

Crime

IN CANADIAN SOCIETY

FIFTH EDITION



BERT A. SILVERMAN • JAMES J. TEEVAN • VINCENT F. SACCO

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EDITION

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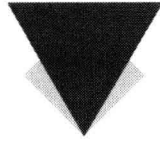
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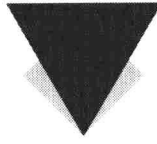
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The first piece in our first edition was by Thorsten Sellin,
who enthusiastically gave us permission to reprint
part of his theoretical work on culture-conflict.
Dr. Sellin was one of the last living founders of contemporary
criminology, and we note his passing
on September 17, 1994
(just short of his 98th birthday) with sadness.
He was a true gentleman and scholar.

For our wives
and our teachers.

PREFACE



The year 1995 marks the twentieth anniversary of the publication of the first edition of *Crime in Canadian Society*. Much has changed in the intervening years in Canadian criminology. The field has blossomed and Canadian researchers have taken their place with the major contributors to the discipline. An analysis of the tables of contents of the four preceding editions tells the story of Canadian criminology — at least to some extent.

That first edition had both American and Canadian contributions, and we had to search hard to include articles that covered all of the main sub-areas of criminology. We had an easier time with each subsequent edition. In fact, in the last two editions there was a plethora of good research articles from which to choose. The second edition (1980) had a balanced coverage and only Canadian-based authors. The same can be said for the third edition (1986), but additionally some very innovative research that was being undertaken in Canada was included. The fourth edition (1991) saw the addition of our third editor (Vincent Sacco) and perhaps the best balance of all. Canadian criminology came into its own, and major theoretical and empirical contributions were represented. The fourth edition also introduced readers to the new Uniform Crime Reporting techniques, just being implemented as the book went to press. The current edition again contains examples of the very high quality of work being done in Canadian criminology. For us, the fifth edition also marks a major change — the book, which has appeared through

four editions with a Butterworths imprint, has become a Harcourt Brace title. We are quite pleased with this new association.

There has been little overlap in the articles between editions. In fact, this edition contains only two articles that appeared previously. As a matter of interest, only one author has appeared in every edition — John Hagan. His first article, in the first edition, illustrated his potential as a young scholar. His pieces in the last two volumes have been major theoretical contributions.

Like its predecessors, the fifth edition is designed to introduce students to the field of criminology. The organization of the book is more or less the same, but there have been revisions to the essays that introduce each section and, as noted, to the choice of articles. In spite of the changes, the focus of the book remains sociological, and it will probably fit best into criminology courses in which that approach dominates.

The introductions to the first three sections familiarize students with the major topics in criminology: the law, measurement of crime, and theories of crime. They have been rewritten to reflect changes in the academic discipline of criminology and to the criminal justice system that have occurred since the last edition. For instance, a new defence for the crime of murder has been permitted since the last edition. This is reported in an excerpt from *Deadly Deeds* by Silverman and Kennedy. Further, changes have been made to the way in which crime is reported. As noted, this had just begun as the fourth edition went to press. Now we

report on the impact of those changes in Part 2. Also, one of the most recent contributions to explanations of criminality — the general theory of crime — is presented in both the introduction to Part 3 and in one of the readings. The readings throughout are chosen to illustrate the points made in the introductions. Students are offered a chance to examine the results of original Canadian research. The topics span the range of crime from murder, to drug violations, to the dealings of organized crime and the scope of corporate crime.

Definitions of crime and delinquency are the subject of the first part of the book. Students will learn that defining crime is not as easy as it seems. There is controversy and conflict in attempts to define crime and criminality. There are a variety of definitions of crime, all of which serious students should be aware. Along with the introduction, the readings illustrate how different orientations lead to different definitions. Examples of recent changes in the law are also discussed in this section.

Part 2 is about measuring crime — trying to find out how much of each type of crime is happening in Canada. This too is not as easy a task as it may first seem. Through the introduction and readings, students are shown the problems with current data collection techniques and are introduced to alternative measures and to the new system that was initiated by Statistics Canada in the late 1980s. The readings show how different measurement techniques produce different information.

Part 3 introduces the student to contemporary explanations of crime causation. The major theories currently being discussed by sociologists are presented. The readings include original theory generated in Canada (power-control theory) as well as research showing the application and testing of particular theories.

Part 4 examines “Crime and Criminals: Selected Research.” The name fits the array of research presented. This section represents real change from previous editions as we have relied on several experts in the field to report either their own research or to write an overview of the research of

others on particular topics. This very rich selection of articles will be of interest to readers who wish to learn about various aspects of crime and criminality in Canada. Corporate crime, organized crime, killing by children, and car theft illustrate the scope of the section. Of special interest will be the pieces about issues of gender and crime, violence against women, aboriginal involvement in crime, and the controversial topic of ethnicity, immigration, and crime.

Our goal in compiling this book has been to update our overview of Canadian criminology. It presents data on some very contemporary topics as well as some more traditional approaches to the field. This edition and its precursors, however, represent a particular orientation to criminology — we do not try to cover everything in depth, but we believe we present a fair overview of the field as it exists. It is our hope that the student/reader will gain a great deal from the present volume and that it will stimulate further exploration of this challenging discipline.

ACKNOWLEDGEMENTS

Many people participated directly and indirectly in making this revision possible. As with the four earlier editions, we would like to thank our colleagues across the country for responding to our call for Canadian criminological research. Much of the book is composed of materials we received from that solicitation. We are sorry that space limitations made it impossible to include more of this excellent work. Also included in this edition are several articles written especially for us. We are most grateful to these contributors.

We would like to thank those colleagues who provided comments and criticisms of the earlier editions, including Chris McCormick of Saint Mary's University, Bernard Schissel at the University of Saskatchewan, and Norman Okihiro of Mount Saint Vincent University. Harcourt Brace conducted reviews of the last edition, and we have attempted to respond to any concerns expressed by those who adopted the book in their courses. At

Harcourt Brace, Dan Brooks has encouraged us throughout this project. We are grateful for his interest. Megan Mueller was our main contact on this project, and she always provided prompt, efficient advice and help. Sheila Barry and Wayne Herrington did a splendid job in taking the manuscript through to completion.

The University of Alberta, Queen's University, the University of Western Ontario, and Northern Arizona University provided the facilities and needed environment for the completion of our tasks. Indirect support was obtained from the Contributions Grant of the Solicitor General of Canada through the Centre for Criminological Research at the University of Alberta. Vince Sacco would like to thank his friends and colleagues at Queen's University for their support and advice. A special debt is owed to Wilma Bauder and Joan Westenhaefer who greatly facilitated his work on the manuscript. Bob Silverman's work on the book was completed in Flagstaff, at Northern Arizona University (at the end of an administrative leave). The atmosphere provided by the Chair, Ray Michalowski, and the help of Arlene Bauer were greatly appreciated.

Most of the work on this book took place "long distance" through the use of electronic mail, regular mail (when we had lots of time), fax, courier services, and telephone. However, as we neared the end of our respective tasks, one intense meeting was necessary to make the toughest decisions and to put the book together in a way that will best serve readers. That meeting took place in Toronto in June 1994. We owe a special thanks to Sid and Rose Silverman who provided a place to work and nourishment while we hashed out disagreements and decided on the final composition of this volume.

Our wives Elaine, Bonnie, and Tiia have provided support and encouragement throughout. A special thank you is extended to Katherin and Daniel Sacco (who have moved on to *The Naked*

and the Dead and the "X-Men," respectively) for allowing their father once again to get some work done.

We are grateful to all of those who contributed directly or indirectly. As we said last time, with three editors, each of us can say that all errors of omission or commission are someone else's fault.

ROBERT A. SILVERMAN
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Test Bank

A test bank containing about 25 test items for each chapter is available to instructors. The editors would like to thank Teresa C. LaGrange for compiling the test bank.

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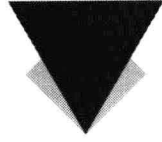
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A Note from the Publisher

Thank you for selecting *Crime in Canadian Society*, Fifth Edition, by Robert A. Silverman, James J. Teevan, and Vincent F. Sacco.

We want to hear what you think about *Crime in Canadian Society*. Please take a few minutes to fill in the stamped reader reply card at the back of the book. Your comments and suggestions will be valuable to us as we prepare new editions and other books.

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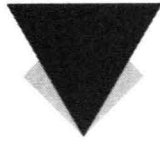
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PART

1

Definitions of Crime and Delinquency

Introduction

Everyone knows what crime is, or so it seems. Crime is, after all, a “hot” topic. The mass media often report to us on the sorry state of Canada by telling us how much crime and violence there is here. People discuss their fears of becoming victims of crime, especially those who live in large cities, and then take protective measures (cf. Hagan, 1992; Sacco and Johnson, 1990). Crime is cocktail conversation. Crime is the subject of social surveys. Crime is a political issue. But what exactly is crime? Crime, in fact, is different things to different people. Sorting out the various definitions of crime is the subject of this section of the book.

LAY DEFINITIONS OF CRIME

Generally, the legal bureaucracy and the average citizen agree on the acts to be labelled crimes. Murder is a crime, as is shoplifting, arson, robbery, fraud, and break and enter. In some instances, however, citizens define acts as criminal when legally they are not. This is apparent in casual conversation when individuals refer to general social ills as crimes. The price of housing, the change in the value of the dollar, the disrespect of youth, or anti-monarchist sentiment (none of which is a *legally* defined crime) may thus be defined as crimes by some people. Even more serious examples such as emotional neglect and psychological abuse of children, spouses, or the elderly are generally not criminal matters. For most people, this process of making crime roughly equal to what they consider bad in their society is not an important error (indeed, many are aware that it is wrong), and is

certainly quite acceptable in an informal context. For a scientific study of crime, however, the inclusion of the bad or immoral, but not illegal, would make the boundaries of criminology very vague and its content almost limitless. For these and other reasons, most criminologists reject such popular definitions of crime.

On the other hand, there are many instances in which crimes legally have occurred but the individuals involved — victim, offender, or both — do not define the act as criminal. Sometimes this is due to ignorance of the law. Nettler (1984: 2) argued, for instance, that the general public is often unaware of the broad extent of the criminal law and has a narrower definition of crime than is legally the case. It is a Criminal Code offence, for example, to give trading stamps to purchasers of goods in Canada (Section 427), or even to *offer* to transport someone to a common bawdy house (Section 211), but few Canadians would be aware of these crimes.

In other instances, it is more disagreement than ignorance, as when people say that what occurred is “no big deal,” that no real crime occurred. Until recently, much spousal abuse fell into this category (see Lupri, Grandin, and Brinkerhoff in this volume). In practice, the definition of acts as crimes often depends on the perceptions of the actors involved, how they define the behaviours that have occurred. For example, when one individual strikes another without consent, legally an assault may have occurred. But suppose it was in fun, as a result of a playful struggle? Most people experience an

assault in fun at some time in their lives. The pushing and shoving of children, considered to be a normal part of growing up, is just one example. Among adults as well, and not only when playing hockey and other sports, one finds the equivalents of pushing and shoving matches, little of which is defined as criminal. Even if the force used is excessive and injures one of the participants, the injury is often defined as accidental. The context is thus crucial.

Similarly, some assaults may be considered a part of daily life, and not a crime, by some segments of our society. Hitting an individual, for example, may be viewed as a legitimate way of settling a dispute in some subcultures in Canada today. If both parties agree to this solution, then neither will define the act involved as criminal. Neither will call the police, and the argument will be settled.

Suppose, however, that one of the participants does not believe that a fight is an acceptable way to solve a dispute. Or suppose someone is hit, not by a friend or acquaintance, but instead by a stranger. In such a case, the individual may indeed define the event as a crime and call the police. In this instance, an assault as defined by the Criminal Code of Canada (Section 265) may have been committed, not because the act was different, but because it was *defined* differently. The attacker may even be arrested and prosecuted. Thus the same use of force may or may not be a crime depending upon the context and upon the actors', especially the victims', perceptions of the situation.

One final example may help to illustrate some of the problems in utilizing popular definitions of crime. The public and the mass media both refer to the crime of rape and assume that it occurs with some frequency in this country. The action involved, according to common knowledge, involves forcible sexual intercourse, a man forcing a woman (or less frequently another man) to engage in sexual behaviour including penetration. The behaviour in question is apparently quite clear: it involves force and sexual relations. But "rape" is not a crime in Canada, the sections of the Criminal

Code dealing with rape having been repealed and replaced in a process begun in 1980. The activities just described are now found under the general heading of *assault* and are specified as sexual assault (Section 271); sexual assault with a weapon, threats to a third party, or causing bodily harm (Section 272); or aggravated sexual assault (Section 273). The sexual aspect has been downplayed — even penetration is no longer a requirement in the definition of the crime — and the physical harm emphasized (cf. Hinch, 1988). Changing the crime to assault shifted the focus away from the end sought (sexual activity) to the force used, and thus sexual assault joined a punch or slap to the face, a knife to the stomach, or a kick to the groin as assaults to the body.¹ So dramatic was the change in definition that in fact the term "rape" does not even appear in the index to Carswell's 1994 *Pocket Criminal Code*. Thus, while many Canadians (including some journalists) call the event previously described a "rape," legally, in Canada, no crime of "rape" exists.

Most criminologists avoid lay definitions, preferring the more precise legal definitions, discussed later in this section, of their subject matter. One of the major reasons for using the legal definition is pragmatic. As the reader will see in Part 2 of this book, most crime data are based on legal definitions of crime (as modified by the various actors in the criminal justice system), and most of the theories about crime presented in Part 3 in turn are tested using these data. For consistency, therefore, in most instances we will use legal definitions of crime.

A SOCIOLOGICAL DEFINITION

For sociologists, crimes are a part of a more general category called *deviance* (see Sacco, 1992) and involve the violation of *norms* — social rules that attempt to regulate behaviour and tell people what to do and what not to do in various situations. These rules are passed on to children in a society in a process called socialization and may vary both over time and across different societies. For example, in traditional Inuit culture, infanticide and abandoning the elderly to starve to death were not

condemned, but were accepted as means to protect a limited food supply (cf. Edgerton, 1985). In the rest of Canada, strict norms would have prohibited such behaviour. While some societies do not permit the eating of pork, for others no beef is allowed, and most groups prohibit cannibalism, although there have existed societies that allowed the practice. The point of these examples is that definitions of deviance are specific to time, place, and circumstances.

Deviance also generally involves, besides the violation of a norm, the possibility of punishment and the existence of a group that would want to punish the violation. One measure of how strongly a society feels about its various norms is the punishment or sanction it applies to those who violate them. Since norms range from the important and binding (thou shalt not kill) to the less important and optional (standing when greeting an older person), one would expect different types of reaction to those who violate them. Breaking even the most minor norm usually results in some type of reaction, although it may be insignificant in terms of punishment. For example, walking down a street has many behavioural requirements that one rarely thinks of as norms. As you approach another individual coming toward you, you must avert your eyes at a certain point. If you stare, you have violated a norm, and the reaction to the violation may be anything — from nothing, to the other individual staring back, to the verbal challenge, “What are you looking at?” These less severely sanctioned norms are called *folkways*. Those norms whose infractions carry more serious punishments are called *mores*. Their violations are seen as more threatening and harmful to society. Most crimes are violations of mores. Although most criminal laws (for example, those prohibiting sexual assault and theft) are mores, not all mores are laws. For a large part of our society, mores include the permanence of marriage, heterosexuality, and eventually having children. Divorce, homosexuality, and childlessness are not, however, crimes in Canada.

While there have been many attempts to summarize the sociological notion of crime, one of the

best is still Gillin's (1945: 9; cf. Heidensohn, 1990: 3) classic statement that crime is

... an act that has been shown to be actually harmful to society, or that is *believed* to be socially harmful by a group of people that has the power to enforce its belief and that places such an act under the ban of positive penalties.

Gillin's definition includes the ideas that the harm involved can be a constructed (believed) harm and that power determines what will be defined as criminal. That last point is the subject of the next section.

CONFLICT VERSUS CONSENSUS DEFINITIONS

Durkheim, one of the founders of sociology, argued that a crime is a violation of a widely held societal norm or value, an act that attacks what he called the *collective conscience* of a society (1964: 79). Everyone is outraged by crime because disobeying rules weakens and attacks the very basis of society. This definition of crime assumes that the criminal law arises out of consensus, out of commonly agreed upon norms and values. Thus, since all or most people would agree that murder, arson, and theft are serious threats to individuals and to society, these acts are defined as crimes.

For conflict theorists, on the other hand, the law is a tool, part of the superstructure of institutions created by the ruling class to serve itself. The law, instead of arising from consensus and providing justice for all, is in reality a weapon of oppression. Conflict theorists disagree on the role played by the capitalist class in this process, whether it shares its power with other power groups (sometimes called *moral entrepreneurs*) or by and large controls by itself the enactment of laws (cf. Turk, 1993), but they do agree that conflict and power determine the law, not consensus (cf. Young and Matthews, 1992).

Very few sociologists take either of these two extreme positions. Underneath consensus there is