

UNIT 2

Criminal Law and Juvenile Justice

Street Law  **ONLINE**

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Crime is a serious problem in the United States. According to the FBI, a property crime occurred about every three seconds in 2006, and a violent crime occurred about every 22 seconds. Public opinion polls show that citizens are very concerned about crime and about certain factors, such as illegal drug use and the availability of firearms, that can lead to criminal activity. Most measurements of crime, however, showed overall decreases from 2000 through 2006.

Chapters in Brief

Chapter 7 provides an overview of crime in the United States, describing the nature and causes of crime and looking at the relationships between gangs, guns, alcohol, drugs, and crime.

Chapter 8 introduces you to the study of criminal law. It also discusses categories of crimes such as state and federal crimes, crimes of omission, preliminary crimes, misdemeanors, and felonies.



Crimes committed by both adults and juveniles are a major problem in the United States.

Chapters 9–10 contain information on crimes against persons and crimes against property, including computer crime.

Chapter 11 describes the defenses available to people accused of a crime.

Chapters 12–15 deal with the criminal justice process—from the rules that police must follow when conducting arrests, through the proceedings that occur before trial and the constitutional protections that shape the trial itself, to issues dealing with sentencing and corrections.

Chapter 16 looks at the operation of the juvenile justice system and the special challenges it faces in dealing with young people who commit serious and violent crimes. The chapter also describes each step in the process as offenders move through juvenile court.

Chapter 17 discusses law as it applies to terrorism. It provides background information about how the U.S. government has restricted the rights of people during wartime in an effort to protect the United States.

Crime in America

Crime wears many faces. It may be the teenager snatching a woman's purse or the career criminal planning a kidnapping. It may be the youth who steals a car for a joyride or the car theft ring that takes it for later sale. It may be the professional criminal who profits from organized gambling, extortion, or narcotics traffic, or the politician who takes a bribe. Crime may be committed by the accountant who cheats on tax returns, the businessperson who secretly agrees to fix prices, the burglar who ransacks homes while the owners are at work, or the terrorist who acts under the claim of a greater cause.



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The Nature of Crimes

A **crime** is something one does or fails to do that is in violation of a law. It can also be defined as behavior for which there is a set penalty. Criminal law makes certain conduct “criminal” and other conduct “noncriminal.” Decisions as to what constitutes a crime are made by legislatures, which try to protect the public based on what most people believe is right and necessary for the orderly conduct of society.

Police duties range from writing speeding tickets to investigating violent crimes.



Certain acts are prohibited or required to protect life and property, preserve individual freedoms, maintain the system of government, and uphold the morality of society. Ideally, the goals of law are to protect human rights for all and to regulate human conduct so that people can live in harmony.

Many people do not realize that crime victims are also victims of human rights violations. For example, people have a human right to ownership of their own property (Universal Declaration of Human Rights [UDHR], Article 17). Theft crimes violate this right. People also have a human right to protection of their personal security (UDHR, Article 3). Violent crimes such as murder, rape, and assault violate this human right.

Problem 7.1

Assume you are a member of a commission established to evaluate laws. Consider the following acts. In each case decide whether or not the act should be treated as a crime. Then rank the crimes from most serious to least serious using the following scale: VS (very serious), S (serious), U (undecided), LS (less serious), and NS (not serious). Also note whether you think an act should not be a crime (NAC). Explain your decisions.

- a.** Robert sells crack cocaine and uses the proceeds to support his mother, who receives public assistance.
 - b.** Marley is a passenger in a car she knows is stolen, although she did not participate in the theft of the car.
 - c.** A corporate executive gives a million dollars to a candidate for the U.S. Senate.
 - d.** A college student downloads music files for free, burns them onto a CD, and uses the CD at a party where she is a paid DJ.
 - e.** Paulina is caught with a pound of marijuana.
 - f.** Ella leaves a store with change for a \$10 bill, knowing that she gave the cashier a \$5 bill.
 - g.** Samantha approaches a man and offers sex in exchange for money.
 - h.** Ming refuses to wear a helmet while riding a motorcycle.
 - i.** A company pollutes a river with waste from its factory.
 - j.** Pat gets drunk and hits a child, injuring her severely, while speeding through a school zone.
 - k.** DeShawn observes his best friend shoplifting but does not turn him in.
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Crime has long been a major problem in the United States. Governments at all levels—national, state and local—are concerned with preventing crime and with apprehending and prosecuting criminals. The federal government collects data on crime reports and arrests and makes it available online. Much of this data is organized according to what are referred to as seven “index crimes.” Figure 7.1 on the next page shows recent statistics for such crimes.

Figure 7.1 Crimes Reported and Arrests Made (2006)

Type of Crime	Number Reported	Percentage Arrested*		Total Number Reported	Percentage Arrested*
Larceny/Theft	6,607,013	16	Total Property Crime	9,983,568	15
Burglary	2,183,746	14			
Motor Vehicle Theft	1,192,809	12			
Aggravated Assault	860,853	52	Total Violent Crime	1,417,745	43
Robbery	447,403	28			
Forcible Rape	92,455	27			
Murder and Non-negligent Manslaughter	17,034	79			
			Crime Index Total**	11,401,313	19

Sources: www.fbi.gov, Federal Bureau of Investigation, 2006.

* Percentage of crimes reported that resulted in an arrest.
 ** The crime index is the sum of violent crimes and property crimes.

Problem 7.2

Study the crime and arrest data above. Then answer the following questions.

- According to the information above, what was the most commonly reported index crime in 2006?
- What percentage of the total reported crimes resulted in an arrest?
- Of the index crimes reported, for which crimes were people most likely to be arrested? Why do you think this is so?
- How can citizens act to help police improve arrest rates?

Since the mid-1980s, there has generally been a decrease in the reported number of index crimes. This trend is evident in both violent crimes and property crimes. However, there has been a very large increase during that time in the number of arrests made for violations of drug laws. The policy to aggressively prosecute drug offenses is sometimes called the “war on drugs.” About 80 percent of the prosecutions for drug offenses are for possession, while the other 20 percent of prosecutions are for the sale or manufacture of drugs. In recent years, there have been more arrests for drug law violations than for any other single index crime.

Although authorities agree that crime is a major problem, much disagreement exists over the causes of crime and what can be done about it. Among the possible causes of the high crime rate in the United States are poverty, permissive courts, unemployment, lack of

education, abuse of alcohol and drugs, inadequate police protection, rising population, lack of parental guidance, a breakdown in morals, an ineffective correctional system, and the influence of the Internet, television, and films. This lack of agreement indicates that the causes of crime are many and complex.

Let's examine some suggested causes of crime more closely. Some people point to the U.S. economic system, with its wide disparity between rich and poor, as a factor contributing to the rate of crime. In the 1990s, with a generally strong economy and low unemployment, the crime rate tended to go down. Between 2001 and 2002, the United States experienced a weaker economy and a rise in crime rates. At other times in U.S. history, however, a strong economy has not reduced crime, and a weak economy has not caused crime to increase. Further, there are other countries around the world where the poverty level is high, but the crime rate is low.

Researchers have also looked at data from high-crime urban areas. They have found that poverty by itself is not a good predictor of crime; a more important factor is the stability of the family. For example, many families with few financial resources raise children who are responsible, law-abiding citizens. However, it is also true that poverty and lack of educational and economic opportunities make it more difficult for families to achieve the stability that would help reduce crime.

Would tougher penalties curb crime? Many people think so, but the United States already has some of the harshest criminal laws—as well as the highest **incarceration** rate—of any industrialized nation. Tough penalties may deter some people from committing crimes, but compared with the number of crimes committed, only a small number of people ever go to prison. Thus, some experts say that longer prison terms are not the answer. They say the certainty and swiftness of punishment is more important than the length of the sentence.

Adequate police protection clearly has something to do with the crime rate, but studies show that simply increasing the number of police officers on the street does not necessarily reduce the crime rate.

Many communities organize neighborhood crime watch groups to help monitor suspicious activities. *What approaches has your community taken to prevent crime?*



Figure 7.2 U.S. Crime Clock

Crime	1996	2001	2006
PROPERTY CRIME	One every: 3 seconds	One every: 3 seconds	One every: 3.2 seconds
Larceny/Theft	4 seconds	4.5 seconds	4.8 seconds
Burglary	13 seconds	14.9 seconds	14.4 seconds
Motor Vehicle Theft	23 seconds	25.7 seconds	26.4 seconds
VIOLENT CRIME	One every: 19 seconds	One every: 22 seconds	One every: 22.2 seconds
Murder	27 minutes	32.9 minutes	30.9 minutes
Forcible Rape	6 minutes	5.8 minutes	5.7 minutes
Robbery	59 seconds	1.2 minutes	1.2 minutes
Aggravated Assault	31 seconds	34.8 seconds	36.6 seconds

Source: U.S. Department of Justice, Crime in the United States, 1996, 2001, and 2006.

Problem 7.3

Consider the frequency of crimes listed above and answer the questions that follow.

- Did crimes occur less or more frequently in 2006 than they did in 1996? Do you think these changes are significant in any single category of crime? What pattern is most evident among all the categories? Explain your reasons.
- What are the possible explanations for these changes? Are there any crimes that people might be reluctant to report? Explain.
- Do you think the data in the table accurately reflect the crime problem in your community? Explain your answers.

Many communities have embraced the idea of **community policing**. This strategy builds closer connections between police and the communities they serve. Police officers who have more direct contact with residents in neighborhoods can more effectively participate in community crime prevention activities, understand the nature and extent of local crime problems, and gather information about criminal activity.

Thinking about crime requires individuals, communities, and governments to go beyond slogans and stereotypes. We should carefully consider each of the suggested causes and the possible solutions to the problem. Perhaps the most that can be said is that disagreement exists over the causes of crime and that solutions to the crime problem are not simple.

The National Council on Crime and Delinquency (NCCD) has studied criminal justice in the United States since 1907 and recommends the following strategies for reducing crime:

- Build safer communities with special attention to safe schools, after-school programs, community policing, and prevention of domestic violence and child abuse.
- Reduce the costs and improve the fairness of the criminal justice system.
- Develop cost-effective alternatives to incarceration, reserving prison sentences for those who cannot be safely treated in community-based programs.
- Create effective drug-control policies. Reduce funds spent on catching drug sellers and users; expand funding for drug treatment and job training; and repeal laws requiring mandatory prison sentences for drug possession.

Problem 7.4

- a. Not everyone agrees with the NCCD's recommendations. Do you agree or disagree with their recommendations for reducing crime in the United States? Explain your answer.
 - b. What do you think are the three most important causes of crime in your community? Why did you select these causes? How could crime be reduced where you live?
 - c. What steps should the federal government take to reduce crime? What steps should your state government take? What steps should be taken by your local government?
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After-school programs give young people a place to go instead of hanging out on the street. *How might the presence of after-school programs help reduce crime?*

Crime on Campus

While schools are generally safe places, there is ongoing concern about campus safety. The federal government collects data on school safety. The overall rate of violent incidents for all public schools was about three incidents per 100 students in 2006. The rate of violent incidents was about twice as high in middle schools as in either primary schools or high schools. Nearly 10 percent of all public schools reported at least one student threat of physical attack with a weapon during 2006. Reported incidents of bullying were also more common at the middle school level than at elementary or high schools.

Coupled with the issue of campus safety is the problem of drug use among students in elementary, middle, and high schools. Among large schools (those with more than 1,000 students), more than 75 percent of schools reported at least one incident of the distribution, possession, or use of illegal drugs. This problem was less serious in smaller schools.

On some college campuses, the use of alcohol is a serious problem. Assaults, sex offenses (rape), burglaries, auto theft, and other problems on college campuses are often related to the use of alcohol. The quality and effectiveness of various campus and local services are often called into question after a crime occurs. For example, on April 16, 2007, there were deadly shootings that killed 32 students and faculty at Virginia Polytechnic and State University (Virginia Tech) in Blacksburg, Virginia. The student who committed the killings had been diagnosed with severe mental problems before he purchased the weapons used in the shooting. This tragedy raised questions about the thoroughness of required federal background checks that are conducted when guns are sold (see page 86) as well as the adequacy of campus mental health and security services.

Law enforcement officers work in schools as School Resource Officers (SROs) focusing on law enforcement, student counseling, and law-related education. *How else might a school attempt to reduce crime on campus?*



Weapons at School

Sunshine City is a suburb of Metropolis, the largest city in the state. Sunshine High School (SHS), the only high school in Sunshine City, has 1,500 students. SHS's student population is racially and economically mixed. The school has many student organizations, as well as girls' and boys' sports teams. There are college and personal counselors on staff.

Sunshine High School has its share of problems with underage drinking and drugs. Except for an occasional fistfight, however, until recently it has not had a problem with school violence. The school board is aware of the problem of weapons being brought into Metropolis schools. It is committed to SHS student safety and recently discussed installing metal detectors at the school. However, no detectors have been installed, although security guards are on duty at SHS.

Samuel is a 16-year-old junior at SHS. He moved to Sunshine City from another state with his family four months ago and started school in the middle of last term. Samuel is a loner, has few friends, and spends most of his time surfing the Internet and playing violent video games. He has not had any disciplinary problems at school but has been caught shoplifting.

Samuel has had a difficult transition to SHS. His grades are poor, and his general demeanor is gloomy. He is picked on by the popular guys. He skips school and is not allowed to enter school if he is late. Samuel's parents have noticed that lately he has been more withdrawn than usual and have been concerned about him. They contacted the school counselor, who promised to talk to him. Samuel did not go to the two appointments the counselor scheduled with him.

One Wednesday morning, Samuel left for school early, telling his mother good-bye and that he loved her. Although this struck his mother as odd—usually, he was late and

did not say anything as he left—she hoped it meant he was feeling better about things.

Because of the rain that day, the students congregated in the cafeteria to wait for the bell. Before going inside, Samuel saw Eddie, a quiet kid who sat next to him in algebra. Before reaching the front door, Samuel told Eddie that he “had to take care of something” but that he did not want Eddie to be around when “it all went down.”

Eddie had the sense that something was wrong and went to the school resource officer. Officer Lee found Samuel just as he was about to enter the cafeteria. When the officer questioned Samuel and received a mumbled response, he decided to frisk him for weapons. Under Samuel's jacket was a semiautomatic gun. The actions that Eddie and Officer Lee took helped avoid a major tragedy at SHS.

The police and school administrators investigated. One student, Trisha, told a school counselor that Samuel advised her not to come to school that day. He wanted to keep her safe from danger, as she was always nice to him. The police discovered that Samuel had purchased the gun illegally from someone on the street and also found a disturbing note in Samuel's jacket pocket. In it he outlined his plan to shoot people and remarked, “After today, no one will push me around again!”

Problem 7.5

- a.** What conditions might have led to Samuel's decision to commit this crime?
 - b.** What, if anything, could have been done to help Samuel? Were there signs at school or home that he was at risk?
 - c.** Are there measures in place at your school to prevent acts of violence from occurring? Are additional measures needed? If so, what are they?
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Gangs and Crime

At one time, violent gangs were thought to operate only in the largest cities in the United States. Evidence indicates, however, that gangs are now active in towns and cities of all sizes throughout the country. Most large cities report a dozen or more gangs, while most smaller cities and rural counties report three or fewer gangs. One reason gangs have spread is the lure of profits from the sale of illegal drugs, an activity in which many gangs participate. Many gang members also buy, sell, and steal firearms. The combination of drugs and guns has led to increased gang violence. Experts estimate that there are about 25,000 gangs with more than 750,000 members, which indicates the magnitude of the problem.

What Are Gangs?

In this discussion, *gang* refers to people who form groups that are closed to the general public, for certain common purposes that may or may not include violent criminal activity. While the media have featured gang activity a great deal in recent years, gangs are not new in the United States. In the nineteenth century, gangs existed in many American neighborhoods. They were primarily composed of adults and were usually organized along ethnic lines. Even then gangs had names, rules, emblems, initiation rituals, and distinctive ways of dressing. Early gangs were interested in protecting turf, reputation, and cultural heritage. But not all of these gangs engaged in criminal activity; neither do all gangs today. In fact, some gangs perform community work and operate job-training and other government-funded programs. Generally, however, these are not the gangs that contribute to the crime problem.

Today's gang members range in age from young children to middle-aged adults. While traditional youth gangs are still concerned with issues of status and turf, many gangs now operate with much more sophisticated organizational structures. Many focus on drug trafficking, firearm sales, auto theft, prostitution, and other criminal activities. Others use group-oriented violence or other criminal behavior to defend certain political beliefs that may be racist or sexist.

Many gangs identify themselves with colors. *How are today's gangs different from those of the nineteenth century?*



Gangs often associate themselves with one of several major gang “nations” and choose particular symbols, emblems, colors, phrases, and clothing with which to identify themselves. Gangs often use graffiti to mark, or “tag,” particular territory as theirs, to intimidate rival gangs, or to instill fear in citizens of a neighborhood. People who join gangs usually have to endure some initiation ritual or test, such as committing a crime, being beaten, or, for female initiates, having sex with multiple members of the gang. Many gangs, however, are more concerned with prospective members’ abilities to sell drugs and make a profit. They may require new recruits to successfully complete a robbery or drug deal or to commit an act of violence. It is not uncommon to have to endure a similar rite to get out of a gang, if getting out is an option at all. Violence, deadly weapons, drugs and alcohol, pride in their group identity, constant danger to themselves and their families, and involvement with the criminal justice system are frequently associated with the lives of most gang members.



Who Joins Gangs and Why?

The majority of gang members are male; about 10 percent are female. About 10 percent of gang members are Caucasians. In many cases, members’ relatives or friends are also involved with gangs. Many gang members live under difficult conditions at home, where their basic needs are often unmet, and they lack success in school. They are frequently very pessimistic about their job prospects and other opportunities for the future.

While the media and entertainment industry may portray gang membership as appealing only to inner-city minority youth, there is no shortage of white gang members in urban, suburban, and rural areas. In addition, the idea that gang members can become financially prosperous as the result of gang membership is just an urban legend. In reality, very few gang members ever find either financial or social success.

Researchers have identified a number of factors that put young people at risk for gang involvement: poverty, school failure, substance abuse, family dysfunction, and domestic and community violence. Many gang recruits have low self-esteem and little adult participation in their lives. However, there is no magic formula for predicting whether a young person will or will not join a gang. Millions of young people face the conditions described above, yet never join gangs.

Some young people join gangs to receive attention and to feel a sense of belonging that is missing in other areas of their lives. Other young people are the children of gang members and are choosing a similar lifestyle.

People join gangs for many reasons. *What are the factors that put young people at risk for gang involvement?*

Still others join because they feel pressure from friends, possibly in the form of threats, or because they believe that once they join they will be protected from police or members of other gangs. To people who see a future without job or financial opportunities, gang membership may appear to be their only alternative. This may explain why many older members, still lacking opportunities, are not “maturing out” of gangs. According to a 2005 survey, the majority of gang members in larger cities are aged 18 and over, while the majority of members in smaller cities and rural counties are under the age of 18.

How Can the Gang Problem Be Solved?

Most experts agree that the best way to handle the challenge of gangs is to develop a flexible program that includes prevention, intervention, and suppression (targeting the most violent gang members for prosecution). Communities that are most successful in dealing with gangs take the following actions:

- Operate outreach and intervention programs in which social workers and trained counselors encourage gang members to become involved in positive, nongang activities.
- Provide greater opportunities for young people, including athletics, clubs, school tutoring, community service work, and job training.
- Mobilize government agencies, schools, parents, community groups, religious organizations, and other youths to increase awareness and develop opportunities for young people.
- Organize prevention strategies in which police and probation officers identify gang members (and wannabes) and place them in antigang membership programs.
- Prosecute gang members for illegal activity.
- Organize neighborhood watch groups that regularly remove graffiti and make it difficult for gangs to establish a presence or intimidate the community.

Problem 7.6

- a. Is there a gang problem in your community? If not, what steps should be taken now to prevent such a problem? If there already is a problem, how do you know it exists? What steps should be taken to deal with it?
 - b. Are gangs a serious problem in the United States today? Why do you think people join gangs?
 - c. Do you think gang membership appeals only to people from disadvantaged socioeconomic groups? Is a group of middle-class or rich youth that hangs out, vandalizes, and sells drugs a gang?
 - d. Do the nightly news, other television shows, certain cartoons, movies, and the lyrics of some popular music encourage violence? What, if anything, should be done about this?
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Guns and the Law

Most Americans who own firearms own them legally and use them lawfully. However, guns are frequently used in violent crimes. Efforts by the government to control firearms are very controversial among U.S. citizens, millions of whom believe passionately that their liberty and perhaps their safety will be at risk if gun ownership is restricted. Others believe that the relatively easy availability of firearms has aggravated the crime problem. Still others argue that it is not guns, but gun users, who cause violence and that law-abiding citizens have a right to own firearms.

Gun control is a controversial issue. Some groups look to the Second Amendment as protection against government attempts to ban or regulate firearms. Others argue that the language of the Second Amendment protects a state's right to maintain a militia but does not protect individuals against government efforts to legislate in this area. The U.S. Supreme Court has interpreted the Second Amendment several times, and so have many lower courts. All have ruled that the amendment guarantees a state's right to maintain a militia.

The primary federal gun-control law is the *Gun Control Act of 1968*, passed after the murders of Dr. Martin Luther King, Jr., and Senator Robert Kennedy. It prohibits certain people—such as convicted felons, minors, and illegal immigrants—from buying or possessing guns.

The Million Mom March is a national organization advocating responsible limits to gun access and use. *How is the Second Amendment used as protection against government attempts to ban or regulate guns?*

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

— **Second Amendment to the U.S. Constitution**

The act requires serial numbers on all guns and establishes a licensing-fee schedule for firearms manufacturers, importers, and dealers. It prohibits the mail-order sale of all firearms and ammunition, and it also prohibits the interstate sale of handguns. The passage of the *Gun Control Act* set penalties for carrying and using firearms in crimes of violence or drug trafficking, and it set age guidelines for firearms purchased through dealers (handgun purchasers must be at least 21; long-gun purchasers must be at least 18). A more recent federal law bans the importation of certain semiautomatic weapons.

In 1993 Congress amended the *Gun Control Act* by enacting the *Brady Act*. The *Brady Act* is named for former White House press secretary James Brady, who was shot and paralyzed by a bullet an assassin intended for President Ronald Reagan. The act requires the attorney general to create a national system to instantly check the background of persons who try to buy guns. Gun dealers must perform a background check before completing the proposed sale. Until the national background check system could be set up, an interim provision required local law enforcement officers to conduct the background check and required gun dealers to wait five days for the results before selling guns. This interim provision, however,

The Case of . . .

The Gun Control Law

Several District of Columbia residents challenged local firearms laws passed by the Washington, D.C., city council. One of these laws banned handguns in the District of Columbia. Another law required all lawfully owned shotguns or rifles to be kept unloaded and disassembled or else disarmed by a trigger lock.

The residents who challenged the laws want to possess handguns and keep them in their homes for self-defense. One of the residents owns a lawfully registered shotgun but wants to keep it assembled and not bound by a trigger lock. They do not object to the idea of a registration requirement for firearms. Also, they are not seeking to carry any firearms outside their homes. The residents

claim that these firearms laws violate their rights under the Second Amendment to the U.S. Constitution.

Problem 7.7

- Read the language of the Second Amendment on page 603. Do the Washington, D.C., firearms laws violate this Amendment? Explain your reasons.
- Do the Washington, D.C., residents have a stronger case in challenging the ban on handguns or in challenging the requirement that rifles and shotguns be kept disassembled? Explain your reasons.
- What is the strongest argument for allowing states to ban or regulate weapons? Explain.
- What is the strongest argument for prohibiting states from banning or regulating weapons? Explain your answer.

was declared unconstitutional in 1997 by the U.S. Supreme Court, which said Congress does not have the constitutional authority to force states to conduct such background checks. Even so, many states have enacted their own legislation requiring background checks, fingerprinting, firearm training, and other application requirements to purchase a gun. In 2004, about 8.1 million applications for guns were processed in the United States; 126,000 were rejected.

A wide range of gun laws have been enacted at the state and local levels. Some states require a person to take a training course or test before purchasing a gun. State laws permitting citizens to carry a concealed weapon became a trend during the 1990s. Proponents of these laws often justify them on the grounds that individuals have a right to carry a weapon for purposes of self-defense. By 2006 all but two states (Wisconsin and Illinois) and the District of Columbia had laws that provided a right to carry a concealed weapon in public. In most states it was relatively easy to obtain such a permit. In Alaska and Vermont, an adult without a felony conviction could carry a concealed weapon without having to first obtain a permit. In those two states, this is considered a basic right.

Polling data on gun control have remained fairly consistent over the past 40 years. A majority of Americans favor stricter gun control laws (with an even stronger majority favoring a ban on assault weapons), but a very small percentage of Americans (about 10 percent) favor a total ban on handguns.



A victim of gun violence calls on state legislators to pass gun control laws. *How does the Brady Act control gun possession?*

Problem 7.8

- a.** Which is a better way to reduce crime—more gun control or less gun control? Give your reasons.
- b.** What restrictions, if any, should the government place on the manufacture of firearms? The sale of firearms? The possession of firearms? Explain.



The Law Where You Live

Find out what gun laws exist in your state. Does your state have a law prohibiting adults from storing or leaving a loaded firearm within easy access of a minor (a “child access prevention,” or CAP, law)? Does your state allow citizens who have permits to carry concealed guns?



For Your Information . . .

Child Access Prevention (CAP) Laws

In 1989 Florida became the first state to pass a so-called child access prevention law. The purpose of the law is to limit children’s access to guns owned by adults. Florida’s law makes it a crime to store or leave a loaded firearm within the reach or easy access of a minor. For this law, *minor* is defined as a person under the age of 16. The law

applies only if the minor gains access to the gun. The law does not apply if the gun is stored in a locked box or secured with a trigger lock. The gun owner’s offense is a misdemeanor if the minor gains access to the gun but a felony if the minor uses the weapon to harm himself or herself or others. Additional states and cities have passed similar laws.

Substance Abuse and Crime

The term **substance abuse** has come into general use in recent years. The word *substance* is used to describe all the different kinds of chemicals that people abuse, including alcohol and drugs. This type of abuse has always plagued American society. Substance abuse contributes to many social problems, including the breakup of families, decreased productivity, injuries in the workplace, and automobile crashes. Criminal activity often results from substance abuse or the desire for money to purchase drugs.

Alcohol

Alcohol is the most widely abused substance in the United States today. One reason for this is that drinking alcohol is generally socially acceptable in our society. Alcohol use has been legal for adults 21 years of age and older since the birth of the country—with the exception of a 14-year period from 1920 to 1933 known as Prohibition in which the sale, manufacture, and transportation of alcohol were banned. Not all countries, however, believe alcohol use is acceptable. For example, it is a criminal offense to drink alcohol in Saudi Arabia.

Alcohol abuse is detrimental to society. Alcoholism contributes to poor communication and dysfunction in some families. Many people commit spouse abuse, child abuse, and other crimes while under the influence of alcohol.

When considering alcohol and crime, most people focus on the tragic loss of life resulting from drinking and driving accidents. Many people do not connect alcohol to other forms of violence.

According to the U.S. Department of Justice, alcohol use is a factor in about one-third of all violent crimes committed in the United States. Two-thirds of the victims who suffered violence by a spouse, former spouse, boyfriend, or girlfriend report that alcohol had been a factor.

The term **drunk driving** is used in a general sense to refer to the legal terms **driving while intoxicated** (DWI) and **driving under the influence** (DUI). The legal definition of DWI/DUI refers to a person's blood alcohol concentration (BAC). The BAC indicates the grams per deciliter (g/dl) of alcohol in the blood. A person's BAC can be determined through breath, urine, or blood samples. Alcohol is a mind-altering drug, and tests have shown that thinking and reaction time are affected in varying degrees by the level of alcohol in the bloodstream. Although the legal levels of BAC vary from state to state, an individual generally is considered *impaired* when the BAC is between 0.01g/dl and 0.09g/dl, and *intoxicated* when the BAC is 0.10g/dl or greater.

Every state in the country has a DWI/DUI law. In 2006 nearly 1.4 million people were arrested for driving under the influence of alcohol. Approximately 35 percent of all highway deaths involved alcohol in 2006, and thousands more are injured each year in alcohol-related car crashes. Use of drugs, either legal or illegal, that impair driving ability is also a violation of DWI/DUI laws. People can receive a variety of different penalties for driving under the influence including:

- monetary fine,
- enrollment in a DWI school,
- community service,
- license suspended (taken away for a period of time),
- license revoked (permanently taken away), and
- jail sentence (some laws require a minimum term).

Any combination of the penalties listed above may be imposed on a convicted drunk driver. A repeat offender is likely to receive stiffer penalties, and many states now automatically suspend drivers' licenses for DWI/DUI.

Tasks such as walking a straight line help police determine whether a person is driving while intoxicated. *How does an implied consent law work?*



The Graduation Party

Alexis and Neil were the proud parents of Sandra, who was about to graduate from high school. Sandra asked if she could have a graduation party, and her parents agreed. Sandra did not drink, and her parents assumed that her friends did not drink either. They told her she could invite up to 30 people. Alexis and Neil provided soft drinks, sandwiches, and snacks. When guests started to arrive, Sandra's parents went upstairs and did not circulate at the party.

Sandra became nervous that some of the guests had been drinking when she noticed that some of them left the party for brief

periods of time and then came back. As planned, the party ended at midnight.

A few days later, Sandra and her parents learned that two of the guests were threatened as they walked home from the party. The sober friend ran and escaped harm. The other friend, who was apparently quite drunk, was sexually assaulted.

Problem 7.9

- a. Should the parents of the friend who was assaulted be able to sue Alexis and Neil for monetary damages?
- b. Should the police charge Sandra's parents with a crime?
- c. How should Sandra and her parents have handled this party differently?

Drugs

While illegal drug use is not new, it has become increasingly widespread, and its effects have touched nearly everyone in American society. Illegal drug use costs society billions of dollars a year. The flourishing illegal-drug industry has led to a dramatic increase in criminal activity, ranging from murder to high-level government corruption. This has placed an overwhelming burden on the criminal justice system because so many people are arrested for selling or possessing drugs. Between 50 and 75 percent of persons taken into the criminal justice system test positive for one or more drugs at the time of their arrest. The trends in this area are difficult to determine: some cities have outbreaks of crack cocaine, while other cities experience increases in the use of marijuana, heroin, or methamphetamines. Some reports have shown a particularly close relationship between the increased use of crack cocaine and increases in the rate of violent crime in a community.

Possession, distribution, or sale of certain drugs is a crime that may violate federal law, state law, or both. Some drugs, such as heroin, are particularly addictive and can severely harm the personal life of the user. The federal drug law, known as the *Controlled Substances Act*, classifies drugs into five groups, depending on medical use (if any), potential for abuse, and capability to create physical or psychological addiction. The criminal penalties are different for each of the five groups.



The Law Where You Live

Find out what the state and local laws are concerning drugs where you live.

Federal laws and most state laws now carry harsher penalties for drug offenders than they once did. Those who sell drugs or possess large amounts of drugs with the intent to sell them often face mandatory jail terms even for their first offense. Under federal law and in some states, those found guilty of being major drug traffickers may face a sentence of “life without parole.” Some states treat simple possession of even small amounts of certain types of drugs as felonies. In addition, some states have enacted special drug forfeiture laws, which allow the government to seize property, such as bank accounts, airplanes, automobiles, and even houses, that was used for or acquired through the proceeds of drug crimes.

Partly in an effort to combat drug-related crime, more than 40 states have some type of repeat offender, or **recidivist**, law. These laws, passed primarily in the 1990s, require long jail or prison sentences—including sentences of life in prison without parole—for persons who are repeatedly convicted of the same crime, even relatively minor ones. Some of these laws have been criticized as being unnecessarily harsh.



For Your Information . . .

Drug Courts

In 1989 the court system in Miami, Florida, established the country’s first drug court in an effort to reduce the rising tide of drug-related cases. Because of its success, the federal government began promoting the use of drug courts for both juveniles and adults around the country.

Drug courts implement a humane philosophy by offering treatment in place of punishment for offenders. In drug courts, offenders are held accountable for their actions but are also given the tools they need to break the cycle of drug abuse. Specialized drug courts offer nonviolent offenders a simple deal: if they submit to

drug testing on a regular basis, enroll in a court-supervised drug treatment program, and stay off drugs, then they can stay out of jail. Failure to meet any of these conditions results in prosecution and the possibility of jail time.

Drug courts also work with offenders to help them obtain education, vocational training, and employment. Government-sponsored research has shown that drug courts can reduce recidivism and save money by reducing the number of nonviolent offenders in prisons. By 2007 there were 1,700 drug courts in the United States, with plans to add several hundred more.

As a result of escalating drug use and drug-related violence, some people, including a few politicians, have proposed that American society should consider legalizing certain drugs, such as marijuana. These people point to the failure of the “war on drugs” and say that as long as some drugs are illegal, we are creating a market for their illegal sale. They believe the United States would be better able to control the sale and use of drugs if the laws changed from drug prohibition to drug regulation. Proponents of the legalization of drugs suggest that the United States treat drug abuse as a health problem rather than a crime. It is hypocritical, they claim, to criminalize drug use while allowing the legal sale of alcohol and tobacco, which studies show are very harmful to people’s health and cause many more deaths than illegal drugs.

Some people favor legalizing certain drugs that can be used for medical purposes. Several states have passed ballot initiatives in favor of removing state criminal penalties for marijuana possession because of its potential medical use. In 2005 the U.S. Supreme Court determined that federal drug laws could be enforced, even in states that had passed medical marijuana laws. For this reason, criminal penalties remain in place for those prosecuted under federal laws.

Many others are opposed to any sort of drug legalization. They believe that legalizing drugs and making them easier to get would lead to greater drug use, cause more deaths, and increase other drug-related problems. These people feel that criminal laws deter drug use and that reducing penalties would deliver a message of acceptance. Legalizing drugs, they say, would result in what some people call “the addicting of America” and would endanger our society as a whole.



Drug courts require offenders to submit to regular drug testing. *What other conditions set by the drug court must an offender meet?*

Problem 7.10

- a.** Are there any controlled substances that should be legalized (still allowing some form of government regulation and even fines)? If so, which controlled substances should be legalized?
 - b.** What are the most convincing arguments in favor of legalizing some controlled substances?
 - c.** What are the most convincing arguments against legalizing any controlled substances?
 - d.** How would society change if some controlled substances were legalized? Would these changes be good or bad? Explain.
-

Drugs in the City

The city of Southland has been plagued by a growing drug epidemic. City officials and citizens are especially outraged that adults are using teenagers to sell drugs for them. This happens because teens often receive lighter sentences than adults do for drug-related offenses. Southland is also facing an influx of drugs and drug dealers from other cities. The mayor has called a special city council meeting to address the problem. Six experts have been asked to testify and present six different approaches to address the problem.

Police Chief Anderson (Law Enforcement Approach): “We cannot be everywhere at once. The department needs 100 more officers. The best way to combat the drug epidemic is to put more officers on the street and arm them with the newest and best weapons. Let’s show the drug dealers and their customers that we mean business.”

District Attorney Fisher (Restrict Civil Liberties Approach): “I think the city should declare an emergency and clamp down on drug sales on the street. Because of the epidemic, the civil liberties of the citizens of Southland must be temporarily limited. Because teenagers are selling drugs late at night, we need to institute a 9 p.m. curfew for anyone under the age of 18. I also advocate conducting random searches of students at schools and establishing checkpoints where all cars will be stopped and searched in areas where drug trafficking is high.”

Terry Blade (Drug Treatment Approach): “I am an ex-addict who was cured because I was arrested and sent to a good treatment program. I see drug treatment as the best way to cut the demand for drugs, thereby driving the drug dealers out of business. Many addicts are turned away because treatment spaces are limited in this community. I want the city to devote more resources to treating people addicted to drugs.”

School Superintendent Lee (Preventive Education Approach): “Education is the real answer to the drug problem. We must address the issue of values as a set of choices every student has: either obey the law or use drugs. I want preventive drug education for every student, starting in the first grade.”

Prosecutor Horton (Penalties Approach): “Stiffer penalties are needed. The state legislature should pass tougher mandatory sentences for drug offenders. Anyone aged 15 or older who is convicted of selling drugs should be given a mandatory two-year sentence and be tried as an adult.”

Rocio Fuentes (Legalization Approach): “We should legalize drugs. If drugs are made legal, the government can regulate the price and quality of the product, thereby reducing or eliminating the black market for drugs. Drug addicts won’t need to commit other crimes in order to obtain money to buy drugs at outrageously high street prices. Finally, our tax dollars won’t be wasted chasing drug traffickers and international cartels. The money saved could be used to fund preventive education and treatment programs.”

Problem 7.11

- Use the experts’ statements to stage a city council hearing. Then decide which approach will help the city of Southland most. List the six approaches in order of your preference, and give reasons for your rankings.
- What are the costs and benefits of each approach? What are the problems or risks of each?
- Could more than one of these approaches be tried at the same time? If so, which ones go together most easily?
- As a city council member, which approach will you vote for? Explain.

Victims of Crime

Crime affects us all, but victims suffer most. Victims of crime are found among all segments of society: young, old, rich, poor, and all racial and ethnic groups. Each year, more than 24 million Americans aged 12 and older are victims of crime.

Teens and young adults are more likely to be victims of crime than people in any other age group. In 2005, persons 12 to 24 years old were victims of violent crime at rates higher than any other age group. Among persons aged 12 to 15, 53 of every 1,000 were victims of violent crime, compared to 3.5 of every 1,000 persons over age 65.

Gender, socioeconomic status, race, and location are also factors that influence a person's likelihood of becoming a victim of crime. Except for rape and sexual assault, males are more frequently the victims of violent crime. Persons from lower-income households are more likely to be victims of crime than those with higher incomes. Members of minority groups, urban dwellers, and those who rent their homes are more likely to be victims of crime than persons who are white, non-urbans, and property owners. For example, in 2005, the homicide victimization rate for African Americans was six times higher than the rate for whites.

In recent years, public interest in aiding victims of crime has grown. Most states now have victim assistance programs. These programs provide victims with counseling, medical care, and other services. Most states also have victim compensation laws. These laws provide financial help for victims, such as paying medical bills, making up lost salary, and, in some cases, paying funeral costs and death benefits to victims' families. Some states allow prosecutors to submit victim impact statements to the court when a person is sentenced for a crime. These statements show the effect of the defendant's crime on the victim's physical and psychological well-being. Some courts also allow victims to testify. In addition, courts sometimes order **restitution**—requiring criminals to pay back or otherwise compensate the victims.

Today, victim advocacy groups are playing a more significant role in the criminal justice system. Their primary functions are to help victims through their trauma and to protect the rights of victims. Most of these groups deal with specific crimes, such as rape, spouse abuse, drunk driving, and child abuse. One highly successful victim advocacy group is Mothers Against Drunk Driving (MADD). In recent years, MADD has been instrumental in calling attention to the problem of drunk driving and in lobbying for and winning stricter punishment for people caught driving while intoxicated.



The Law Where You Live

Contact your police or prosecutor's office to learn whether there is a victim's assistance program in your community. If there is one, how does it operate? Is there a victim compensation law? If so, how does it operate?

Urban dwellers are more likely to become victims of crime. *What other factors influence a person's likelihood of becoming a victim of crime?*



Figure 7.3 Violent Crime Rates by Age of Victim

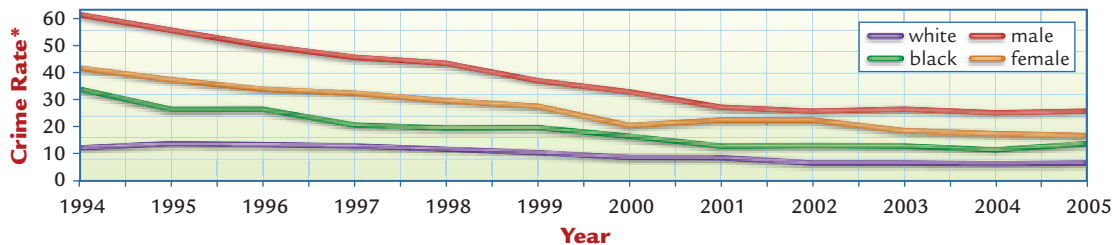
Adjusted victimization rate in percentage per 1,000 persons age 12 and over

Year	12-15	16-19	20-24	25-34	35-49	50-64	65+
1994	118.6	123.9	100.4	59.1	41.3	17.6	4.6
1995	113.1	106.6	85.8	58.5	35.7	12.9	6.4
1996	95.0	102.8	74.5	51.2	32.9	15.7	4.9
1997	87.9	96.3	68.0	47.0	32.3	14.6	4.4
1998	82.5	91.3	67.5	41.6	29.9	15.4	2.8
1999	74.4	77.5	68.7	36.4	25.3	14.4	3.8
2000	60.1	64.4	49.5	34.9	21.9	13.7	3.7
2001	55.1	55.9	44.9	29.4	23.0	9.5	3.2
2002	44.4	58.3	47.6	26.4	18.2	10.7	3.4
2003	51.6	53.1	43.5	26.5	18.6	10.3	2.0
2004	49.7	46.0	43.2	23.8	18.0	11.0	2.1
2005	44.0	44.3	47.1	23.7	17.6	11.4	2.4

Note: Violent crimes include rape, robbery, assault, and homicide.

Sources: Rape, robbery, and assault data are from the *National Crime Victimization Survey (NCVS)*. The homicide data are collected by the FBI's *Uniform Crime Reports (UCR)* (Supplementary Homicide Reports) from reports from law enforcement agencies. Homicide estimates for 2005 are based on 2005 Preliminary Annual Release data.

Figure 7.4 Violent Crime Rates by Race and Gender of Victim



*Adjusted victimization rates per 1,000 persons aged 12 and over

Sources: Rape, robbery, and assault data are from the *National Crime Victimization Survey (NCVS)*. The homicide data are collected by the FBI's *Uniform Crime Reports (UCR)* (Supplementary Homicide Reports) from reports from law enforcement agencies. Homicide estimates for 2005 are based on 2005 Preliminary Annual Release data.

Problem 7.12

Study the data above. Then answer the following questions.

- a. Which age group is most frequently the victim of crime? Least frequently?
- b. What trend do you see in the data on victimization by age? Explain this trend.
- c. What trend do you see in the data on victimization by gender? Explain this trend.
- d. What trend do you see in the data on victimization by racial group? Explain this trend.



For Your Information . . .

Victims' Rights: Megan's Law as Advocacy

Victims' groups can often be successful in helping to pass legislation that provides protection for particularly vulnerable members of society. For example, in the early 1990s, seven-year-old Megan Kanka was abducted, sexually molested, and murdered by a neighbor who, unknown to her parents, was a convicted sex offender. Following this tragedy, through the advocacy of parent groups and communities, voters across the country began enacting local legislation that would help protect children from sex offenders. Within two years of Megan's abduction and murder, all 50 states and the District of Columbia had passed their own versions of Megan's Law, requiring the registration of all convicted sex offenders in the community. There is also a federal law requiring that each state register sex offenders and make this information available to the public. Ex-offenders have challenged these laws in several states, claiming they are being punished twice for the same offense—once by a term in jail and then



President Clinton signing Megan's Law

again by being listed on these registries. In 2003 the U.S. Supreme Court upheld the Alaska and Connecticut versions of these laws, based on the states' interest in maintaining public safety and because the goal of an offender registry is to inform the community, not to judge an offender as currently dangerous to society.

Preventing and Reporting Crime

As an effective citizen, you can help fight crime by learning how to protect yourself. This means knowing both how to prevent crime and what to do if you are ever a victim of crime. Remember that reporting a crime alerts police and the community, and thus helps to prevent others from becoming victims in the future. To reduce the risk of crime, be sure to take the following steps:

- Report suspicious activity to the police. The police cannot help you if you do not call them.
- Always lock your doors and windows. You can prevent many burglaries by locking up. Also, when at home, do not open the door unless you know who is outside. Cancel newspapers and mail when you are away for an extended period. Do not enter your home if you think someone has broken in. Instead, call police from a neighbor's home.

- Be alert when in high-crime areas such as dark, deserted streets and parking lots.
- Use the “buddy system.” Criminals are less likely to target pairs or groups of people.
- Do not flash money in public.
- If you witness a crime or have been the victim of a crime, stay calm and call the police.
- Try to provide police with as much information as possible. If you can, write down the details of the situation as well as a description of the suspect.
- You may be asked to file a complaint or to testify in court. Your help will assist the police in preventing future crimes in your community.

Crimes of identity theft and consumer fraud are also significant and growing problems. You can learn more about protecting yourself from these crimes in Chapter 10, Crimes Against Property. You will also learn about identity theft and consumer fraud in Unit 4, Consumer and Housing Law.

If You Become a Victim

There are two different views on what to do if you believe you are about to become the victim of a crime. The first theory is that you should not fight back. For property crimes, for example, many believe you should give up the property without objection to reduce your risk of injury. The second theory is that you should resist the assailant. Many advocate learning self-defense techniques to protect yourself in the event of a personal crime. Which course should you follow? Every situation is unique, but your safety should always come first.

Survivors of crime can turn to government and private organizations for assistance. *What are two groups that provide help to survivors of crime?*



If you choose to fight back against the assailant, be prepared to risk injury. Know your own limitations. Not everyone has the strength or size to be able to fight back successfully. If the assailant has a weapon, you should assume it is going to be used.

As a general rule, criminals do not want an audience. If you are able to scream, blow a whistle, or make some other type of noise, do so if you know you will be heard. If you cannot run away, sit down so you will not get knocked down. Finally, call the police as soon as you can. Do not wait! The longer you wait, the more likely it is that the criminal will get away.

Are witnesses to crimes under any obligation to come to the aid of crime victims? Until recently, the legal answer, as opposed to the moral answer, was no. Most states have had Good Samaritan laws that relieve bystanders from most civil liability when they help people in danger, but they have not required bystanders to help. Now, however, several new state laws require witnesses to offer whatever help they can reasonably provide without endangering themselves. In the case of a violent crime, this simply means reporting the crime to the police. In some countries the law requires people to assist others in distress, unless doing so would cause them harm.



For Your Information . . .

Help for Survivors of Crime

Many federal, state, and local governments, as well as private organizations, have established programs to assist survivors of crimes and their families. These programs include counseling and support groups, advocacy initiatives, and financial assistance to families of victims and survivors of crime. Two such groups are the National Center for Victims of Crime and the Office for Victims of Crime.

The National Center for Victims of Crime is a nongovernmental organization that provides local services, crisis intervention, and practical information related to

navigating through the criminal justice system. The organization also provides counseling services. Additional information about the National Center for Victims of Crime and its services can be found online at www.ncvc.org.

The Office for Victims of Crime is a federally administered program that was established by the *Victims of Crime Act of 1984*. It provides a vehicle for policy and legislative initiatives, as well as providing services to victims of crime and their families. The Office for Victims of Crime provides information online at www.ojp.usdoj.gov/ovc.