate goal of punishment—incarcerating an offender so that he or she cannot break the law, at least for the duration of the individual's stay in prison—is a recent phenomenon in American correctional policy. The problem in the past has been that we believed that through imprisonment, some sort of "incapacitation effect" was inevitable (and therefore theoretically uninteresting), which contributed to incapacitation's status as a secondary purpose of punishment at best (Cullen & Jonson, 2016). In essence, incapacitation suffered from the "no duh" syndrome, where lawmakers knew they would get a marginal incapacitation effect through the incarceration of offenders. The risk of focusing on this potential benefit, however, seemed to come at the cost of admitting to the failure of both rehabilitation- and deterrence-based correctional philosophies (Pratt & Cullen, 2005).

This all changed with Wolfgang, Figlio, and Sellin's (1972) birth cohort study of Philadelphia youth, which found that 6% of the kids in their cohort were responsible for over half the arrests or police contacts—a finding that has been replicated rather consistently in subsequent research (see, e.g., Piquero et al., 2003). To lawmakers in the 1970s and 1980s (see Wilson, 1975), the policy implications of this body of research were as clear as could be: Since most criminal offenses are committed by a small proportion of the offender population, crime rates could be substantially reduced if we could lock up those high-rate offenders before they embark on their lifelong pattern of criminal activity.

Selective Incapacitation

Like any sexy policy proposal, this concept was given a catchy name to help it resonate with policy makers and the American public: selective incapacitation. To assess the potential social value of a selective incapacitation strategy, the National Institute of Justice funded a multisite, longitudinal study of criminal careers—the result of which was a study published by the Rand Corporation in 1982 (Greenwood & Abrahamse, 1982). Using a sample of inmates convicted of robbery and burglary from three states (Texas, Michigan, and California), Greenwood and Abrahamse constructed a seven-factor predictive scale that was composed largely of items tapping into an offender's prior criminal history (e.g., prior convictions and incarcerations, age at first conviction, substance abuse).[4] Using items such as these was critical for the successful implementation of the selective incapacitation model, since information about these factors is easily accessible to prosecutors and judges—the primary "players" in the sentencing process. Put simply, the selective incapacitation model is only seductive for policy makers if it is fairly easy to predict (with easily obtainable information) whether a particular offender will be a career criminal.

To determine if this is so, Greenwood and Abrahamse (1982) correlated their predictive scale with the self-reported estimates of offending from the

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inmates in their sample. Based on their analyses, they concluded that their predictive scale is accurate enough at identifying high-rate offenders that it should be used during the sentencing decision. More specifically, the high-rate offenders identified by the predictive scale should receive longer sentences so that the maximum benefit to public safety (crime reduction) could be achieved. By that same token, low-level offenders, as identified by the same predictive scale, should be given shorter sentences to maximize the efficient use of finite correctional resources.

It is simple to see why this model for corrections policy became so popular. The idea of reducing crime by locking people up for an extended period of time—as opposed to wasting our energy trying to change offenders' behavior through rehabilitative practices—was consistent with the social and political climate of the 1970s and 1980s. Thus, such a policy proposal made sense in the social context of the time. The conservative shift in correctional ideology during this time was even powerful enough to cause policy makers—as well as their constituents—to ignore the ethical and due process concerns associated with a selective incapacitation strategy. In particular, the selective incapacitation framework *punishes offenders for crimes that have yet to be committed*—a practice that legal scholars generally denounce as being inconsistent with the basic precepts of justice and the foundation of American criminal law (Visher, 2016). As problematic as this may be, such ethical concerns ended up playing second fiddle to the proposed public safety benefits of selective incapacitation, especially since "rigorous social scientific research" had clearly demonstrated that the identification of high-rate offenders is both practical and possible, and that it does not require the detailed knowledge of each offender's battery of social and psychological factors.

Errors in Prediction: False Positives

Like any human endeavor—from forecasting the weather to guessing someone's age—predicting who will be a high-rate offender comes with a certain degree of error. In the context of selective incapacitation, one kind of error is the "false negative," where some decision rule (perhaps Greenwood and Abrahamse's predictive scale) labels someone as low or medium risk when he or she is actually a high-rate offender. Should this offender receive a shorter sentence on the basis of the person's designated risk level under a selective incapacitation sentencing scheme, there may be an enhanced risk to public safety if that offender is released into the community too early.

Although this issue is certainly important, the corollary problem of "false positives" has been of greater concern for researchers and policy makers interested in constructing a rational and efficient sentencing system, as well as for advocates of due process and fair sentencing practices, where there is a heightened concern that incarceration resources should be judiciously reserved for the worst of the worst criminal offenders. In this case, the errors come in the form of overprediction, where low- (or medium-) risk offenders

are erroneously predicted to be chronic, high-rate offenders. Again, given that selective incapacitation involves extending the period of incarceration for an individual according to offenses not yet committed, the problem of false positives means that we may be locking people up for crimes that they probably would not commit anyway. This definitely raises ethical and due process concerns, but the practical downfall of the existence of false positives is that correctional resources are squandered on people who have been incorrectly identified, thus raising the costs of incarceration for public budgets that are already stretched to the limit.

This problem would be moot, however, if the rate of accurate identification to risk-level categories was high—as claimed by Greenwood and Abrahamse (1982). Unfortunately, nothing could be further from the truth. In fact, one might be surprised that, although we can predict with a certain measure of confidence that a small proportion of offenders in any given community will be career criminals (or high-rate offenders), our success rate for predicting just *who* those folks will be at the individual level is truly dismal. Even Blumstein, Cohen, and Farrington (1988), some of the most respected experts in criminal career research, each of whom had access to information on a host of personal, social, and environmental characteristics of offenders, readily confessed to the inability to identify chronic criminal persisters until they were already well into their criminal careers (see also Petersilia, 1980).

The problem gets even worse when we start looking at the error rates associated with the purported predictive scale offered by Greenwood and Abrahamse (1982) themselves. Specifically, their analysis indicates an overall success rate of only 51% in correctly classifying criminal offenders. Their false positive rate—where offenders are incorrectly classified as high-risk—is 48%, and reanalyses of the same Rand data conducted by Cohen (1983) and by Visher (1986) placed that figure even higher, at 55%. Perhaps the most damaging blow to the selective incapacitation argument came with Auerhahn's (1999) replication of Greenwood and Abrahamse's work on a sample of California inmates. Not only did she continue to find relatively low (yet slightly better) overall predictive accuracy at 60%, but also her results indicated serious problems with the reliability of the original Greenwood and Abrahamse predictive scale. For example, various items contained in the predictive scale—all of which purportedly tap into the same dimension of seriousness—were, at best, only weakly related to one another. In other words, knowing how someone scored on one dimension of the scale (e.g., substance abuse) provides little insight into how he or she will score on another dimension of the scale (e.g., age at first arrest).

But to be fair, we have come a long way since the RAND scale in the 1980s. In particular, risk assessment instruments have become more and more refined over the years, and there is at least some rough agreement in the field that the Level of Service Inventory-Revised (LSI-R) is about the best thing going these days. Developed by Canadian correctional scholars, the LSI-R contains 54 items that tap into a variety of criminogenic domains, such as family,

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employment, attitudinal, and deviant peer risk factors (Andrews & Bonta, 2001). The point of the LSI-R is to provide a more accurate picture of which offenders are actually at a low, medium, and high risk to reoffend. And there is a large body of empirical evidence suggesting that, when it comes to risk assessment tools, the LSI-R is about the best thing going these days (Smith, Cullen, & Latessa, 2009). And if it is a valid and reliable tool for assessing recidivism risk, then the case for selective incapacitation could conceivably be made much stronger with its use.

But there are a couple of significant problems with the LSI-R. First, it is important to note that, good though it may be *relative* to other risk assessment instruments, we must remember that the accuracy bar for that standard has been set pretty low (remember: coin flip). Thus, when research indicates that the LSI-R is a strong predictor of recidivism, it means that, on average, the LSI-R score is correlated (using a Pearson's r correlation coefficient) with reoffending at around .30, meaning that around 9% (which is the r^2) of the variation in recidivism can be explained by the LSI-R score (Gendreau, Little, & Goggin, 1996). You read that correctly: 9%. And even the issue of magnitude that is modest at best aside, a second problem is that the predictive capacity of the LSI-R collapses almost completely when it comes to predicting the criminal behavior of high-risk women and members of certain minority groups (e.g., Native Americans, see Holsinger, Lowenkamp, & Latessa, 2006; Holtfreter & Cupp, 2007). Now none of this is meant to undermine the usefulness of the LSI-R for correctional treatment purposes—which is actually what it was designed for (to identify offenders' criminogenic needs that could be targeted for treatment). But it should give us pause when we recognize the fact that not only can we not successfully predict criminal careers by knowing one's current offense and prior record—the linchpin of a selective incapacitation strategy—but also we still do a measly job of predicting such careers when we know over 50 more things about a person.

So in the end, the lure of selective incapacitation as a strategy for corrections policy rests on the assumption that we can identify high-rate offenders in a prospective manner, and that we can do so early enough in each offender's criminal career that we can get the largest potential reduction in crime for our correctional dollar by throwing such miscreants in prison for lengthy periods of time. The problem is that no credible social scientific evidence exists that indicates this can be done. Our inability to correctly identify who among our offender population will come to resemble Wolfgang et al.'s (1972) "chronic 6 percenters" does not exactly conjure up images of Nostradamus; it instead tends to evoke the more arbitrary image of a coin flip. Regardless of the metaphor, so long as political pundits continue to boast about the potential incapacitative effects of enhanced sentencing policies, they can only do so by ignoring the fact that such claims are based on faulty assumptions regarding the ability of a few criminal history variables to predict complex human behavior over the life course.

SUMMARY

The purpose of this chapter was not to trivialize the issue of crime—especially violent crime and the fear that it engenders—in the United States. To be sure, our rates of violent interpersonal offending are well above those of our Western industrialized peer nations, particularly our levels of homicide victimization. Decision makers in the policy and media arenas have taken this unfortunate reality, however, and have stretched, nipped, and tucked it so much that the face of truth about crime in America is barely recognizable.

This might not be such a problem if the systematic distortion of information was used solely for entertainment purposes. Obviously, this is not the case. Beckett and Sasson's (2003) work, for instance, highlighted how receptive Americans are to such misinformation with the popularity of reality TV programming such as *Cops*, *To Catch a Predator*, and what might be the most empirically documented failure in the history of corrections policy—*Scared Straight* (see, e.g., Maahs & Pratt, 2017). Nevertheless, political entrepreneurs (and their media sidekicks) have methodically used misinformation about why Americans are so fearful of crime, about patterns of escalation in the seriousness of offenders' criminal careers, and about our ability to predict long-term chronic criminal behavior over the life course with a few simple variables, in an effort to gain political capital.

What we are left with is a caricature of the picture of our current crime problem, complete with exaggerated features that American citizens now consider the "real thing." And even if it is not real, if it "feels real," then that seems to be good enough for a certain slice of policy makers. The purpose of this chapter, therefore, was to highlight how various pieces of misinformation about the crime problem in this country have been used by policy makers to support initiatives—such as the war on drugs and all forms of enhanced sentencing policies (policies that show little sign of diminishing political support)—that have fueled our dependence on the incarceration "solution" to the crime problem.

DISCUSSION QUESTIONS

1. To what extent are citizens' fears of crime driven by their personal experiences with crime and victimization?
2. When did the disconnect between the reality of crime and the perception of its severity really start to diverge? What was going on at that time that might have contributed to the disconnect?
3. What is "categorical contagion"? And to what extent does such a contagion reflect the reality of patterns of criminal behavior?

4. How good at we are at predicting—before it happens—who will be a high-rate offender over their life course? And what does this mean for the prospects of successful "selective incapacitation"?

NOTES

1. It is worth noting that other criminologists, although not quite as zealous as Fox, also cautioned against the blatant "triumphalism" (see Currie, 1999, p. 3) of those claiming credit for the crime drop of the 1990s. Some, for example, cautioned that the downward swing in crime rates may just be part of a larger trend of reestablishing an equilibrium following unusually high levels of crime in the 1980s (LaFree, 1998).
2. It is important to note that increases in violent crime during this time period were, in fact, highly correlated with patterns of drug use, drug distribution, and gang violence (Johnson, Golub, & Dunlap, 2000). The problem, however, comes when policy makers cling to the false assumption—and claim publicly—that the social processes that lead to the problems of drug use and gang violence are somehow independent of those that influence rates of violent crime. In short, one set of problems (drugs and gang violence) cannot "cause" another problem (violent crime) if the two emerge from a common source (e.g., concentrated disadvantage in urban communities; see Wilson, 1987).
3. Despite its popularity among police agencies and policy makers, the notion that low levels of disorder actually cause an increase in more severe forms of crime has yet to receive much in the way of serious empirical support (see the discussion by Gau & Pratt, 2010). Instead, the social scientific evidence on the subject attributes serious crime to social conditions that lead to both disorder and crime (i.e., disorder cannot cause crime since the two are both consequences of the same social processes). Moreover, recent evidence also suggests that citizens do not even make a mental distinction between their perceptions of disorder and of crime, which lends further evidence to the categorical contagion thesis.
4. Only one item in Greenwood and Abrahamse's (1982) predictive scale was not related to prior offending history: whether the offender had been employed less than 50% in the preceding 2 years.

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CHAPTER

4

Misinformation About Public Opinion

In the corner of Northeastern Washington State, Stevens County residents take their property rights seriously—particularly those who live in the more rural areas of the county (which itself does not contain any urban territory as defined by the U.S. Census Bureau, 2010). One citizen, whose address is well off the paved road where the nearest neighbor is over a mile away, has interpreted property rights in a way that apparently trumps the Criminal Code of Washington, with a hand-painted plywood sign beside his driveway that reads "Trespassers [sic] will be shot."

And he is not alone. Another instance of a citizen attempting to establish law via a painted-plywood announcement took place in a southern state, where an off-duty police officer, who was traveling along a rural dirt road, came across a hand-painted sign reading "Meth for Sale." While initially skeptical that someone would be foolish enough to advertise his or her criminal activity so boldly (was this merely a joke?), the officer decided to take a look anyway. It turned out that, yes, the gentleman was, in fact, exercising his entrepreneurial talents and was in the business of methamphetamine production and distribution; he was subsequently arrested.[1] Apparently, there is among the American public sufficient ignorance of legislative dynamics and constitutional jurisprudence that certain citizens feel as though the presence of a homemade sign constitutes enough legal protection to sell meth and to shoot people who trespass.

These true tales of misunderstanding of the basics of the legal process may come as no surprise to academics, a group with a rather long history of lamenting American citizens' lack of knowledge of public policy issues in general. Indeed, anyone seeking to paint the American public as frighteningly ignorant of law and politics need not look too far for obvious examples (like those above) to support such claims. To name just a few, researchers have found that a sizable majority of Americans could not come up with the name of their representative to the U.S. House of Representatives, nor did they know the

length of the terms served by U.S. Senators (Kinder, 1998); despite President George W. Bush's New Haven, Connecticut, birth and his private education in the Northeast, many Americans still believed that he was born and raised a Texan (Sheehy, 2000); only about 1 in 3 Americans can tell you even one of the rights protected by the First Amendment to the Constitution (Cillizza, 2017), and 3 in 10 do not know that Obamacare and the Affordable Care Act are the same thing (Dropp & Nyhan, 2017); and 10% of U.S. college graduates think that television's Judge Judy is a member of the United States Supreme Court (American Council of Trustees and Alumni, 2016).

When it comes to public knowledge about the realities of crime and punishment, things are not much different. One the one hand, there is evidence that the American public is generally cognizant—or has at least at times been capable of being cognizant—of broad trends in certain types of serious crime (Gallup, 2016). On the other hand, when researchers get into the details, the public gets a little tripped up. In particular, research indicates that citizens are chronically ignorant with regard to issues such as variations in violent crime rates over time, the recidivism rates of those coming out of prison or other forms of supervision, the extent of due process protections afforded to defendants in criminal case processing, and the extent to which certain criminal defenses—such as the insanity defense—are used successfully (Roberts & Stalans, 1997). Public knowledge becomes even murkier when it gets into sentencing options for offenders, where citizens may not even know what sentencing alternatives can be imposed (aside from incarceration, such as probation or intensive supervision) and, even if such alternatives to imprisonment can be handed out, what these community supervision options actually entail (Pickett, Mancini, Mears, & Gertz, 2015). The general trend indicates that Americans consistently underestimate the severity of sentences that actually get imposed on offenders.

Public opinion researchers have long held that this state of affairs is understandable—perhaps even rational. Specifically, Cullen, Fisher, and Applegate (2000) noted that, given the busy lives of Americans and the seemingly endless roster of policy issues about which one would need to become well versed—not just crime, but education, health care, social security, national defense, taxation, immigration, the environment, and so on—the opportunity costs of being a "political junky" are unacceptably high for most citizens. In short, for the typical overworked American, the dream of being a "policy buff"—while potentially great in theory—is easily squashed under the time-crunching weight of day-to-day routines.

Despite this rather obvious presence of ignorance about the realities of crime and punishment, some criminal justice policy pundits have argued that the absence of such knowledge on the part of the public is irrelevant. What is instead important are the wishes of the American public about what should be done about the crime problem. On that front, punitive punishment policy advocates have been rather clear. For example, DiIulio (1997) has contended that

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> with respect to crime control, all that Americans have ever demanded from government, and all that they have been demanding since the mid-1960s, are commonsense policies that result in the detection, arrest, conviction, and punishment of violent and repeat criminals. (p. 2)

In extending this statement to all types of lawbreakers—not just violent or repeat offenders—DiIulio went on to argue that, in particular, American citizens want incarceration-based policies "that do not return persons who assault, rape, rob, burglarize, *deal drugs,* and murder to the streets without regard to public safety" (p. 2, emphasis added).

Such statements assume two things, the first of which is that the American public is unilaterally punitive in what types of crime control policies it considers acceptable—most notably, get tough (or tougher) "lock 'em up" strategies. Second, and even more disturbing, such a characterization of American public opinion seems to indicate that citizens are incapable of having a complex thought about a complex policy arena, especially when discussing what should be done about violent versus nonviolent offenders. Only by making these assumptions can policy makers' continued reliance on incarceration as the primary tool for controlling crime be justified on the grounds of simply translating public sentiment into public policy.

But would corrections policy makers be so willing to embrace the gamut of stiffer penalties in the face of evidence that American citizens' views on crime and punishment are actually more flexible and judicious than they are thoughtless and unyielding? After pulling together public opinion data from a number of diverse areas, Cullen et al. (2000) concluded that "public opinion, while clearly punitive in important ways, nonetheless is progressive in equally important ways" (p. 6). This notion is elaborated more fully in this chapter, which discusses the role of misinformation about Americans' opinions on crime, criminal justice, and punishment in the context of our contemporary imprisonment binge.

In this chapter, research is reviewed demonstrating that Americans' views on crime and punishment are far more complex than policy makers want to admit. While Americans do harbor fairly punitive "global" opinions about crime and the use of incarceration, a number of recent studies have shown that when it gets to the specifics, Americans also support the philosophy and practice of correctional rehabilitation (as opposed to the more hard-nosed deterrence and incapacitation approaches), early intervention strategies with juveniles, and alternatives to incarceration for nonserious drug and property offenders. The broad point of this chapter is that policy makers have outpaced the desire of the American public to increase the punitiveness of punishment policies. The current state of incarceration in the United States is therefore due, in part, to policy makers' opportunistic use of misinformation regarding Americans' opinions about crime and punishment.

GLOBAL VERSUS SPECIFIC ATTITUDES ABOUT PUNISHMENT

Assessing public opinion on a straightforward issue such as who American citizens would want to win the World Series in a given year has never been much of a challenge for pollsters. Accurately summarizing public opinion on this subject is easy since the spectrum of preferences is bound to be rather narrow—for example, either you're pulling for the New York Yankees or you're not (especially if the sample of citizens is drawn from Boston, where Red Sox fans' animosity for the dreaded Yanks dates back to the early 1900s). Given the plurality of individuals' value systems and personal experiences concerning the issues associated with crime and punishment, however, citizens' opinions about these subjects are likely to be more multifaceted.

Researchers have squabbled among each other about what the appropriate method for assessing public opinion should be (Frost, 2010). In the end, most punishment-related polls have been conducted via telephone surveys that ask one or two questions of individuals—many of which merely require a simple yes or no answer (e.g., "Do you think Three-Strikes-and-You're-Out laws are a good thing?" or "Are you in favor of mandatory minimum sentences?"). This methodological approach can be enormously useful in many ways. Since the same questions can be asked repeatedly over time, we can examine trends in public opinion over the years (e.g., are Americans becoming more or less punitive?). These studies also have the advantage in that the samples drawn for these polls are often nationally representative, which allows researchers to generalize their findings to the nation as a whole. They can even be put into action quickly when a hot-button policy issue splashes onto the scene (e.g., capital punishment for juveniles involved in school shooting incidents).

Despite these potential advantages, it is possible that this methodological approach has contributed to our misunderstanding of how Americans actually feel about punishment. Put differently, public attitudes about punishment may very well change under certain conditions (e.g., public preferences for incarceration for first-time offenders versus habitual criminals, community supervision for drug offenders versus violent offenders, the appropriate sentence for impoverished versus affluent offenders). Thus, polls that ask only a couple of questions are incapable of tapping into that level of complexity and may therefore overestimate the degree to which the public actually harbors such punitive beliefs about what should be done with lawbreakers.

Global Attitudes About Punishment

Global attitudes about punishment—again, those that are tapped into most often by public opinion polls—are people's general opinions when asked about a particular policy issue. When it comes to global attitudes about punishment, the existing data clearly point to a punitive American public. To illustrate this point, through much of the 1980s and 1990s, a number of polls consistently indicated that over 70% of Americans were in favor of the death penalty

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(see Cullen et al., 2000), and substantial support for capital punishment has even been found for offenders who do not murder, but who have instead been convicted of armed robbery, residential burglary, or child molestation. Even more telling are the Gallup poll data showing that citizens are still supportive of capital punishment even if it means that innocent people might get executed (see the discussion in Unnever & Cullen, 2005). Such sentiments are, however, shifting. More recent data indicate the current percentage of American citizens who support capital punishment has dipped to a 45-year low of between 49% and 55%, which is down substantially from a high of 80% in 1994 (Jones, 2017). Yet it is important to note, even with this historically low percentage relative to our past, around half of American citizens are still all for it.

But understanding the stubborn persistence of these attitudes requires us to take an honest look—even if it's a little embarrassing to do so—at just how appealing it is politically to be "tough" in America. And it's not just being tough on crime, but being tough in general. We like our tough guys, which is why policy makers often want to come off as one, even if the suit clearly does not fit them. Take, for instance, the disconnect between the reality of President Donald J. Trump and his tough-guy rhetoric. This is a man who reportedly lies about his height so that the scale he is standing on will not put him into the dangerously unhealthy "obese" category of the Body Mass Index (BMI; see Gabbatt, 2018). But despite his poor physical health, he still tweeted that if he were to get into a fistfight with former Vice President Joe Biden, that Biden "would go down fast and hard, crying all the way." This is also a man who dodged the Vietnam War by complaining that he had a "bone spur" (he made a full recovery, thank goodness). Yet he also bragged that during the active shooter incident at Parkland, Florida, "I really believe I'd run in there, even if I didn't have a weapon," to save the children himself (Diamond, 2018). And in a speech in front of gun enthusiasts he pointed his fingers and made little "Pew! Pew! Pew!" noises into the microphone, presumably in a bid to convey his chops as a tough guy with an imaginary gun.

So what happens when such a desperate need to come off as tough finds its way into policy positions (be they foreign or domestic) about crime and punishment? In the case of President Trump, along with advocating "locking up" his political opponents and tweeting thinly veiled phallic comments toward North Korea about the size of their respective nuclear arsenals, he has also advocated for the execution of people who deal drugs, in particular, opioids. He stated that "[w]e're wasting our time if we don't get tough with drug dealers, and that toughness includes the death penalty"—a sentiment immediately echoed by Attorney General Jeff Sessions (Holpuch, Glenza, & Jacobs, 2018). Talk does not get much tougher than that. Now granted, a national poll that was conducted shortly after Trump's statements revealed that over 70% of Americans oppose the death penalty for drug dealers (Greenwood, 2018). But the broader point is this: Get tough messages like those from the Trump administration—messages that fed the addiction to incarceration for decades—still resonate well with a good portion of the American public.

Equally important is that these attitudes extend well beyond the issue of capital punishment. Since 1972, the General Social Survey (GSS) has asked the following question: "In general, do you think the courts in this area deal too harshly or not harshly enough with criminals?" In 1972, a total of 65% of respondents said "not harsh enough." That figure jumped to 78% only 2 years later, and hovered above the 80% mark fairly consistently after that (Maguire & Pastore, 1998). But things started to change in the early 2000s, when the percentage of respondents who stated that the courts are "too harsh" started to steadily rise, and did so among self-identified liberals, moderates, and conservatives (Verbruggen, 2016). And once again, keep in mind that these changes are still relative—only 25% of liberals and 11% of conservatives currently think the courts are too harsh when it comes to sentencing, which bears little resemblance to a mandate for change.

When it comes to the question of how we should fix the "crime problem," Americans' global attitudes are once again clear: abandon our faithful allegiance to leniency (whether it be real or imagined) and increase the use of incarceration for longer periods of time and for more types of offenders. This is especially true when it comes to the nexus of incarceration and immigration, where a clear majority of citizens favor a mandatory prison term of 5 years for immigrants who attempt to return to the United States after having been deported for a felony conviction (Rassmussen Reports, 2016). The most reasonable conclusion that could be reached after a review of the studies of global attitudes is that Americans are generally a punitive bunch, and that we like the idea that policies designed to increase our use of prisons can control crime. Given these preferences, it is not surprising how policy makers have used these global attitudes to justify the continued growth and maintenance of our current state of incarceration.

Specific Attitudes About Punishment

The problem with studies that take the global attitudes route has nothing to do with what they find. Make no mistake about it: The general punitiveness of the American public is no methodological artifact. The problem is that, with such a limited set of survey items, a host of more specific—and potentially illuminating—questions about citizens' punishment attitudes never get asked. This omission is critically important since research suggests that citizens' sentencing preferences differ once they are provided with information regarding the circumstances of the offense and the offender, and when survey respondents are given a host of sentencing alternatives to incarceration from which to choose (e.g., community supervision, treatment programs; see Cullen et al., 2000). As a couple of examples to highlight this point, let us look more closely at the research assessing citizens' "specific" attitudes about Three-Strikes-and-You're-Out policies (for which there is considerable global opinion support) and the use of sentencing alternatives to incarceration for offenders.

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Three strikes and you're out

A study conducted by Applegate, Cullen, Turner, and Sundt (1996) of Cincinnati residents found that nearly 90% of respondents harbored "global" attitudes in favor of "three strikes" policies. Like previous research on the subject, these attitudes emerged out of a response to a single question concerning whether those sampled do or do not support a sentence of life in prison for offenders with two felonies on their prior record who have been convicted of a third serious felony.

This level of support for the three strikes policy of life in prison dwindled considerably, however, when respondents were provided with sample vignettes (or scenarios) that contained randomly distributed characteristics of the context of the third felony offense (e.g., detailed descriptions of different offender and offense types). Given this added information—along with a host of potential sentencing options *other* than life in prison from which to choose the appropriate sanction—only a tiny minority of respondents still stuck to their original punitive guns. Only a mere 7% still recommended a life sentence without the possibility of parole.

Most of the "exceptions" citizens made to the three strikes policy had to do with the nature of the third felony offense, where more lenient sentences were advocated for those offenders with a nonviolent third offense, or who may not pose a threat to the community (e.g., those convicted of property offenses such as theft or who may be amenable to substance abuse treatment). Given the degree to which citizens change their minds about their punishment preferences when more information is provided to them, Applegate et al. (1996) concluded that "it does not appear that most citizens wish to implement three strikes legislation that is blind to specific circumstances and prohibits discretion in sentencing offenders to lifetime incarceration" (p. 528). It is also noteworthy that such a finding is not idiosyncratic to this single study. The trend toward more reasoned and balanced punishment preferences once specific attitudes are tapped has consistently been found across a number of studies (King & Roberts, 2015).

Alternatives to incarceration

Consistent with the findings regarding citizens' punishment preferences for three strikes laws, a large body of research also points to a high level of public support for sanctions other than incarceration, even for potentially serious offenders (Mears, Pickett, & Mancini, 2015). Much of this public support is aimed at correctional programs that fall under the heading of "intermediate sanctions." The intellectual seeds of most of these programs were planted in the 1960s in an effort to provide judges with sanction options other than prison and standard probation. A short list of these programs includes intensive supervision probation/parole (ISP), boot camps (also known as *shock incarceration programs*), electronic monitoring and/or home confinement,

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fines, day reporting centers, residential community programs, and community service (Martin, 2015).

What made these programs eventually flourish—especially in the 1980s—was that they were politically attractive to policy stakeholders on both ends of the ideological spectrum. Liberals liked them because they held the potential to keep certain offenders (e.g., nonviolent offenders) out of prison; conservatives, on the other hand, liked them because they contained the promise of a stiffer sanction than probation for certain deserving offenders (Morris & Tonry, 1990). Yet despite the popularity of these programs among policy makers, much of the public remains frighteningly unaware of their existence (Washburn, 2017). Public opinion polls limited to global assessments of citizens' punishment proclivities are therefore unable to gauge the degree to which citizens may endorse such programs. When respondents to opinion polls are given the option of sentencing particular offenders, under particular situations, to an array of intermediate sanctions (as opposed to prison), we once again see how uncovering specific attitudes highlights the misconception that Americans are mindlessly punitive.

For example, studies have shown that the public overwhelmingly supports the use of a host of intermediate sanctions, especially for nonviolent offenders[2]—those comprising significant portion of our current inmate population (Eisen & Chettiar, 2016). The degree of public support for alternatives to incarceration is even more pronounced in studies that inform respondents of the relative costs associated with an array of intermediate sanctions (Nagin, Piquero, Scott, & Steinberg, 2006). The result of this approach is that exposure to such knowledge—which again taps into domains of specific attitudes—has a profound impact on citizens' punishment preferences. For example, Cohen, Rust, and Steen's (2006) study of public preferences for criminal justice spending priorities is particularly relevant here. Using a nationally representative sample, citizens were asked to rank order their public spending priorities according to their preferences for various alternatives (e.g., youth crime prevention, drug treatment for nonviolent offenders, more prisons). Cohen et al.'s study found that nearly 60% of the respondents favored focusing public spending on youth crime prevention and drug treatment. Alternatively, only 8.4% ranked "building more prisons" as the best option.[3] It is therefore clear that as policy makers continue to endorse the prison boom, their reliance on the justification of "giving the public what it wants" demonstrates, at best, ignorance and, at worst, willful contempt regarding the complexity of citizens' attitudes about punishment.

PUBLIC SUPPORT FOR ALTERNATIVE PUNISHMENT PHILOSOPHIES

As noted in Chapter 2, the idea that criminal offenders could be meaningfully changed through correctional rehabilitation strategies came under considerable ideological attack in the 1970s. As the get tough movement gathered steam,

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the correctional philosophy of rehabilitation—which had been dominant since the Progressive Era of the late 1800s—took a backseat to the more hard-line concerns of retribution, deterrence, and incapacitation (Pratt et al., 1998). At the same time, policy makers eschewed rehabilitation strategies for offenders based on the assumption that the American public was fed up with such approaches. As a result, corrections policy makers once again felt at liberty to continue to increase the nation's prison population and to argue that the lock-'em-up strategy is the best way to control crime.

Such assumptions on the part of policy makers are problematic for two reasons. First, what is unique about the rehabilitative ideal is that it is the only correctional philosophy that obligates the state to be concerned about the offenders' needs (Cullen & Jonson, 2016). It is tempting—and perhaps not unreasonable—to take the position that offenders are not in prison for being model citizens, and therefore whatever harsh treatment they receive is deserved. Nevertheless, the reality is that the removal of the obligation of doing something positive for offenders has resulted in certain "collateral consequences"—namely, problems with successful reintegration into society (a point that is elaborated in Chapter 6).

The second problem is that policy makers' assumptions about a generally punitive public once again miss the nuanced nature of how Americans feel about punishment. In particular, Americans have always been extremely utilitarian. As such, the broad trend in the empirical literature is that, yes, Americans want their correctional system to punish and to inflict some sort of pain (or, at minimum, some inconvenience) on offenders (Sundt, Cullen, Thielo, & Jonson, 2015). What Americans also want, however, is for the punishment side of corrections to coexist with the treatment and/or rehabilitative side. In short, Americans want it both ways in what was dubbed long ago as a "hybrid" (Tonry, 1998, p. 206), where retributive and utilitarian punishment rationales are intertwined. The real question, therefore, is not whether policy makers are correct to assume that American citizens have a punitive streak, but rather whether those same citizens are also willing to embrace rehabilitative strategies at the same time.

Public Support for Correctional Rehabilitation

Scholars and policy makers alike tend to highlight the apparent tension between the goals of punishment and those of rehabilitation. The American public, however, does not necessarily see it that way. To be sure, evidence that Americans want more from the correctional system than raw punitiveness is widespread (Piquero & Steinberg, 2010). What is most compelling is the research indicating that, even after the pummeling the rehabilitative ideal took from Martinson (1974) and others, Americans still see rehabilitation as an important component of corrections.

On the one hand, given the general shift toward a more punitive philosophy for corrections, public support for rehabilitation as the primary goal for

corrections has decreased in recent decades. In 1968, an estimated 73% of the American population indicated that rehabilitation should be the main goal of imprisonment, with only 7% choosing "punishment" and 12% choosing to protect society (Harris, 1968). Three decades later, support for rehabilitation as the main goal for corrections had dropped to just over 26%, with nearly 60% of the respondents instead noting that the primary purpose of prisons should be to "punish and put away" lawbreakers (Maguire & Pastore, 1997). Nowhere is this trend more clear than in the way the public feels about the rehabilitative potential of violent offenders. In a survey of Cincinnati residents, Sundt, Cullen, Applegate, and Turner (1998) found that only 13.8% of the respondents believed that rehabilitation would be "very helpful" or "helpful" for violent offenders. Nevertheless, recent data suggest that even victims of crime want rehabilitation to be given priority over the mere punishment of offenders. In a survey of over 800 crime victims, 60% reported that they would prefer a criminal justice system with shorter sentences and more treatment (mental health, drug, and alcohol)—a finding that held even among victims of serious violent crime (McCray, 2016).

What this means is that rehabilitation is still seen as an important part of the correctional setting by the American public. The same study by Sundt et al. (1998) revealed that nearly two thirds of the sample indicated rehabilitation would be beneficial for nonviolent offenders, and the national study by Doble Research Associates (1995) found that nearly half of those polled said correctional rehabilitation could be effective for "some" violent offenders. Furthermore, another national study by Flanagan (1996) found that the public strongly supports rehabilitation—as opposed to punishment or crime prevention and deterrence—for offenders once they are committed to prison. And a recent survey of Texas residents—people not necessarily known for progressive views on crime and punishment—found that over three fourths of respondents advocated treatment for first-time and/or nonviolent offenders, and even 62% of respondents preferred that repeat criminal offenders receive treatment—a sentiment even shared by the majority of self-identified conservative republicans (Thielo et al., 2016).

In addition, researchers have noted how forcing survey respondents to choose a single goal for corrections may be hiding a key feature of how Americans feel about punishment—namely, that citizens want the correctional system to satisfy multiple goals at the same time. For example, in a statewide survey of Ohio residents, Applegate et al. (1996) found that over 90% of the sample rated the goals of "protection and punishment" as important, yet 80% of these same respondents rated "rehabilitation" as equally important. These findings indicate not only that Americans' punishment preferences are multifaceted, but also that rehabilitation—a correctional philosophy capable of challenging the current overreliance on "prison-as-crime control"—still remains a viable goal in the mind of the American public (Cullen & Jonson, 2016).

Finally, the evidence that Americans still believe in the efficacy of rehabilitation is most compelling when examining how the public feels about the

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amenability of juvenile offenders to correctional treatment. Once guided by the notion of "child saving" and individualized treatment, the juvenile justice system has undergone many of the same changes as the adult system, with a general shift toward greater punitiveness (Feld, 1998). Yet despite the growing trend toward trying juvenile offenders as adults—a practice that has plenty of public support to back it up (Miller & Applegate, 2014)—research indicates that citizens are even more supportive of rehabilitation for juveniles than for adult offenders (Mears et al., 2015), and Sundt et al. (1998) found that over 80% of their sample of Cincinnati residents reported that rehabilitation for juveniles would be helpful. In addition, Applegate et al.'s (1996) Ohio study found that over 95% of the respondents agreed with the statement that "it is important to try to rehabilitate juveniles who have committed crimes and are now in the correctional system." And recent work by Mears et al. (2015) found that over a third of survey respondents preferred a rehabilitation-focused approach for violent juvenile offenders—a level of support typically higher than is found for violent adult offenders.

Public Support for Juvenile Justice

Consistent with the evidence presented above, public opinion also remains for a part of the criminal justice system that has always been more closely aligned with the philosophy and practice of correctional rehabilitation—the juvenile justice system. Emerging out of the early 20th century Progressive Era, the system of juvenile justice rejected the adversarial and punishment-oriented approach of the adult criminal justice system in favor of a more informal method of intervening in the best interests of the child (Butts & Mears, 2001). Academics have become concerned in the last couple of decades, however, as a number of states have slowly chipped away at the division between the juvenile and adult justice systems (Moon, Wright, Cullen, & Pealer, 2000). Among these recent reforms are efforts to lower the upper age limit for the jurisdiction of the juvenile court, making it easier to try juveniles as adults, and cracking down on juveniles (particularly low-risk kids) who fail to appear in court by locking them up as punishment—neither of which, as it turned out, was a good idea (Ogle & Turanovic, 2016).

Despite the political popularity of this movement, a statewide study of Florida residents by Mears et al. (2007) clearly shows that citizens still support the continued existence of a separate system of juvenile justice. In particular, their study revealed that roughly 80% of the state's respondents indicated they approved of keeping the juvenile justice system (with only a small minority favoring getting rid of it). While attitudes varied across individuals, support for juvenile justice remained strong even after controlling for a host of sociodemographic factors. Thus, political efforts to eliminate the juvenile justice system (whether explicitly or implicitly by continuing to blur the line between the juvenile and adult systems), with its emphasis on the rehabilitation and reform of at-risk youths, are inconsistent with public views on the subject.

Public Support for Early Intervention Programs

Based in part on the empirical evidence that the American public is willing to suspend their global feelings of hostility when it comes to juvenile offenders, researchers have also tested the waters regarding the degree to which the public would support early intervention programs for at-risk juveniles. Rooted in the life course perspective in criminology (Sampson & Laub, 2016), which recognizes the impact of early childhood developmental processes on prosocial behavior in adulthood, early intervention programs target high-risk youths with the goal of preventing future offending (Bright & Jonson-Reid, 2015). Such programs have proven to be highly effective in reducing problem behaviors for the targeted children and adolescents both in the short and long term (Dodge et al., 2015), and the American public seems to be right in step with their support of such an approach.

SUMMARY

Moral panics are not uncommon in this country. Examples are plentiful of a single dramatic story—one that media organizations can descend on—blowing reality all out of proportion. As a great example of this phenomenon, in 2001, a series of shark attacks off the East Coast garnered a ton of media attention. Americans were attacked from Florida up to Virginia Beach; surfers and swimmers were bitten, arms and feet were torn off, and there were even a couple of high-profile deaths.

Given this coverage, it would be easy to assume that shark attacks were at an all-time high in 2001. Confirmation would seem to come on September 4, 2001, when *Time* magazine published a special report called "Summer of the Shark." But it wasn't so; instead, data from the International Shark Attack File at the Florida Museum of Natural History showed that both fatal and nonfatal shark attacks were actually down from 2000 (Miller, 2003). It took the terrorist attacks of September 11, 2001, to kick killer sharks off the media rotation.

A more contemporary example concerns the relationship between immigration and crime in the United States. It is currently fashionable among a certain portion of political leaders to treat crime and immigration as if they are one in the same. Any incident of an immigrant committing a crime—particularly one of violence—is treated as proof-positive that immigrants bring "tremendous crime" to the United States, which then provides all the evidence needed to call for the increased use of deportation and restrictions on even legal immigration (Rizzo, 2018). But the reality is far different. Research consistently shows that immigrants commit crimes at a rate significantly lower than native-born Americans (Ousey & Kubrin, 2018). Additional empirical evidence demonstrates that the protective nature of immigrant communities—especially Hispanic/Latino communities—is particularly powerful (Kubrin, Hipp, & Kim, 2018). The evidence is now stacked high

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enough showing that Hispanic immigrants are able to cope so effectively with conditions of economic deprivation better than either whites or blacks that we now have a name for it: the Latino paradox (Wright, Turanovic, & Rodriguez, 2016). This reality has done little, however, to calm the moral panic surrounding immigration that President Trump and his disciples are so fond of perpetuating.

Yet despite such moral panics, and the often unreasonable policy responses they fuel, one of the hallmarks of any Western democracy is the input that citizens have over public policy decisions. Since lawmakers are not psychic, when it comes to certain policy choices, they must inevitably rely on public opinion polls to provide a barometer concerning what their constituents do, or do not, want from them. At minimum, this tradition assumes that citizens are aware of the relative advantages and drawbacks of the various policy options at their representatives' disposal. On that front, although disagreements exist among scholars, the general consensus is that, when given adequate information, American citizens are better able to express their beliefs in ways that can be translated into public policies (Nagin et al., 2006). The problem is that, although citizens do, in fact, know "what they want" when it comes to punishment, much of the research addressing this question has failed to tap into the public's full range of preferences on the subject.

If so, it is likely that policy makers who continue to justify the increased growth of the incarcerated population under the auspices of "giving the public what it wants" are simply ignorant of the nuanced nature of public opinion about punishment. The alternative, of course (and an option that cannot be fully ruled out), is that policy makers "know better," yet continue to selectively use (or misuse) certain empirical findings concerning citizens' global attitudes as a means of gaining political capital. Either way, the result is still the same: Enough misinformation about public opinion exists to provide policy makers with an excuse to avoid thinking about the purposes of punishment in ways other than beating the get tough drum.

Yet perhaps this is too harsh an assessment of policy makers' decision processes. To their credit, public officials may have rational reasons—based on the incentives associated with their positions—to ignore constituents' complex views on punishment issues. For example, scholars who study legislative politics have long pointed out that policy proposals are more likely to survive the legislative process when they are written in a somewhat vague manner. The reason is that specificity on key points often leads to disagreements among other lawmakers who may have competing interests (despite, for example, their "global" support for the policy initiative; see Cohen, 1992). Further, scholars who study both voting behavior and the media–politics link are well aware that acknowledging complexity and nuance can be political killers (Franz, Freedman, Goldstein, & Ridout, 2007), where confessing to the existence of a "gray area" with regard to any policy proposal may risk earning one the title of "flip-flopper." It may therefore be a rational response on the part of policy makers to accept the results of global public opinion polls rather than risk getting themselves into political trouble by digging deeper into Americans' specific attitudes about crime and punishment.

In any event (whether my assessment of policy makers was fair or not), to the credit of the punitive-minded, there is a mountain of empirical evidence indicating that, as Americans, not only do we like our punishment, but we seem to like it "supersized." The problem, however, is that such "global" preferences are only part of the picture, and efforts to paint the American public as a thick-skulled, compassionless, bloodthirsty mob are decidedly disingenuous. As Cullen et al. (2000) noted, when it comes to the normative purposes of punishment, "people's attitudes are complex and more ideologically diverse than they are commonly represented" (p. 57). Thus, there is no denying we like our punishment harsh, yet we are equally in favor of a correctional system that is charged with doing all that it can to change offenders for the better. Even further, Americans seem to place considerable faith in the efficacy of a correctional philosophy—rehabilitation—that is, to a large extent, at odds with the get tough movement's reliance on crime control through incapacitation and deterrence. In the end, the broader theme of this chapter is that public support for "crime control through incarceration" is not nearly as rigid and unwavering as the talking-head proponents of such an approach would have us believe.

DISCUSSION QUESTIONS

1. Are Americans' "global attitudes" toward punishment generally punitive or progressive historically?
2. How do American citizens' attitudes change about punishment when specific details of the nature of the crime and the characteristics of the offender are provided to survey respondents?
3. To what extent do Americans support the idea and practice of correctional rehabilitation for offenders? And who are they most and least likely to see as viable candidates for rehabilitation?
4. How do attitudes regarding rehabilitation differ with respect to juvenile versus adult offenders?

NOTES

1. More examples certainly abound; the website www.dumbcrooks.com alone provides sufficient additional examples of this point.
2. Given the nature of public debate on the subject, including drug offenders in the category of nonviolent offenders may be debatable, especially since drug offenses are often correlated with violent offending (McGloin, Sullivan, Piquero, & Pratt, 2007). Yet, consistent with both legal definitions and prior research (Austin & Irwin, 2012), for the present purpose I am treating drug offending (e.g., possession) as a nonviolent offense.
3. It is also important to note that the typical respondent in Cohen et al.'s (2006) study would rather spend public resources on youth crime prevention and drug treatment than use those same dollars as a tax rebate back to him- or herself.

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CHAPTER

5

Misinformation About Prisons and Crime Control

In late 2002, the Associated Press (AP) ran a brief story about that year's slight drop in crime (in fact, the rates of a number of offenses, including homicide, actually went up a bit that year, but why fret over the details?). Not to be accused of presenting facts without context, the AP writer buffered the story with quotes from two alleged "experts" in criminological research: an economist from Stanford University who went by the name of Ralph Myers and a senior member of a research firm based in Chicago who called himself Bruce Fenmore—both of whom contacted the AP directly. In a joint statement that probably caused old-school, get tough advocates to beat their chests in triumph, these experts attributed the year's drop in crime to tougher sentencing laws and the nation's growing prison population (of course, these same causes were not cited as potential explanations for the increase in homicides the same year).

Since this was an AP news release, the story was picked up by newspapers from New York City to Kenosha, Wisconsin, and should have been the fatal blow to the arguments made by the touchy-feely liberals. Before the punitive crowd could let the champagne corks fly, however, there was just one teeny-tiny problem: It turned out that neither of the supposed experts even existed. The news release attracted numerous calls and e-mail from criminologists who had never heard of either scholar; there was no mention of such a name on the faculty list at Stanford, nor was there any information on the bogus research outfit in Chicago. Although a 5-minute Internet search would have revealed this information to any American citizen who can read at a sixth-grade level, the ruse was apparently convincing enough to somehow dupe the fact-checkers at the AP. In the end, these two yahoos posing as criminologists were able to slip by folks at the AP in their quest to get their fake message heard.

The goof on the part of the AP—as well as the rest of the nation—was short-lived. A couple days later, the AP put out another news release that revealed the

egg on their collective face. Not only did they admit that their expert sources were frauds, but also they noted that the individuals who pulled a fast one on them had called to gloat about it! Apparently, the pranksters contacted the AP again, expressing their delight, as well as their surprise, over how easily their statements (and faux credentials) were believed by the gullible AP staff. The AP reporter was later fired after it was discovered that 45 of the writer's sources could not be identified (Barringer, 2002).

Standards of journalistic integrity notwithstanding, this example points to a deeper problem in the realm of contemporary American crime control policy: the ubiquitous and unquestioned belief in the efficacy of prisons as a tool for crime control. To a certain extent, this belief is understandable given its intuitive appeal—that is, the prospect of doing time in prison strikes a note of fear among the general population, thus the threat of incarceration alone should serve as a valuable deterrent to crime. Furthermore, public concern over potential "incapacitation effects" of prisons—the crime control benefits associated with merely locking offenders up for a period of time—was virtually nonexistent prior to the prison construction boom of the 1980s (see, e.g., Zimring & Hawkins, 1995), where before that time some level of crime reduction from an incapacitation effect was simply taken as a given.

As such, calls from policy makers and the general public to increase the size of the incarcerated population still seem to resonate well with the policy makers who place so much faith in the efficacy of incarceration as the preferred method for crime control. As the previous chapters indicate, however, the real world is often much more complex than the rhetorical world in which policy makers live. The purpose of this chapter, therefore, is to examine the empirical status of the research that scholars have produced in an effort to uncover whether prison expansion and related policy efforts *actually reduce crime*. To foreshadow the conclusions a bit, the evidence is, at best, pretty slim. The reasons behind such weak crime control effects for these get tough strategies are also explored in this chapter—in particular, the comparative validity of the "bad implementation" argument (e.g., "we're just not tough enough") versus the "incomplete theory of offender decision making" as explanations for why locking up more and more offenders doesn't seem to do much to the crime rate.

The general conclusion reached in this chapter is that prisons give us, at most, precious little crime control in return for our public dollar. Some early challengers to the get tough movement—those from the extreme "decarceration camp"—even went so far as to predict that a massive increase in incarceration rates over subsequent decades would result in a "zero" net reduction in crime (Matthews, 1987). Such claims are also inconsistent with the empirical evidence; a nation that locks up over 2 million of its citizens can, and should, expect *some* drop in crime. The question is, how much of a drop can we expect, and how reliable is the information policy makers are using when they go about publicly addressing this question?

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PRISONS AND CRIME CONTROL: THE EMPIRICAL EVIDENCE

By the beginning of the 1990s, the incarcerated population in the United States had increased by 600% since 1970 (Bureau of Justice Statistics, 1998). What followed this incarceration boom was a decade that experienced a substantial decrease in crime rates—a trend that seemed to occur nationwide (Blumstein & Wallman, 2000). Many policy makers saw this as an obvious indicator that the exponential increases in public resources devoted to building and maintaining the world's largest prison system were finally working. Since incarceration rates went up in the 1970s and 1980s, and crime went down in the 1990s—case closed!

The problem with this explanation is that there were a lot of things going on during the 1990s that also contributed to the drop in crime. Among these developments, researchers have pointed to the importance of improved economic conditions during that time, which may have eased the social strains associated with economic deprivation and provided greater access to legitimate employment (Pratt & Lowenkamp, 2002); changes in the nature of inner-city drug markets that resulted in a severe drop in gang violence (Johnson, Golub, & Dunlap, 2000); and demographic changes that resulted in an aging—and therefore less crime-prone—population (Fox, 2000). To isolate the independent contribution of an "incarceration effect" on crime, at minimum these other influences need to be controlled. Fortunately, a plethora of research has done just that.

Estimating the Effects of Prison Expansion on Crime Rates

The logic behind some sort of incarceration effect on the crime rate is simple: To begin with, prisons by their nature should have some ability to incapacitate. That is, at minimum, offenders will be unable to victimize anyone (with the exception of other inmates, of course) during their stay behind bars (Cullen & Jonson, 2016). What's more attractive for incarceration advocates, however, is the potential for prisons in general—and prison expansion in particular—to exert a widespread deterrent effect on the would-be offender population.

Simply put, the deterrence perspective assumes that offenders exercise rational judgment and are reasonably aware of the potential costs associated with various criminal acts (Pratt, Cullen, Blevins, Daigle, & Madensen, 2006). This assumption translates generally into the proposition that crime rates in any given region can be curbed by the crime control activities of the criminal justice system (i.e., by increasing the potential costs and probable risks for criminal behavior). Such activities can come in the form of more rigorous police practices (e.g., crackdowns, increasing clearance rates, increasing police size), the more frequent use of the death penalty, and increasing the penalties for certain offenses (Chalfin & McCrary, 2017). The central empirical claim for deterrence advocates, therefore, is that these types of public efforts matter; and they should, independent of other social processes, have an appreciable effect on rates of crime.[1]

Deterrence theory, of course, is not new. Cesare Beccaria and Jeremy Bentham both contributed to early versions of the rational choice model in the late 1700s. Bentham's notion of the "hedonic calculus," where humans were assumed to have free will and to respond to the certainty, swiftness, and severity of punishments, was particularly influential in the redevelopment of legal structures throughout Western Europe (Lilly et al., 2011). For example, nations began to restrict the severity of legally proscribed punishments so that they would not extend beyond what was necessary (at least in theory) for the prevention and deterrence of specific offenses (e.g., it was no longer viewed as rational that the penalties for, say, murder and pickpocketing be the same—public hanging; see Johnson, 1990). This new view of punishment also played a significant role in the French Revolution and the development of the United States Constitution (Rothman, 1971).

Deterrence theory in its more contemporary form is really no more complex than it was in its original version; it still relies heavily on the central assumption that criminal behavior can be controlled through formal penalties, and it still emphasizes the role that purposive choice plays in criminal behavior (Loughran, Paternoster, Chalfin, & Wilson, 2016). On the one hand, the resurgence of the rational choice model in criminology has been a welcome shot in the arm for academics: No longer would offenders merely be viewed as "blank slates" waiting to be written on by the social and psychological risk factors that would propel them to commit crime (Pinker, 2002). Viewing offenders instead as conscious decision makers capable of purposive action has undoubtedly moved our understanding of criminal behavior forward in important ways (e.g., see the discussion in Pratt & Turanovic, 2018). Yet on the other hand, Lilly et al. (2011) noted that

> [t]he danger in rational choice theory [is] that offenders will be treated as though they [are] *only decision makers*. When this occurs, the context that affects why they come to the point of breaking the law is ignored, and commentators begin to recommend harsh criminal justice policies that ignore the social context and focus only on making crime a costly decision. (p. 277, emphasis in original)

Another key problem with deterrence theory, and one that is more relevant to the discussion of prisons-as-crime-control contained in this chapter, is that of separating potential deterrent effects of prison (or at least the threat of prison) from the other factors that control our behavior (e.g., other forms of informal social control at the individual level, such as self-control and social bonds, and at the community level, such as concentrated disadvantage and collective efficacy). Nevertheless, what prisons present is the potential combination of deterrence and incapacitation. Thus, what is most relevant for this discussion is the body of studies that have examined the potential deterrent and incapacitative qualities of prisons.

Accordingly, much of the contemporary political rhetoric concerning the effect that increasing prison populations has exerted on crime rates has relied on the use of "bivariate" relationships. What this means is that increases in the incarcerated population are tracked against changes in crime rates over time (perhaps with the help of visual aids to make the point even more obvious), with attention explicitly focused only on those two variables. There are two problems with this methodological approach. First, as stated above, multiple factors contribute to the crime problem in the United States, where scholars have systematically revealed the importance of individual factors such as internal control capabilities (e.g., impulsivity and the lack of self-control; see Pratt, 2016); systems of informal social control acting upon individuals (e.g., parental controls, supervision and control maintained by social institutions such as schools and communities; see Pratt, Turner, & Piquero, 2004; Turner, Piquero, & Pratt, 2005); and antisocial attitudes (Andrews & Bonta, 2010) to macro-level factors including economic deprivation, family disruption, and low levels of community social capital (Pratt & Cullen, 2005). Thus, thinking about crime requires a "multivariate" (as opposed to a bivariate) approach—a point that is elaborated more fully later in this chapter. Should these factors be ignored in the explanation of crime rates over time, the incarceration effect is likely to be overstated (Pratt et al., 2006).

The second problem, which is a bit more technical, is what researchers refer to as the *endogeneity problem* (Nagin, 1998). Put simply, when assessing the effect of prisons on crime rates, it must also be noted that increases in crime are likely to result in increases in the prison population. This makes sense because rising crime rates are likely to be met with a proportional response from criminal justice agencies that should, over time, result in an increase in prison populations. This "reciprocal effect" of crime on prison populations must therefore be taken into account statistically to estimate the effect of prisons on crime (i.e., by first estimating the effect of crime on prisons).

So what do the studies that have used multivariate models and have taken into account the endogeneity problem show with regard to the effect of prison expansion on crime rates? The estimates differ a bit, but they all follow the same broad trend: Strategies that entail greater use of incarceration result in, at best, a modest reduction in crime yet also result in a substantial increase in prison population. In particular, in the early stages of this debate, Visher (1987) noted that a 1% reduction in crime would require a 10% to 20% increase in the prison population—an effect that remained stable in subsequent studies for quite a while (Spelman, 2000). At our current levels, this would mean between 220,000 and 440,000 additional inmates, at a cost of around $25,000 per inmate per year, for a total price tag of between $5.5 billion and $11 billion to get that 1% reduction in crime. Put differently, each time we double our prison population—something we've done multiple times in recent decades—we get a drop in crime of between 5% and 10% in return.

Things look even bleaker when you compare the extent to which expansions in incarceration predict crime rates relative to other social and economic factors. For example, Pratt and Cullen's (2005) meta-analysis of over 200 studies on the predictors of crime rates found that the overall effect size (interpreted as the strength of the relationship) of incarceration variables that have been adjusted for endogeneity and crime rates was among the weakest of the 31 different predictors assessed. The strongest predictors of crime rates were found to be variables that tapped into "concentrated disadvantage"—which is the intersection of economic deprivation and family disruption concentrated within particular racial groups in society—long-term chronic unemployment, and stingy social policies that undermine levels of social support for citizens.

The unmistakable conclusion from this collection of studies is that policy makers' claims of massive reductions in crime that can be attributed to the expansion of the prison population are patently false. Yet this is not to say that our "prison experiment" has yielded no reduction in crime rates. Even the meager percentage of reduction in crime that prisons give us is no small matter in a country that experiences far more violent crime than any other Western nation. The impact of prisons on crime, however, which perhaps more than any other single factor has enabled our dependence on incarceration, is quite weak when considered in light of the dollars that state and federal corrections budgets absorb that could be spent addressing the underlying social factors more strongly related to crime rates.

Why the Weak Effects?

It is clear that policy makers who continue to justify prison expansion—or even the maintenance of our current levels of incarceration—because of its crime control merits can only do so in the face of a mountain of solid empirical evidence that points to the limited role of incarceration in controlling crime. In fact, much of policy makers' rhetoric justifying the aggressive use of incarceration to enhance public safety isn't rooted in empirical evidence at all. It is instead typically based on appeals to the intuitive nature of our fear of being subjected to harsh sanctions. Such appeals inevitably beg the question of why "prison effects" on crime aren't as large as we've been led to believe.

Faulty implementation of the get tough philosophy

One explanation favored by deterrence and incapacitation advocates is that, despite our efforts to get tough over the last few decades, we still need to get tougher. In essence, this argument assumes that we are on the right track in spirit but that we just aren't doing a good enough job of implementing the get tough philosophy. Putting this concretely, despite our mammoth prison system, some scholars contend that we are still just a "revolving door of leniency"

(Delisi, 2005, p. 145). This kind of rhetoric reached its peak in the violent 1990s, when scholars citied estimates that offenders—even those convicted of violent crimes—rarely serve their full sentences. And as a result, policy makers' efforts to step up punishments even more were understandably bolstered by academics' claims—like those of Bennett et al. (1996)—that

> [t]oday and every day the "justice" system permits known, convicted, violent repeat criminals, adult and juvenile to get away with murder and mayhem on the streets. Criminals who have repeatedly violated the life, liberty, and property of others are routinely set free to do it all over again. (see Currie, 1998, pp. 38–39)

In the spirit of misinformation, policy makers back in the 1990s also had at their disposal government reports that can be creatively interpreted to indicate that murderers can expect to serve an average of 1.8 years in prison, rapists can expect 60 days, and robbers around 23 days (Langan, Perkins, & Chaiken, 1995). These estimates are derived by dividing the amount of prison time spent by offenders nationwide by the number of crimes of these types that are committed each year, and still appear in the literature decades later (Schmitt & Warner, 2011).

The problem, however, is that such evidence fails to take into account the fact that many offenses—even violent crimes—rarely make it to the sentencing phase of the criminal justice system. Moreover, those that do typically do not result in a prison sentence, and for good reasons. For example, many crimes fail to result in an arrest; of those that do, nearly a third are committed by juvenile offenders who may be punished, yet rarely with a sentence of prison time in an adult facility. Other defendants have their cases dismissed or are found not guilty at trial (Worrall, 2014). The fact that this "funneling" takes place is neither unfair nor overly lenient; it is merely the result of the reasonable disposition of cases in the criminal justice system.

Once this is taken into account, we see that serious crimes that are reported to the police, that result in an arrest and conviction (a small fraction of all offenses by any estimation)—in other words, those that eventually make it to the sentencing stage—have always been dealt with harshly in this country. For example, nearly 9 in 10 offenders convicted of felony robbery end up being incarcerated; and roughly the same figure goes for those convicted of rape (Worrall, 2014). Furthermore, when limiting the analysis to those convicted and sentenced, we find that murderers spend an average of around a decade in prison (not 1.8 years), rapists spend an average of nearly 7 years (not a couple of months), and robbers over 4 years (not 3 weeks) in prison. In the end, therefore, the claim that the reason "incarceration effects" on crime aren't as large as promised is that we've failed to fully implement the get tough model falls flat when misinformation about American punitiveness—what Currie (1998, p. 38) long ago called the "myth of leniency"—is exposed.

Incapacitation and the age-crime curve

One alternative explanation for the relatively weak estimates of the incapacitation effect has to do with an amazingly consistent pattern of criminal offending over the life course: the "aging out effect." Although scholars disagree about the causal mechanisms at work (Sweeten, Piquero, & Steinberg, 2013), virtually every longitudinal data set available shows the same trend over time, where individuals' participation in criminal activity peaks for a short period of time from the late teens to the early 20s and begins a steady downward decline after that (Pratt, 2016).

Early attempts at estimating incapacitation effects, however, failed to incorporate this well-known criminological phenomenon. For example, Zedlewski's (1987) ringing endorsement of the benefits of an incapacitation strategy back in the heyday of the get tough movement concluded that locking up offenders—who he estimated commit on average 187 crimes per year—for an extended period of time should cut crime dramatically. Suspicious of such estimates, Zimring and Hawkins' (1988) reassessment of the data revealed that, if correct, given the amount of prison expansion that occurred during the prior decade, Zedlewski's estimates of incapacitation effects predicted that the United States should have been completely crime free by 1986. That obviously didn't happen.

Part of Zedlewski's problem can be traced to the way incarceration has been used in recent years, with a greater proportion of prison beds being filled with drug offenders—a crime that has an extremely high replacement effect, where the removal of one drug user from a community is generally met with another to take that person's place (Mauer, 1999). Even so, the greater methodological problem that such studies suffer from is that they fail to recognize individual-level declines in criminal activity over time (see Lofstrom & Raphael, 2016). As a result, incapacitation estimates that assume an individual's rate of offending at, say, 17 years of age will continue for the next 20 years will always be artificially inflated. Studies that instead take this pattern into account all point to a more modest estimate of the effect of prison expansion on crime rates.

The limits of fear-based crime control policy

One final, and perhaps most empirically viable, alternative explanation for why the incapacitation bang for the prison buck tends to be rather paltry points to the limited role that the fear of formal sanctioning plays in controlling our behavior. Put differently, the problem with emphasizing the use of incarceration—especially the *threat* of incarceration—to control crime may have less to do with debates concerning whether or not we've properly implemented a deterrence-theory model for criminal behavior. The problem may simply be with deterrence theory itself.

Rooted in the classical school of criminology and its rational choice view of human behavior (see Beccaria, 1764/1963), deterrence theory possesses two features that increase its appeal to policy makers. First, the deterrence

approach offers an easily understood, straightforward *explanation of crime*: Individuals choose to go into crime when it pays—that is, when the benefits outweigh the costs. People may not always be perfectly rational, but they are reasonably aware of the potential costs and benefits associated with criminal acts. When faced with the prospect that wayward behavior will elicit punishment, they are likely to think twice and be deterred from choosing this course of action.

Second, the deterrence approach offers an easily understood, straightforward *solution to crime*: the choice of crime can be made less attractive by implementing policies that heighten the costs of illegal conduct—that is, laws and penalties that ensure that criminal participation does *not* pay (Pratt, 2008). It seems only a matter of common sense that raising the costs or likely risks of crime should involve the criminal justice system, the state's instrument for detecting the criminally wayward and inflicting punishment on them.

The problem for deterrence disciples is the body of empirical studies that has tested the proposition that our fear of formal sanctioning should influence our likelihood of engaging in criminal behavior. For example, Pratt et al.'s (2006) meta-analysis of 40 studies on perceptual deterrence—those that assessed individuals' perceptions of the certainty and severity of punishment—found that these deterrence-based predictors were, at best, only weakly associated with criminal behavior. Furthermore, the effect sizes of the deterrence variables are substantially reduced—often to zero—in multivariate models. This trend is particularly evident for the effect size estimates produced by statistical models that control for peer effects, antisocial attitudes, or levels of self-control (i.e., other well-known risk factors for criminal behavior). This finding points to the fact that support for the deterrence perspective is most likely to be found in studies that are methodologically the weakest of the bunch. Taken one step further, the clear drop in predictive power of the deterrence variables in this context suggests that empirical support for the effect of formal sanctions on individuals' criminal behavior—the linchpin of deterrence theory—is most likely an artifact of the failure to control for other "known" predictors of crime and deviance.

The weak predictive strength of deterrence variables may also explain why a host of other punitive crime control policies (e.g., mandatory minimum sentences) and correctional programs that rely on punishment threats (e.g., boot camps, intensive supervision, probation, parole) are limited in their capacity to effect long-term behavioral change among offenders (Cullen & Jonson, 2016). A number of meta-analyses of the correctional treatment literature have even found that correctional programs that target offenders' fear of enhanced punishments may actually do more harm than good—especially among low-risk offenders (Cullen & Gendreau, 2012).[2] Instead, successful programs tend to target factors that are not specified by deterrence theory, such as cognitive-behavioral programs that focus on changing antisocial attitudes (Andrews & Bonta, 2010).

RETHINKING OFFENDER DECISION MAKING

Contrary to get tough advocates' assumptions concerning the effect of prisons on the would-be offenders' psyches, individuals' motivations to engage in criminal behavior are complex. Simple explanations—as comforting and useful as they may be for those with political aspirations—represent a fundamental misunderstanding of why people break the law. An important first step in the process of clearing up the misinformation about prisons and crime control requires an understanding of the factors that actually do matter when thinking about the causes of crime.

First and foremost, we need to get comfortable with the fact that multiple factors enter into an individual's behavioral choices in any given situation. Some of these factors have to do with the situation itself. For example, independent of whether someone believes he or she will get caught, some criminal opportunities are easier than others (e.g., items that can be stolen and easily concealed, potential robbery or assault victims who may be physically less able to fight back). Accordingly, some scholars have argued that such factors—referred to as *target attractiveness*—are so powerful that it takes very little "criminal motivation" for an individual to engage in crime (Felson & Boba, 2010).

Others, however, note that individuals' perceptions of the attractiveness of criminal opportunities are shaped by a host of additional factors. In other words, not everyone who enters into a particular situation sees a criminal opportunity, so what makes those who take advantage of those opportunities different from those who don't? Research addressing this question has shown that one's level of self-control plays an important role in this decision process. In particular, those with low impulse control are less able to control their immediate urges, are less likely to be able to effectively evaluate the consequences of their actions, and are less likely to think that they'll get caught should they engage in criminal behavior (Pratt & Cullen, 2000).

Self-control, in turn, comes from somewhere; research has indicated that biological factors (e.g., neuropsychological deficits, ADHD) can influence levels of self-control in children (Pratt, 2016). In addition, research has indicated the importance of effective parenting for the development of kids' self-control—parents need to consistently monitor their child's behavior and establish proper reinforcement contingencies to teach the child how to avoid succumbing to the temptation and immediate gratification that criminal and/or deviant acts can provide (Perrone, Sullivan, Pratt, & Margaryan, 2004). Recent studies have even pointed to the importance of school socialization and its role in the development of self-control (Turner et al., 2005).

The picture gets even more complex when examining the research that addresses how these individual-level risk factors are embedded within a larger social context. For example, studies have shown that parental efficacy is not only a strong risk factor for criminal behavior in offspring, but it is also significantly affected by adverse neighborhood conditions, such as economic deprivation and general disorder (Pratt et al., 2004). Conditions of

RETHINKING OFFENDER DECISION MAKING

Contrary to get tough advocates' assumptions concerning the effect of prisons on the would-be offenders' psyches, individuals' motivations to engage in criminal behavior are complex. Simple explanations—as comforting and useful as they may be for those with political aspirations—represent a fundamental misunderstanding of why people break the law. An important first step in the process of clearing up the misinformation about prisons and crime control requires an understanding of the factors that actually do matter when thinking about the causes of crime.

First and foremost, we need to get comfortable with the fact that multiple factors enter into an individual's behavioral choices in any given situation. Some of these factors have to do with the situation itself. For example, independent of whether someone believes he or she will get caught, some criminal opportunities are easier than others (e.g., items that can be stolen and easily concealed, potential robbery or assault victims who may be physically less able to fight back). Accordingly, some scholars have argued that such factors—referred to as *target attractiveness*—are so powerful that it takes very little "criminal motivation" for an individual to engage in crime (Felson & Boba, 2010).

Others, however, note that individuals' perceptions of the attractiveness of criminal opportunities are shaped by a host of additional factors. In other words, not everyone who enters into a particular situation sees a criminal opportunity, so what makes those who take advantage of those opportunities different from those who don't? Research addressing this question has shown that one's level of self-control plays an important role in this decision process. In particular, those with low impulse control are less able to control their immediate urges, are less likely to be able to effectively evaluate the consequences of their actions, and are less likely to think that they'll get caught should they engage in criminal behavior (Pratt & Cullen, 2000).

Self-control, in turn, comes from somewhere; research has indicated that biological factors (e.g., neuropsychological deficits, ADHD) can influence levels of self-control in children (Pratt, 2016). In addition, research has indicated the importance of effective parenting for the development of kids' self-control—parents need to consistently monitor their child's behavior and establish proper reinforcement contingencies to teach the child how to avoid succumbing to the temptation and immediate gratification that criminal and/or deviant acts can provide (Perrone, Sullivan, Pratt, & Margaryan, 2004). Recent studies have even pointed to the importance of school socialization and its role in the development of self-control (Turner et al., 2005).

The picture gets even more complex when examining the research that addresses how these individual-level risk factors are embedded within a larger social context. For example, studies have shown that parental efficacy is not only a strong risk factor for criminal behavior in offspring, but it is also significantly affected by adverse neighborhood conditions, such as economic deprivation and general disorder (Pratt et al., 2004). Conditions of neighborhood-level disorganization, in turn, are strongly related to higher rates of crime and victimization (Lowenkamp, Cullen, & Pratt, 2003). Taking a further step back, research has indicated that such neighborhood problems are generally the result of larger social and economic forces, such as overall inequality and varying levels of social support across macro-social units (Pratt & Cullen, 2005). Thus, the bottom line is that we can't continue to cling to the oversimplified notion that a strict reliance on "scaring" would-be offenders—or simply holding them for a while before turning them loose—is the best way to achieve large reductions in crime.

SUMMARY

The idea that incarceration is the most effective way to control crime is not going away anytime soon. Literally hundreds of studies point to the general ineffectiveness of the ability to deter criminal behavior with threats of—or even the use of—incarceration (Pratt & Turanovic, 2018). So to the extent that the construction of responsible evidence-based correctional policies is desirable, the existing evidence on the subject is clear: Fear of criminal justice sanctions (including incarceration) is merely one factor—and a relatively weak one at that—influencing offender decision making.

Even scholars who champion (and end up overstating) the effect of prisons on crime suffer from a form of intellectual schizophrenia when thinking about the causes of crime. For example, Levitt and Dubner (2005) contend that high crime rates are caused by our "lenient criminal justice system" (p. 122). Accordingly, criminologists who doubt this proposition and instead focus on the social and individual/pathological sources of criminal behavior are simply accused of clinging to "figments of someone's imagination, self-interest, or wishful thinking" (p. 121). Others, like DiIulio (1995), take this sentiment a step further and contend that "[a]pparently, it takes a Ph.D. in criminology to doubt that keeping dangerous criminals incarcerated cuts crime" (p. 15).

And now the faith in the efficacy of incarceration has infected more progressively minded liberal policymakers and scholars as well. In 2004, First Circuit Court Judge Steven S. Alm in Hawaii was fed up with probationers who kept failing to show up for meetings with their case officers, seemingly with no negative repercussions at all. So he instituted Project HOPE (Hawaii's Opportunity Probation with Enforcement), which entailed a brief but immediate stint of incarceration (just for a few days) for any offender who racked up a probation violation—no excuses or explanations necessary (e.g., being late to a meeting with a probation officer; failing an in-house urinalysis). The idea was that the threat of incarceration would keep the offenders in line.

What is important about Project HOPE is that Judge Alm is not a hardline, "lock 'em up" conservative. He is instead a compassionate, progressive jurist who genuinely cares about the offenders who come before him, and he wants them to succeed. And on the basis of an initial evaluation of Project

HOPE that showed some rather impressive results with respect to recidivism (Hawken & Kleiman, 2009), the model has now been extended to 160 jurisdictions both in the United States and abroad (Cullen et al., 2018). The idea that incarceration could be used in a more gentle way (with a few days in jail instead of, say, a year or more of prison time for a probation violation) was extremely seductive for left-leaning academics and policy makers (Cullen, Manchak, & Duriez, 2014). So the program—along with how it has rapidly spread all over the place—was essentially given a "pass" by those who are generally much more critical of incarceration and/or threat-based correctional approaches (Cullen et al., 2016).

But then the bad news started to arrive. Evaluations in the state of Washington showed, at best, weak results (Hamilton, Campbell, van Wormer, Kigerl, & Posey, 2016). Another in Delaware showed no effects (O'Connell, Brent, & Visher, 2016). Then a four-site random controlled trial (RCT) in four states again showed absolutely no effects at all (Lattimore et al., 2016). A meta-analysis of these evaluations indicated an average "treatment effect" that was smaller than correctional approaches that simply try to "do anything" to offenders (Cullen et al., 2016). And a systematic assessment of the peripheral evidence cited by advocates of Project HOPE turned out to be pretty flimsy (studies with no control group, no follow up regarding recidivism, research design failures; see Cullen et al., 2018).

So essentially, the incarceration threats in Hawaii seemed to work, but then they did not seem to work anywhere else. But that is not really the interesting part of this, because again, hundreds of studies already exist telling us that Project HOPE probably was not going to work anyway. What *is* interesting is the response to the negative empirical evidence from two of the project's key cheerleaders: Angela Hawken and Mark Kleiman (who also conducted Project HOPE's first evaluation in Hawaii). Hawken and Kleiman—progressive academics with impressive scholarly credentials—were completely unfazed by the negative evaluation results and continue to champion the effectiveness of what they call "swift, certain, and fair" sanctions (Kleiman, 2016). Negative evidence from a "gold standard" RCT be damned, they both appear to be living in a "post-factual world" by remaining as staunchly committed as ever to the idea that sanction threats are the key to controlling criminal behavior. As Cullen et al. (2018) recently put it:

> The advocates of the project were cruising down Highway HOPE when the bad news from the Lattimore and colleagues' study arrived. They could have looked at these findings, hit the brakes, and pulled over to the side of the road to contemplate where they should next head. Instead, they put their foot on the gas pedal, turned up the stereo to drown out the noise, and accelerated down the road at high speed. Undaunted by empirical reality, they did not consider that a cliff might lie ahead and that HOPE's correctional future might end in a crash reminiscent of Thelma and Louise. (p. 28)

In the end, the lesson is that the continued reliance on incarceration to control citizens' behavior—an approach that is clearly still appealing to those at both ends of the political spectrum—can be justified only on the basis of misinformation about the efficacy of prisons (or incarceration more generally) as a tool for crime reduction. Again, this is not to say that the net effect of incarceration strategies on crime is zero; rather, the collective findings from the empirical research indicate that the effect is relatively small given the amount of resources we devote to it. Furthermore, the wisdom of expanded imprisonment must be weighed against its costs financially as well as its questionable impact on the social vitality of inner cities. On that note, a number of scholars have conducted studies indicating that a high rate of incarceration may *indirectly increase* crime rates through its effect on both family disruption and the potential economic deprivation brought on by the loss of an additional (or perhaps the only) income in a household, and the effects that such conditions have on the children of incarcerated parents (see, e.g., the discussion by Turanovic, Rodriguez, & Pratt, 2012). This potential threat is heightened given the disproportionately high incarceration rates among members of racial and ethnic minority groups (Carson, 2018). Put simply, our love affair with incarceration has spawned a host of social consequences that may, in the long term, be just as harmful as the crime problem itself—an issue that is addressed in the next chapter.

DISCUSSION QUESTIONS

1. Why was the Associated Press (AP) so easily fooled by the sources citing the effectiveness of prisons for reducing crime?
2. With respect to the generally weak effects of incarceration on crime, how well does the "faulty implementation" of the get tough philosophy hold up?
3. With respect to these same weak effects, how well does the explanation that deterrence is an incomplete theory of human behavior hold up?
4. What are the implications of the well-documented age-crime curve for the potential for "incapacitation effects" of longer prison sentences?

NOTES

1. It must be noted that, empirically, the claims of success for proponents of policies such as these are just that—claims. Little in the way of social scientific support can be marshaled to indicate that these types of criminal justice approaches are capable of meaningfully influencing crime rates (Pratt & Cullen, 2005).
2. Scholars disagree about why this effect is found among lower risk offenders. It is most likely due to a combination of the exposure of lower risk offenders to a

population of more serious offenders and to the collateral consequences of experiencing harsh penalties (e.g., the disruption of social bonds, the limited services for reintegration)—topics discussed in depth in Chapter 6.

KEY READINGS

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