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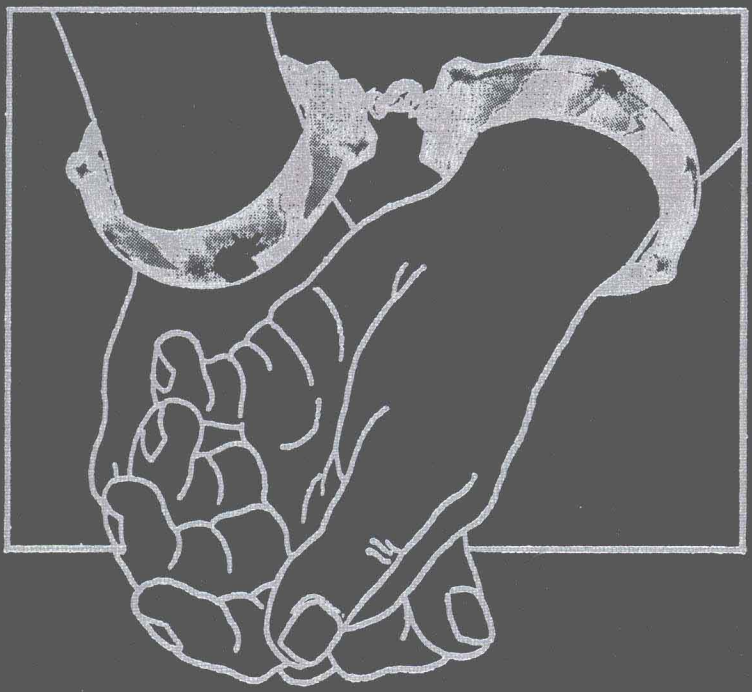

PRINCIPLES OF CRIMINOLOGY

ELEVENTH EDITION

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Eleventh Edition

the late
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the late
Donald R. Cressey
and
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Publishers
5 Talon Way
Dix Hills, New York 11746

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Publisher: Ravi Mehra
Composition: *Graphics Division,* General Hall, Inc.

LIBRARY OF CONGRESS CATALOG CARD NUMBER: **91–75943**

ISBN:**0–930390–69–5 [paper]**
0–930390–70–9 [cloth]

Manufactured in the United States of America

PREFACE

In his Preface to the fourth edition of this book, Professor Sutherland observed: "Much factual information regarding crime has been accumulated over several generations. In spite of this, criminology lacks full scientific standing. The defects of criminology consist principally of the failure to integrate this factual information into consistent and valid general propositions." As in the earlier editions, the first of which appeared in 1924, the eleventh edition attempts to correct some of these defects. *Principles of Criminology* has always been designed to place emphasis on the organization and systematization of knowledge, and this edition adheres to that tradition.

Part One examines facts of crime and delinquency and relates them to Sutherland's theories of differential association and differential social organization. The factual data examined include variations of crime and delinquency rates with age, sex, race, socioeconomic status, education, and other variables, as well as the incidence among criminals and delinquents of various physical, psychological, and social characteristics and processes. Differential association theory and alternative theories of crime causation are evaluated in the light of their comparative capacity to "make sense" of the facts.

Part Two examines facts regarding the control of crime and delinquency and relates them to sociological and psychological theories of punishment and intervention as well as to differential association and differential social organization theories. Corporal punishment, imprisonment, probation, and group therapy, for example, are identified as societal reactions to crime, variations in these reactions are observed, and theories attempting to account for the variations are presented. The conflict between punishment and treatment of criminals is documented, and the consequences of this conflict for the organization and operation of police, courts, probation departments, parole agencies, and prisons are examined. The implications of differential association and differential social organization theories for correctional administration and for the reformation of criminals are explored.

The eleventh edition has been thoroughly revised. Two new chapters dealing with current developments in the field have been prepared. New sections have been added to fifteen chapters, and dated sections have been dropped from eight. Key concepts and ideas have been developed in virtually every chapter. Statistics on crime and criminal justice have been updated, and changes in criminal justice policies and programs have been reviewed. In effect, serious efforts have been made to modernize this edition.

I owe a large debt to many colleagues and friends. I want to thank Joel Best, Dan Doyle, Jim Massey, Ross Matsueda, and Jim Thomas for reading various sections of the manuscript and providing sound, constructive advice. I want to thank Flora Foss for editing the manuscript and Delores Jones for typing it. I also want to thank Dede Boden, Paul Colomy, Elaine Cressey, Dorothy Luckenbill, and Doug Maynard for their encour-

agement and support. Finally, I want to thank my wife and son for helping me weather an eight-year ordeal.

Contents

PART ONE

THE STUDY OF CRIME AND DELINQUENCY

Chapter 1 CRIMINOLOGY AND CRIMINAL LAW

Criminology is the body of knowledge regarding crime and delinquency as social phenomena. It includes within its scope the processes of making laws, breaking laws, and reacting to the breaking of laws. These processes are three aspects of a somewhat unified sequence of interactions: Certain acts regarded as undesirable are defined by the political society as crimes. In spite of this definition, some people persist in that behavior and thus commit crimes. The political society then reacts by punishment, intervention, and prevention. This sequence of interactions is the subject matter of criminology.

Criminology has three interrelated divisions which focus on the processes of lawmaking, lawbreaking, and reaction to lawbreaking:

1. The sociology of criminal law—an attempt to analyze systematically the conditions under which penal laws develop and to explain variations in the policies and procedures used in police departments and courts.

2. The sociology of crime and the social psychology of criminal behavior—an attempt to analyze systematically the economic, political, and social conditions in which crime and criminality are generated or prevented.

3. The sociology of punishment and correction—an attempt to analyze systematically the policies and procedures for controlling the incidence of crime.

The scholarly objective of criminology is the development of a body of knowledge regarding these three processes.

Much of this body of knowledge comes from observations of the success or failure of practical efforts to reduce the incidence of crime. This kind of knowledge contributes to the development of other social sciences, and thus it contributes to an understanding of social behavior. But if practical programs had to wait until theoretical knowledge were complete, they would wait for eternity, because theoretical knowledge is increased most significantly by determining why some practical programs work while others do not, and by observing that some programs have undesirable and unanticipated consequences. John Dewey's (1931) comments on the relationship between knowledge and practice are instructive in this regard:

> It is a complete error to suppose that efforts at social control depend upon the prior existence of a social science. The reverse is the case. The building up of social science, that is, of a body of knowledge in which facts are ascertained in their significant relations, is dependent upon putting social planning into effect.... Physical science did not develop because inquirers piled up a mass of facts about observed phenomena. It came into being when men intentionally experimented, on the basis of ideas and hypotheses, with observed phenomena to modify them and disclose new observations. This process is self-corrective and self-developing. Imperfect and even wrong

> hypotheses, when *acted upon*, brought to light significant phenomena which made improved ideas and improved experimentations possible. The change from a passive and accumulative attitude into an active and productive one is the secret revealed by the progress of physical inquiry. (pp. 276-77, emphasis in original)

While experimentation may increase theoretical knowledge and thereby contribute to ultimate improvements in policies, it is unnecessarily wasteful if it is not directed by the best-organized and most critical thought available. Moreover, experimentation with humans poses grave ethical problems, even when directed by organized, critical thought. The average citizen is confronted with a confusing and conflicting complex of popular beliefs about crime and programs for controlling it. Some of these beliefs are traditions from eighteenth-century philosophy; some are promulgations of special-interest groups; and some are emotional reactions. Organized, critical thinking in this field is therefore peculiarly difficult but peculiarly necessary.

CONVENTIONAL DEFINITIONS OF CRIME AND THE CRIMINAL LAW

Crime is behavior in violation of a criminal law. No matter how immoral, reprehensible, or indecent an act may be, it is not a criminal act unless it is outlawed by the state. The criminal law is a list of specific forms of human conduct that have been outlawed by political authority, which applies uniformly to all persons living under that authority, and which is enforced by punishment administered by the state.

Characteristics of the Criminal Law

The characteristics that distinguish the criminal law from other sets of rules regarding human conduct are politicality, specificity, uniformity, and penal sanction. However, these are characteristics of an ideal and completely rational system of criminal law. In reality, the differences between the criminal law and other sets of rules for human conduct are not distinct. Moreover, the ideal characteristics of the criminal law are rarely features of the criminal law in action.

Politicality is regarded almost universally as a necessary element of criminal law. Only violations of rules made by the state are crimes. The rules of a trade union, church, or family are not criminal laws, and violations of these rules are not crimes. However, this distinction between the state and other rule-making groups is an arbitrary one. It is difficult to maintain when attention is turned to societies with forerunners of legislative justice such as patriarchal power, private self-help, and popular justice. The gypsies, for example, have no territorial organization and no written law, but they do have customs, taboos, and semijudicial councils which render decisions on the propriety of members' behavior and often impose penalties. While these councils have no political authority in the territory in which they operate, they perform the same function within the gypsy group that courts perform in the political order (see Clebert 1963, pp. 123-33). Early Chinese

immigrants in Chicago established an unofficial court which had no political authority but which, in practice, exercised the functions of an authorized court in controversies among the immigrants. Similarly, a mafia family, a labor union, and a university student association all have their own legislative and judicial systems for administering the functional equivalent of the criminal law among their members (see Cressey 1969, pp. 162-220). The element of politicality, therefore, is arbitrary and not sharply defined.

Specificity is an element which distinguishes criminal law from civil law. The civil law may be quite general. An old German civil code, for example, provided that whoever intentionally injured another person in a manner contrary to the common standards of right conduct was bound to indemnify the injured party. The criminal law, in contrast, generally gives a strict definition of a specific act, and when there is doubt as to whether the definition describes the behavior of a defendant, the judge is obligated to decide in favor of the defendant. In *McBoyle* v. *United States* (1931), for example, the behavior of a person who had made off with an airplane was held to be exempt from punishment for violating a statute regarding the taking of "self-propelled vehicles," on the grounds that at the time the law was enacted "vehicles" did not include airplanes. To be sure, some criminal laws, such as those regarding nuisances, conspiracy, disorderly conduct, and official misfeasance, are quite general. But there is no general provision in the criminal law that any act which is performed with culpable intent and injures the public can be prosecuted as a punishable offense. In fact, it frequently happens that one act is prohibited by law, while another act that is very similar in nature and effects is not.

Uniformity is an element of criminal law because law attempts to provide evenhanded justice without respect to persons. This means that no exceptions are to be made to criminal liability because of a person's social status. An act described as a crime is crime, no matter who performs it. Uniformity also means that the law-enforcement process is to be administered without regard for the status of the persons who have committed crimes or are accused of committing them. This ideal is rarely followed in practice, in part because it results in injustices. Rigid rule is softened by the discretion of police and judicial authorities. The principle of uniformity demands, for example, that all armed robbers are to be treated exactly alike, but police officers, judges, and others take into account the circumstances of each robbery and the personal characteristics of each offender. This practice is called *individualization*. Such use of discretion is not unlike equity, a body of rules which supplements law and which developed as a method of doing justice in situations where ironclad regularity would not do justice. In criminal law matters, legislators have conferred on judges and administrative bodies the authority to set a sentence after taking individual characteristics into account. Accordingly, much of what happens to a person accused of crime is determined in a process of negotiation about just what the law is and how or whether it should be applied (see Rosett and Cressey 1976).

Penal sanction, as an element of criminal law, refers to the notion that violators will be punished or at least threatened with punishment by the state. Punishment under the law differs from punishment imposed by a mob in that the legal penalty is supposed to be applied decently and dispassionately by representatives of the state. A law that does not provide a penalty designed to cause suffering is impotent; in fact, it is not a criminal law. But the punishment provided by a criminal law may be very slight. In the courts of honor, for example, a verdict was reached, a party was declared guilty, and the disgrace of the

declaration of guilt was the only punishment. In view of the difficulty of identifying the criminal law of nonliterate societies, where the institution of the state is not obvious, the suggestion has been made that the penal sanction is the only essential element in the definition of criminal law, and that wherever a society's rulers enforce proscriptions by a penal sanction, criminal law exists. This is in contrast to tort law, where the court orders defendants to reimburse plaintiffs but does not punish them for damaging the plaintiffs.

The punitive aspect of criminal law has been supplemented by attempts to discover and use methods that are effective in reducing crime and forestalling criminality, whether they are punitive or not. Juvenile courts, for example, do not in theory determine the guilt or innocence of defendants and punish those who are guilty; they merely act on behalf of children who are in need of help. In practice, however, most delinquent offenses are acts that would be crimes if committed by adults. Juvenile court procedures represent an attempt to avoid the labeling of children as "criminals," but they do not exempt juveniles from responsibility for acts that would be crimes if committed by adults. As a consequence, juvenile delinquencies continue to be punishable by law, even if the punishment is kept in the background. Similarly, the states and the federal government have enacted thousands of administrative laws to regulate manufacturing, commerce, agriculture, and other industries. The persons affected by such laws are respectable and powerful, and the legislatures have adapted criminal law procedures to their status. Violations of these laws are generally handled in civil courts or administrative commissions, often with injunctions and cease-and-desist orders. The conventional penalties of fines and imprisonment are used mostly as a last resort. Thus persons of social importance often avoid the label of "criminal," just as, to a lesser degree, juvenile delinquents do. Yet violations of administrative laws are essentially crimes, for they are punishable by law (see Blum-West and Carter 1983; Sutherland 1983, pp. 45-62).

In the conventional view, a crime is an offense against the state, while a tort is an offense against an individual. A particular act may be regarded as an offense against both an individual and the state, and it is either a tort or a crime or both, depending on the way it is handled. A man who has committed an assault, for example, may be ordered by a civil court to pay the victim a sum of $500 for damages to the victim's interests, and he also may be required by a criminal court to pay a fine of $500 to the state. While the payment of the first $500 is not punishment, the payment of the second $500 is. The indefinite nature of the distinction between torts and crimes is apparent when the victim of an act which is both a tort and a crime employs the criminal law as a method of forcing restitution that could not be secured with equal facility in the civil courts. The distinction between individual damage and social harm is difficult to make in the legal system of a nonliterate society, where court procedures are relatively informal. Even in a modern society, the distinction is dubious, for it rests on the assumption that "individual" and "group" or "state" are mutually exclusive. For practical purposes, the individual is dealt with as an autonomous being, but in fact an act that harms an individual also harms the group of which the victim is a part.

Characteristics of Crime

The rules of criminal law contain only definitions of specific crimes, such as rape, robbery, and burglary. Nevertheless, legal scholars have been able to derive from such definitions certain general principles that are said to apply to all crimes. These are the criteria ideally used in determining whether or not any particular behavior is criminal. They are consistent with the ideal characteristics of criminal law (politicality, specificity, uniformity, and penal sanction), and they may be viewed as translations of these characteristics into statements of the ideal characteristics of all crimes. The concern is not with determination of the characteristics of a body of rules but with determination of the general characteristics of the many specific acts described in those rules. For example, penal sanction is a general characteristic of criminal law, and liability to legally prescribed punishment is a characteristic of all acts or omissions properly called crimes.

An extensive analysis of crimes by Jerome Hall (1960, pp. 14-26) has resulted in a description of seven interrelated and overlapping characteristics or differentiae of crime. Ideally, behavior would not be called crime unless all seven were present. The following description of these differentiae is greatly simplified.

First, the behavior must have certain external consequences called *harm*. A crime must have some harmful impact on social interests; a mental or emotional state is not enough. If a woman decides to commit a crime but changes her mind before she does anything about it, she has committed no crime. The intention is not taken for the deed.

Second, the harm must be *outlawed*. Engaging in immoral or reprehensible behavior is not crime unless the behavior has been specifically outlawed in advance. Criminal law does not have a retroactive effect. There is a long-standing tradition against the enactment of ex post facto legislation.

Third, there must be *conduct*. That is, there must be an intentional or reckless act or omission which produces the harmful consequences. A man who is physically forced to pull the trigger of a gun does not commit murder, even if the bullet causes someone's death.

Fourth, there must be *criminal intent*, or *mens rea*. Hall (1960, pp. 84-93) suggested that legal scholars have often confused intentionality (deliberate functioning to reach a goal) and motivation (the reasons or grounds for seeking the goal). *Mens rea* is identified with the former but not with the latter. The "motive" for a crime might be "good," but the intention might be to effect an outlawed harm, a criminal intent. Thus if a woman decides to kill her starving children because she believes they will pass on to a better world, her motive is good but her intent is criminal. Individuals who are insane at the time they perpetrate legally forbidden harms do not commit crimes, for the necessary *mens rea* is not present.

Fifth, there must be a fusion or *concurrence* of *mens rea* and conduct. This means, for example, that a police officer who enters a house to make an arrest and who then commits a crime while still in the house after making the arrest cannot be considered a trespasser from the beginning. The criminal intent and the conduct do not fuse or concur.

Sixth, there must be a *causal relation* between the voluntary misconduct and the outlawed harm. The conduct of a person who fails to file an income tax form is failure to pick up a pen, fill out the form, and so on. The harm is the absence of a filled-out form in

the tax collector's office. In this case, the causal relation between the two obviously is present. On the other hand, if one person shot another and the victim suffocates while in a hospital recovering from the wound, the relationship between conduct and harm (death) is problematic.

Seventh, there must be legally prescribed *punishment.* Not only must the harm be identified and announced in advance, but the announcement also must carry a threat of punishment to violators. The voluntary conduct must be punishable by law.

There are exceptions to the generalization that these are the elements of all crimes. Since criminal law theory is not a body of precise principles, there are deviations from that which is logical and ideal. Moreover, the criminal law in principle differs from the criminal law in action. Three major exceptions to the above characteristics are considered here.

First, criminal intent need not be present for some crimes. In so-called "strict-liability" cases, the offender's intent is not considered. Individuals are held responsible for the results of their conduct, regardless of their intentions. The handling of statutory rape is a case in point. No matter how elaborate the inquiries a man makes in reaching the conclusion that a female companion is above the age of consent, if he has sexual relations with her and it is later shown that she was below that age, he has committed statutory rape. Certain offenses against the public welfare, such as traffic violations and the selling of adulterated food, are handled under the same rule. Similarly, under the "felony-murder/misdemeanor-manslaughter doctrine," defendants are held criminally liable for more serious offenses than they may have intended to commit. If a person sets fire to a building (a felony) and a fire fighter dies trying to extinguish it, the offender is liable for murder. If the offense had been a misdemeanor rather than a felony, the offender would be liable for manslaughter.

Hall severely criticized this doctrine and the general conception of strict liability in criminal law. He contends that it is "bad law," stating that "there is no avoiding the conclusion that strict liability cannot be brought within the scope of penal law" (1960, p. 336). There is a behavioristic school in jurisprudence, however, which insists that the intent can be determined only by the circumstances of the act, and that a translation of these circumstances into mental terms confuses the procedure. It contends that the principle of *mens rea* should be greatly modified or even abandoned (Holmes 1923, pp. 39-76). In criminology, the inclusion of unintended behavior in the concept of crime makes general theoretical explanation of all crime extremely difficult. No current theoretical explanation of criminal behavior can account for strict-liability offenses.

Second, motive and intention are confused in many court decisions. In the crime of libel, for example, motive is explicitly considered. In many states, one cannot publish truthful but damaging statements about another unless the motive for such publication is good. Similarly, criminal conspiracy frequently involves consideration and evaluation of a defendant's motives as well as intention. In most instances, however, motivation is taken into account only in the *administration* of criminal law, particularly in deciding the severity of the punishment that a criminal should receive.

Third, the criminal law in action is quite different from the criminal law discussed and analyzed by legal scholars. The vast majority of the rules that define behavior as criminal are found in constitutions, treaties, common law, legislative enactments, and judicial and

administrative regulations. However, the criminal law is not merely a collection of formal, written rules. The law enforcement agencies, along with the lawmaking bodies, determine what the law is. Both the techniques used by legal agents in interpreting and applying the statutes and the body of ideals held by them are a part of the law in action, as truly as are the written laws. Thus legal agents do not simply apply the formal rules. Indeed, some statutes are never enforced; others are enforced only on rare occasions; still others are enforced with a striking disregard for uniformity. As a consequence, the law often changes while the statutes remain the same.

There are many reasons for the difference between the law in action and the law on the books. Shifts in public opinion and budget allocations, for example, influence what statutes agencies enforce and how diligently they are enforced. A more significant reason resides in the inherent ambiguity of the written law. In reality every criminal law is vague, despite the fact that each appears to be precise and rigorous in its definition of what is outlawed. Criminal laws and the elements of each crime are necessarily stated in general terms. No lawmaking body, far removed from actual behavior on the street, can say precisely what it wants outlawed and made punishable by law. One form of burglary, for example, is breaking into and entering the residence of another at night with intent to commit a felony. Each of the essentials—breaking, entering, residence, night, intent, and felony—is a legal element of the crime of burglary. Each of the essentials also seems to be a precise and specific version of one or more of the seven characteristics of crime described above. However, not one of the essentials of burglary refers to anything real, in the way that *cat* refers to something real. Consequently, police officers, prosecutors, defense attorneys, judges, and others must decide whether or not a specific incident is *close enough* to what the burglary statute seems to outlaw. When an incident looks something like a burglary, these legal agents must ask, "With what intent did John Doe enter the house on the night of the entry?" In most cases, the correct answer is, "No one knows." Nevertheless, legal agents must answer the question in black-or-white terms—either John Doe had criminal intent, or he did not. They also must decide other issues in the either-or terms of criminal law, even if the elements are quite vague. For example, "night" differs from "day" only in degree, but the written law does not provide for the decision as to whether conduct, harm, and *mens rea* occurring together at daybreak or in the early evening constitute burglary. More generally, the legal institution requires that each suspect and defendant be found either guilty or not guilty. It does not acknowledge the commonsense notion that some criminals are a little bit guilty while others are very guilty. Under the law in action, however, suspects and defendants are in effect held to be "guilty enough" or "not guilty enough."

Legal agents give concrete reality to law on the books by inserting folk knowledge and common sense into it. They make law by giving meaning to statutes through "playing it by ear"—deciding that a specific incident does or does not resemble what the stated law seems to outlaw (see Rosett and Cressey 1976). For example, even a specific case involving all of the elements of burglary is not necessarily a burglary in a literal sense. Instead, it might be considered a burglary *for all practical purposes*; or it might be considered no crime at all because it does not seem to resemble closely enough, *for all practical purposes,* what the law on the books says burglary is. When Oliver Wendell Holmes (1923, pp. 1, 35-38) said that judges make law rather than use it, he was referring

to their practice of selecting appropriate law to cite as justification for the decisions they have reached. As police officers, prosecutors, and defense lawyers "play it by ear," they also decide that a case is or is not a specific crime and then find written law to support that decision.

There is, then, a fusion of criminal law ("Is the suspect guilty of burglary?") and administration of criminal law ("What, if anything, should the state do with this person?"). For instance, whether or not a man is guilty of burglary depends, in part, on whether an official thinks he should be sent to jail or prison or sent home. If the decision is to send the man home, then the elements of burglary will not be found in his case. The outcome of this decision-making process is a law in action that is more just than literal enforcement of criminal statutes would be. On the other hand, the same law also can make the conduct of a "bad guy" (for example, a young, tough male with a prior criminal record) a burglary and the conduct of a "good guy" (for example, a middle-aged, middle-class, well-mannered male) a mere case of trespassing or no crime at all.

CRIME AND THE CRIMINAL

The preceding treatment ignores some additional complexities of crime. Crime is relative, and it is diverse, encompassing many kinds of activities. Moreover, the imprecision of the written law makes it difficult to identify the criminal and to specify the length of time a person remains a criminal.

The Relativity of Crime

Crime is relative, for the criminal law has had a constantly changing character. Many present laws, such as those regulating traffic, manufacturing, and broadcasting, were unknown to earlier generations, and activities that formerly were crimes are currently ignored or tolerated by law. In earlier times and different places, such activities as printing a book, professing the medical doctrine of circulation of the blood, driving with reins, using tobacco, ether, or coffee, selling coins to foreigners, keeping gold in the house, buying goods on the way to market for the purpose of selling them at a higher price, and writing a check for less than one dollar were crimes. During Iceland's Viking era, it was a crime for an individual to write verses about another, even to express a complimentary sentiment, if the verses were longer than four stanzas. A Prussian law of 1784 prohibited mothers and nurses from taking children under 2 years of age into their beds. In fourteenth-century England, free common villagers were not allowed to send their sons to school, and no one lower in status than a freeholder was allowed by law to keep a dog. In the American colonies, many religious offenses were crimes. In Massachusetts, for example, the majority of all criminal prosecutions involved what Blackstone called "offenses against God and religion," such as missing church, working or traveling on Sunday, blasphemy, and profanity (Nelson 1975, pp. 37-38).

Laws also differ among jurisdictions at a particular time. In the United States, the laws of some states require automobile owners to affix certificates of ownership or inspection

to their windshields, but the laws of adjoining states prohibit affixing anything there. A $1,000 fine or six months in jail once was the maximum penalty for adultery in Georgia, but adultery was not regarded as a crime in Louisiana. In most states a husband who kills his wife or her lover when he catches them in the act of adultery can be charged with criminal homicide or manslaughter, but the Texas Penal Code, until it was amended in 1974, regarded such an act as justifiable homicide (Lundsgaarde 1977, pp. 161-62).

Even in a particular jurisdiction at a particular time, there are wide variations in the interpretation and implementation of the written law. These variations are related to differences in the specific characteristics of crimes, the status of offenders, and the status of legal agents (see Reiss 1974). They also are related to the agents' familiarity with the statutes and the activities the statutes prohibit. For example, blatant forms of fraud, such as those committed by confidence men, are easily detected by the local police, but expert investigators are needed to deal with the subtler forms that flourish in business and the professions. When these experts are influenced by politicians interested in making subtle fraud "real crime," what has been considered mere chicanery is defined and dealt with as crime. Thus illegal practices that have been ignored for years, on the grounds that this is the way things are done, can suddenly become punishable offenses. In this sense, also, crime is relative to the status of the criminals and the situations in which they violate law.

Classification of Crimes

Crime is not a homogeneous type of behavior. Indeed, the many acts prohibited by criminal law are a diverse lot, and this diversity has consequences for the analysis of crime. If we examine crime as a whole, we run the risk of being overly general and ignoring significant differences among crimes. At the same time, if we examine concrete cases of crime, we run the risk of being too specific, of losing sight of the larger picture while getting lost in a maze of particulars. Given these risks, efforts have been made to classify crimes, to sort them into distinct categories according to specific criteria (see Glaser 1974). Classifications have been undertaken for punitive, statistical, and theoretical purposes.

Crimes have been classified for punitive purposes according to their gravity or atrocity. Perhaps the most frequently used scheme differentiates between felonies and misdemeanors. Felonies, the more serious crimes, generally are punishable by confinement in a state prison or by death. Misdemeanors are less serious crimes, generally punishable by fines or confinement in a local jail. This is not a particularly useful classification of crimes, as it is difficult to make a clear-cut distinction between the two classes. It may seem obvious that assault is a more serious offense than permitting weeds to grow on a vacant lot in violation of a local ordinance, but the effects of permitting the weeds to grow, in a particular case, may be more serious because the pollen produces hay fever which incapacitates many people. The fact that certain acts may be classed as felonies in one state and as misdemeanors in another shows how difficult it is to make a real distinction between these classes. Even within a state the distinction is often vague. Moreover, a crime labeled a felony in a state's criminal code might not be viewed by the public as a more serious offense than some misdemeanors. In one survey, for example,