

# CHAPTER 7:

## DEVIANCE AND DEVIANTS



*"I may be Jesus Christ. I have not yet decided who I am."*

--Mass murderer Charles Manson, at his trial.

A study of the criminal justice system of any society is, in part, an examination of what has been swept under the society's rug and ignored. As always, our purpose for this study is to use objective information and an open mind to design a better society.

**Deviance is behavior that violates significant social norms and is disapproved of by society.** Deviance may include criminal activity, mental disorders, or just minor quirks in behavior that most people tolerate or ignore. Citizens who are widely regarded as *seriously* deviant will encounter **stigma, a mark of social disgrace.**

Sociological analysis opens a new window into the realm of problematic human behavior. The dramatic variations in *rates* of violence and incarceration from nation to nation are a revealing measure of how well - or how poorly - each social system is working. By examining the social characteristics of prisoners (educational achievement, economic status, race, etc.) we can learn which groups are at a disadvantage in any given nation.

We can use statistical correlation to get an indication of which social disadvantages are most likely to encourage individuals to break the rules of that society. Comparing incarceration *rates* we can *fairly* measure personal freedom and tolerance for deviant behaviors across nations. We can compare levels of prisoner overcrowding to measure each nation's compassion for its rule breakers.



Sayer Payne 2003

A coca leaf merchant rests her eyes on a street corner in La Paz, Bolivia. Here, the use of coca leaves for a mild stimulant tea is an ancient and respected tradition among the Quechua Indians. But in our society cocaine made from concentrated coca extract is a business worth billions of dollars and prison time.

## CULTURAL BARRIERS TO UNDERSTANDING DEVIANCE

Two controversial topics in deviance must be addressed at the outset.

**Western religious themes have suggested for centuries that certain people - and certain acts - may be categorized as good or evil.** Evidence suggests these views of deviance are profoundly simplistic and counterproductive. But as noted earlier, the effect of many centuries of cultural tradition is a compelling influence on public opinion. Some religious institutions have gradually adopted more tolerant approaches, but these basic "good vs. evil" people categories are still widely accepted in the USA.

## “Good” vs. “Evil” People

The doctrines of damnation for "evil-doers" and salvation for "good people" are themes that help to justify imprisonment or even execution of the “evil-doers”. Our present rate of incarceration - the highest of any country in the history of the world - is largely an outcome of our collective willingness to view people and acts in this simple but crude “good or evil” scheme. It is demonization.

Using “**self-report**” studies, sociologists have often tested the accuracy of this notion of good or evil citizens. Young adults are asked to fill out surveys - anonymously - regarding their personal crime histories during high school, their juvenile record. The survey includes a long check-off list of deviant behaviors. The results are consistent and conclusive. **Most people commit crimes that could have led to incarceration by the time they enter college, and some have been repeat violators of one or several crimes.** Most violators do not get caught, and therefore may believe - partly by self-denial - that they fit squarely into the "good" citizen category. But after participating in a self-report survey, my students are often surprised at the scope of their own deviant history.

**In fact, deviant behavior is actually so common and widespread that Emile Durkheim suggested that it must be considered "normal" to break norms.** That may seem like a contradiction in terms, but it reflects the confusion in a culture’s traditional view of deviance.

After decades of assessing self-report surveys of my Criminology students at Central Lakes College, I have found that *most* students report marijuana use during high school (the survey responses are limited to their high school years only). Thus, it is *not deviant* for high school students within their reference group - teenagers - to have used marijuana; this was actually *conformity*. But, until recent legalization, it was criminal behavior in the larger society. So then, their marijuana use was both normal *and* deviant at the same time, depending on which group norms were being evaluated.

If anything, my self-report survey checklist *understates* the rates of high school deviance, because students are not surveyed regarding *really* serious crimes. It’s not likely that students would report such crimes, even anonymously: arson, attempted murder, incest, child molestation or date rape, (the latter is sadly common according to surveys of women). Students may not recall some of their deviant behaviors. Finally, they have only been surveyed about the brief high school portion of what will make up their lifetimes. The fact is that most adults have, or will, commit real crimes.

What this and similar research demonstrate is that - in clear contradiction to the simple notion of “good” or “evil” citizens - there exists a very wide range of norm-violating citizens. The range extends from social prudes to mass murderers, with the *vast majority* of citizens somewhere in the middle. Ironically, the few students that claim to have *never* committed a significant deviant act might be seen as “deviant” by their almost robotic obedience to social rules, for the statistical "norm" of human behavior is to break some rules on occasion, just as Durkheim correctly claimed.

As noted in Chapter 4, the individual's "self" or "personality" is *not* primarily a creation of the individual by the individual. The concept of good vs. evil people is a common but dangerous myth that distracts society from shifting to social policy based in logic.

Even the most deranged mass murderers like Charles Manson and the Las Vegas killer of 60 people (Stephen Paddock) are better defined as *social* failures rather than *individual* failures. Mass murder rates, like homicide rates, vary *wildly* from culture to culture. Cultural factors are the main determinants. Manson and Paddock were two of our society's most famously defective social creations. But they are not unique. Mass murder occurs *twice daily* in our nation, *yet very rarely in other nations*.<sup>[1a]</sup> We cannot incarcerate ourselves out of this bloodshed. If we are serious about improving this dreary statistical reality we need to reject demonization and turn our attention to social policy.

### **“Good” vs. “Evil” Acts**

A similar misconception occurs with the concept of “acts.” **Sociologists claim that *no act is inherently deviant; an act becomes deviant only when society labels it deviant.*** This statement often shocks students, who question how a vicious act (a murder, for example) could be considered anything but deviant. When we think of murder, our thoughts tend to focus once again on ghastly crime scenes and infamous people like Charles Manson and Stephen Paddock.

**But the actual *act* of killing people is often highly approved of in several social contexts:** in wartime, in government-administered executions, in self-defense, and (in some nations) euthanasia to end suffering. Millions of highly respected U.S. citizens are veterans of wars in which they killed, sometimes repeatedly, or *indirectly* supported mass killings in wartime (as in my own military service) in ways acceptable to our nation's standards. They were given medals, paychecks and were honored for their service. Thus, sociologists recognize that it is not the *act* of killing itself that establishes a deviant identity but the interpretation (*label*) society chooses to put on an act that counts.

These labels and social contexts are interpreted very differently from culture to culture and time to time which demonstrates how arbitrary the concept of deviance really is. Widely respected Gallup surveys of U.S. citizens indicate the majority of U.S. citizens think that our war in Vietnam (January 2018 survey) and Iraq (2024 survey) were mistakes. Well over a million lives were lost in each war.

The interpretation of acts as legal or illegal, moral or immoral, sane or insane is almost totally relative to the culture that analyzes it. Four-star U.S. General Tommy Franks (pictured below) was admired in the USA as our military leader in charge of the war in Iraq. Citizens of the USA are more likely than others to admire him, for we have a long and familiar history of military intervention and we live inside a culture that *might* be scene to benefit from his service. But elsewhere in the world, especially the Islamic world, General Franks might be widely considered a mass murderer and war criminal.



"We don't do body counts." --Gen. Tommy Franks, Chief of Military Command responding to reporters' inquiries on Iraqi civilian casualties in 2004.

Even the act of rape is interpreted differently based on social norms. "Stranger danger" rape is often viewed by the public as negatively as murder. But what percent of rapes *within marriage* are even reported? Traditionally patriarchal marriage vows in the past suggested that women were to, "love honor and obey." Until 2019, some states' laws had loopholes or exemptions for rape within marriage, including in Minnesota. Demonization of the act of rape decreased dramatically (and illogically) in the context of marriage.

After decades of demonizing and incarcerating tens of thousands of mostly young adults for possession or sales of marijuana, our nation is gradually coming to an embarrassing realization. Marijuana is far less dangerous to use than the alcohol and tobacco that law enforcement, district attorneys, judges and juries were commonly using. Marijuana even has medical uses. And during decades of mass incarceration for marijuana users, free citizens smoked themselves to death with tobacco in numbers *many times* in excess of those who died from *all* forms of illegal drugs combined in our nation. Most modern democracies were - and still are - far ahead of the USA in decriminalizing marijuana.

Demonization distracts us from applying logic to our criminal justice system.

## SCIENTIFIC EXPLANATIONS OF DEVIANCE

There are three basic approaches to understanding deviance from a scientific perspective: biological, psychological and sociological. Biology and psychology focus primarily *on the individual* to explain crime. This leaves cultural and large group influences *outside the individual* mostly to sociology. Although some biological and psychological factors do



affect behavior, sociologists point to the vast differences and definitions and rates of deviance between nations as evidence that deviance is *primarily* a cultural phenomenon.

So then, compared to other disciplines, we sociologists study *group influences and cultural institutions rather than brains or individuals* to understand deviance.

Here are some examples of the sociological approach:

We study why governments pass laws, which often “create” deviants where none previously existed, e.g, Prohibition of alcohol and marijuana in the last century.

We study how crime is *defined* to see who benefits from these definitions.

We study the validity of diagnoses, to evaluate which “illnesses” in the USA, are not even considered illnesses in some other nations, e.g., attention deficit disorder.

We study the impact of *stigma* that first-time offenders experience, to see why labeling offenders often encourages a self-fulfilling prophecy: more deviance.

We study the impact of *membership* in corporations, the military, street gangs etc., to measure group loyalty influences on problematic individual behavior.

We study economic inequality, which creates desperation and hopelessness in oppressed groups and neighborhoods and leads to higher crime rates.

We study justice systems, to detect unfairness and biases which foster hostile attitudes towards law enforcement within affected communities.

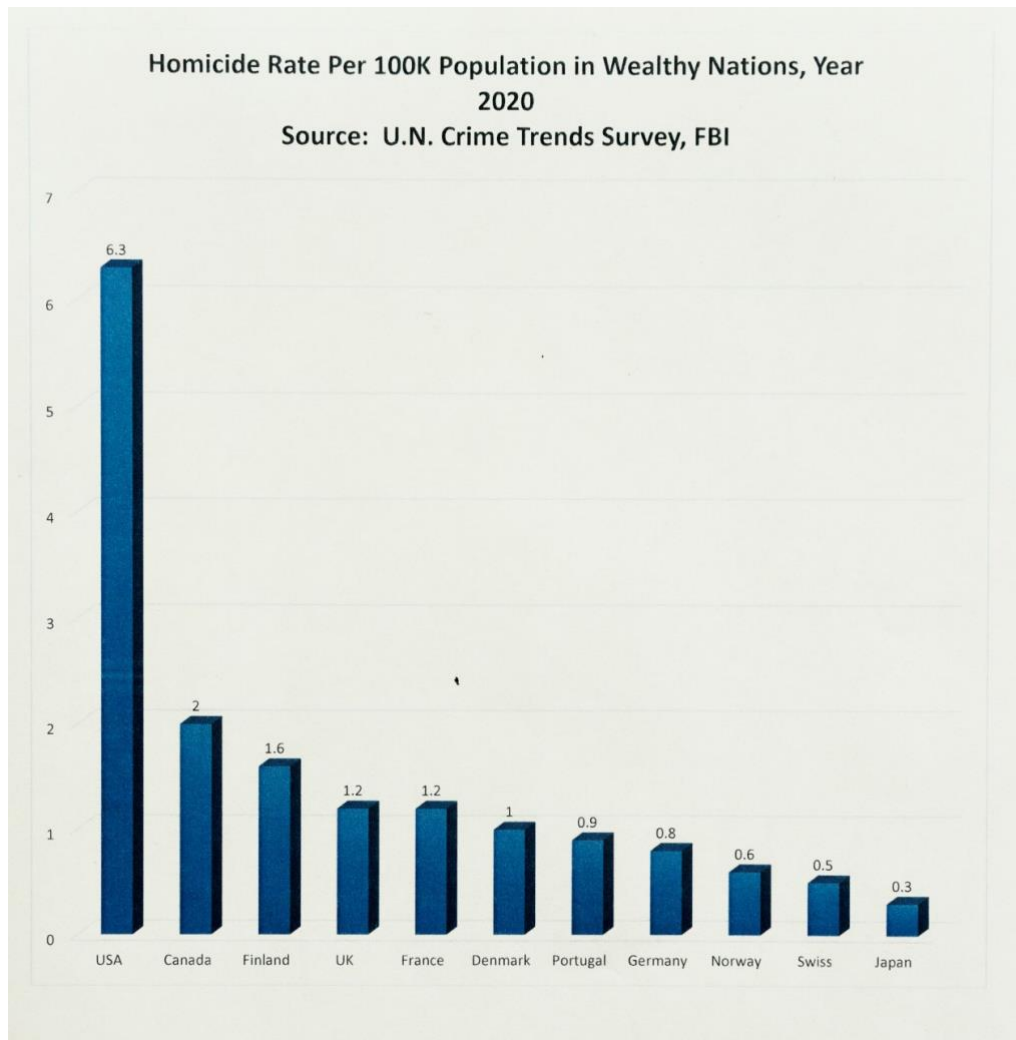
We study conditions in prison systems to determine why many inmates become more criminal after prison than before.

We study cultural myths and ideas on punishment that support the mass demonization of certain people, groups or acts.

We study the social policies of other wealthy democracies to find better and more humane ways to reduce crime and incarceration.

In other words, we study individual deviance by looking at it *from the outside in*, generally the reverse of biology and psychology. We do this because we have found that *what surrounds us* explains so much more than can be discovered by genetic and psychological research on *what is inside us*.

Sometimes the solutions can't be found in our culture. So we sociologists routinely step outside our own culture to compare national policies and statistics from other modern nations to see what puzzle pieces we can add to solve the mysteries of the day. This cross-cultural approach is our specialty and it gives us an advantage in problem solving.



Although the reaction to the three images above might encourage many to feel that the problem in the USA is simply *the presence of too many guns*, sociologists widen their perspective with international data. We find that Canadians and other Western democracies like Switzerland have very high gun ownership rates similar to the USA. Yet their gun homicide rates are much lower. That tells us that while the presence of guns certainly plays a *major* role in homicide, the presence of guns may not be the most powerful cause of homicide.

Some reckless notions blame the USA's higher proportion of racial or ethnic minorities for our elevated rates of murder. Sociologists note, however, that Canada has very substantial ethnic and racial populations including many whose enslaved ancestors fled from the USA on the Underground Railroad. However, Canada's racial minorities don't kill at anywhere near the *rate* minorities - or whites - kill in the USA. Therefore, that notion is not supported by logic. Sociologists have shown repeatedly that extreme levels of economic inequality and low levels of social support create a social environment of smoldering rage and hopelessness that is certain to trigger high levels of violence.[1b]

### THREE SOCIOLOGICAL THEORIES ON CRIMINAL DEVIANCE

We can only look so deeply into the subject matter of deviance in an introductory text. A few examples of popular theories are provided here below to give the reader a taste of how sociologists' explanations for crime have evolved. Note that no single theory explains *all* of deviance, for criminality spans a vast collection of unrelated behaviors. But several theories can be linked together to explain a large portion of it, especially the violence in societies.

**Social Disorganization Theory - Sociologists Clifford Shaw and Henry McKay linked the *environment of slum areas* to higher rates of street crime in Chicago** during several decades of research beginning in the 1920s.[2] They mapped juvenile delinquency incidents from the inner-city core to the suburbs and found that the inner city youth were always more likely to be involved in crime. A racist explanation had previously suggested that this was due to the inferior ethnic or racial makeup of persons in the inner city. That explanation still lingers in public opinion.

But Shaw and McKay's study continued across so many years that the races and ethnicities changed frequently as new migrants entered Chicago's inner city through the Great Lakes passageway. *Their findings indicated that it did not matter which race or ethnicity was dominant in the inner city, for at all times, the delinquency patterns remained elevated.* Shaw and McKay concluded that the disorganization and hopelessness in transitional, poor and rundown neighborhoods encouraged crime for those surrounded by it, regardless of who they were. Therefore, if a nation allows high levels of inequality it can expect a higher level of crime in its poorer communities. The following theories explain this phenomenon at the ground level, human interaction.

**Differential Association Theory - Sociologist Edwin Sutherland developed this theory to demonstrate the power of *learning deviant behaviors from others around us*.**[3] The term "differential association" is used to acknowledge that we are all surrounded by a variety of influences that could lead us into conformist or non-conformist behaviors. An example: Three brothers from the same poor household might go very different directions based on the unique influences around them. The eldest may have had the talent to focus his goals on high school sports; the second had a classmate who invited him to slip into a local hip-hop band that sustained him economically, while the

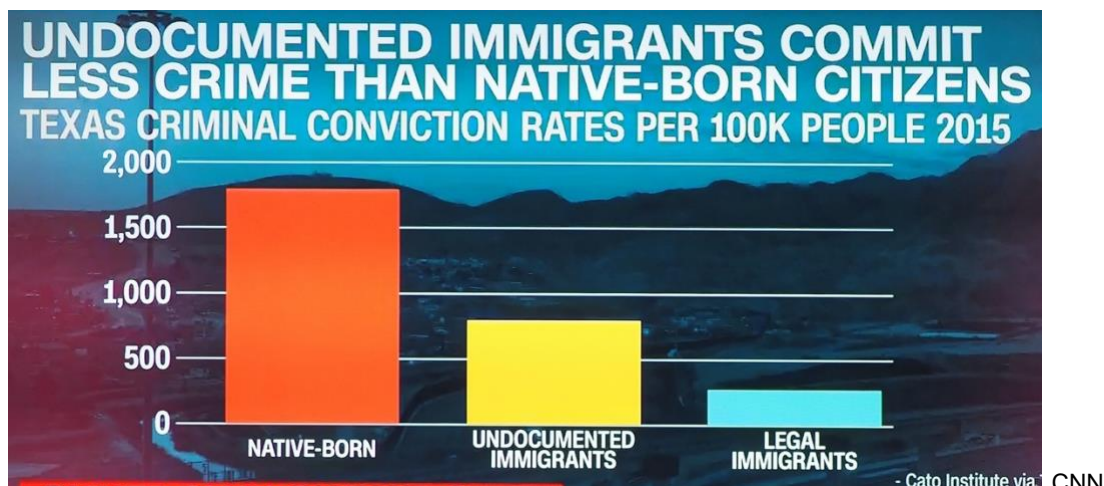


youngest was forced into joining a gang when his parents broke up and left him with even less support. These *differential peer associations* will have profound impacts on their behavior. All three boys may break some significant norms in their lifetime. But the severity and frequency will vary with differential peer associations. It's not hard to guess which of the brothers is at greatest risk of arrest.



CBS

Who in our society decided what would be *defined as legal* before the Civil War? This old advertisement tells the story. One *criminal act* in those days was defined as running away to freedom as a slave. The sale of black citizens may have ended but discrimination is still obvious in the criminal justice system.



- Cato Institute via CNN

One of the enduring racist myths over the last century has been the portrayal of *extreme criminality* within Latino immigrant populations who cross over the Mexican border into the USA. Here the conservative Cato Institute's research profoundly contradicts that myth with facts. Both categories of immigrants are substantially *more* law-abiding than native-born citizens! Nevertheless, the myth's xenophobic appeal to less educated segments of the dominant population has survived for generations in the USA.

Differential Association Theory is useful because it could explain different outcomes for the above three individuals who would otherwise appear to have had similar genes, the same neighborhood and economic background. Group membership in street gangs, the military, church groups or corporations are examples of associations with huge impacts on behavior. These organizations seem to function at times like separate tribal subgroups, with radically different values and norms.

Some of us might criticize this theory by saying that an individual *chooses* these associations. But our incredibly high homicide rate – year after year - cannot logically be blamed on “a society of bad choosers.” As noted in previous chapters, our “choices” are largely pre-determined by social context with a bit of random chance mixed in. For poorly supported youth in tough areas, membership in a street gang has some real benefits. Membership, in fact, may be virtually required. The consequences (including survival or perhaps death) may have little to do with choice.

**Labeling Theory - Sociologists like Howard Becker[4] and Harold Garfinkel[5] have explained deviance as a process whereby citizens are arrested in a deviant act and then defined (labeled) as deviant by the legal system.** Unlike others who may also occasionally act criminally but do not get caught, *convicted* citizens undergo a series of degrading rituals (arrest, arraignment, prosecution, incarceration). **The *stigma* from these public rituals reduces the arrestees’ potential for a “good” public identity and increases the chances that they will become chronic offenders.**

This theory seems weak in that it appears to overlook the original deviant act that earned the label for the individual. But Becker reminds us that *most* youth violate significant laws in the 15-25 age bracket without being caught. And much of the misbehavior of young arrestees is often temporary or somewhat trivial: shoplifting, drug sales, vandalism etc. Once arrested, however, their new identity will be anchored to a deviant label. The individual will be known *primarily* as a “thief,” or a “dealer,” etc., and may even accept that narrow new identity as his/her own. In any event, a felony label will restrict many opportunities for employment, voting and other lawful or appropriate behaviors that encourage individuals to commit to becoming responsible adults. *Thus, labels may become a self-fulfilling prophecy*, actually increasing the chances for future involvement in serious deviance.

**How to Link These Three Theories** - Now imagine yourself as a sociologist, trying to fully explain the high levels of deviance by inner city youth with the influences that surround them. You might do this by linking *all three* theories above in time order. Note how these three theories *actually lead into one another in time order*.

1. Social Disorganization Theory suggests poor neighborhoods are hopeless and poorly organized, areas with fewer successful role models.
2. Therefore, some youth and young adults in poor neighborhoods *often form criminal associations* (including street gangs) to learn how to support themselves, socially and economically. This is the key theme of Differential Association Theory.

3. Finally, as poor people and poor areas are more heavily monitored by police (and rarely protected by private attorneys), they are far more likely to get caught, prosecuted and *labeled* than non-gang youth in more organized higher-class neighborhoods. The effect of labeling then further increases the likelihood of criminal behavior.

Each stage of this *creation of deviance by cultural factors* is thereby tied together with three solid sociological theories. Note that these theories do not contradict each other; they support each other as stages in a process.

### TABLE 7.1 Linking Three Sociological Theories of Crime in Time Order

1. Poor, Hopeless Neighborhood ----> 2. Problematic Peers 3. ----> Arrest & Processing

[*Social Disorganization*] ----> [*Differential Association*] ----> [*Labeling Effects*]

## TYPES OF CRIME

An act requires a law to contravene it before it can become “criminal.” We would like to think that laws and the threat of incarceration improve our society, but this is not always so. Tens of millions of formerly law-abiding U.S. citizens were suddenly defined as “criminal” from years 1919 - 1933 after the Prohibition against alcohol was passed.

Another example: Law abiding people in our nation became criminals under vagrancy laws merely for being poor and homeless within the jurisdiction of a particular law. They were *considered criminals even without the performance of any act*. Some laws have been used to protect slavery, to steal American Indian lands, to support segregation and to silence social critics (see photo below right.)



Policemen pour out alcohol during Prohibition.



One of many arrests of Dr. Martin Luther King Jr.

Yet all of us agree that society needs protection against certain crimes. Organizing a rational criminal justice system requires that we understand the basic types of crime and design a system that deals fairly and rationally with each type.

## Street Crimes

When asked to define “crime,” most people mention **street crimes: crimes are usually committed by low status (poor) persons**. “Street” crimes typically include murder, rape, robbery, assault, burglary, larceny, arson, auto theft, illicit drug sales, vandalism and shoplifting. The Federal Bureau of Investigation (FBI) keeps an extremely detailed record of street crime called the **Uniform Crime Report - UCR - which is an annual compilation of crime statistics by the FBI**. The nation's vast population of law enforcement personnel are directed towards policing *street* criminals.

**Our culture's extreme emphasis on street crimes has resulted in jails and prisons overflowing with “street” criminals who tend to be poor people and minorities.** The USA has the highest incarceration rate in the world.[6] Roughly 80% of convicted citizens were high school dropouts now sitting in prisons and jails for “street” offenses.[7] The nightly news shows focus heavily on street crimes. Popular television series like *Cops* (finally canceled in the year 2020 after 33 consecutive seasons) reinforced the negative stereotypes of poor or black citizens as exceptionally crime prone.

For all these reasons, **street crimes are highly visible crimes to the public**. Many citizens consciously or subconsciously come to associate crime primarily with the lower economic classes of our society. **Yet street crimes cost our nation far less than crimes committed by “white collar” criminals: the wealthy criminal elite.**

## White-Collar Crime

Peering through the pages of the UCR, we find that the FBI has gathered very little data on the type of crime that costs this nation the most in damages: **white-collar crime (crimes committed by high status persons)**. And very few law enforcement personnel are hired to police it, the opposite of what might be expected given the higher social costs compared to street crimes. Thus, **white collar crimes are highly invisible to the public**. Most new students in my classes cannot even name a white-collar crime, and none have ever been able to name more than two. This is often true of beginning law enforcement majors in my classes too.

**White collar crime examples include corporate pollution, money laundering, false advertising, unnecessary hospital surgeries, health care fraud, stock manipulation, price fixing, price gouging, product safety violation, workplace safety violation, bank fraud, corruption of public officials and insider trading.** Together, the typical cost to the nation of these crimes add up to about \$600 billion each year. Comparatively, *all* conventional street crimes cost the public only \$16 billion, about *37 times less* than white-collar crimes.[8]

Some observers of these figures have tried to justify the present emphasis on street crime "because street crime is more violent than white-collar crime." However, just one white collar crime, product safety violations, kills far more people than all street crimes in our nation: misrepresenting health effects of cigarettes. Tobacco-related deaths result in nearly half a million unnecessary deaths each year according to the Center for Disease Control. *This figure by itself is roughly 20 times all forms of street homicide combined.*

Tobacco executives have never spent time behind bars, despite secretly *adding* nicotine to their products, decades of concealing evidence of extreme health effects, deliberately targeting juveniles in cigarette ads, and perjury under oath in Congressional hearings. If deaths related to intentional corporate pollution, intentional workplace safety violations and intentional product safety violations are combined, all conventional street homicides could be viewed as a relatively minor fraction of unnecessary deaths. In 2016, criminologist Steven Barkan put together and published a street crime vs, white collar crime comparison of deaths which unfortunately excluded food industry and tobacco-related deaths. It is still a revealing conclusion (Table 7.2 below).

**TABLE 7.2: DEATHS FROM STREET CRIMES VS. WHITE-COLLAR CRIMES**

Source: Steven Barken, *Criminology, a Sociological Understanding*, Fifth Edition, Prentice Hall, Chapter 13.

UCR estimate for ALL **street** murder & non-negligent manslaughter: **16,272**

Selected **white-collar** crime estimates:

Workplace safety related.....	51,300
Unsafe products, <b>excluding tobacco</b> .....	9,500
Environmental Pollution.....	35,000
Unnecessary surgeries.....	<u>14,000</u>
Total <i>white-collar</i> related deaths.....	<b>109,800</b>

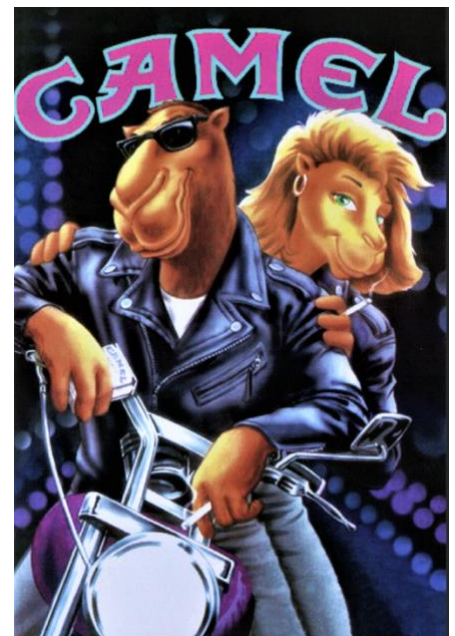
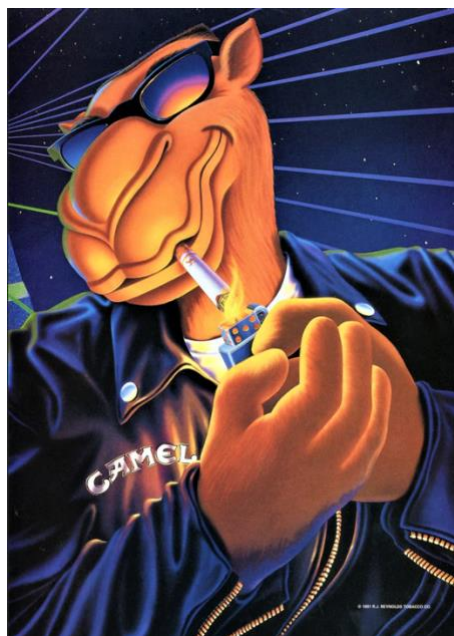
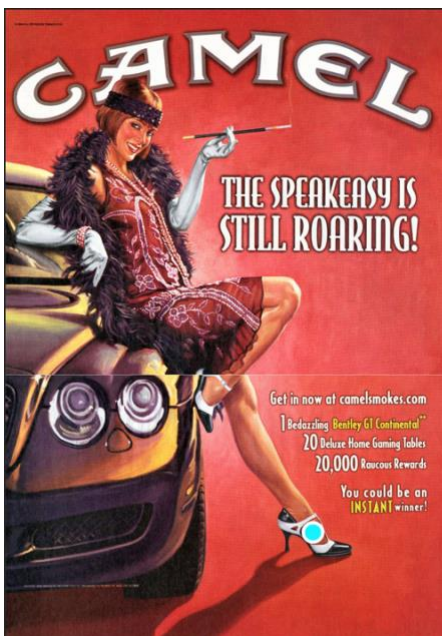
When sociologists analyze crime statistics, we find that poverty is strongly associated with higher rates of crime. But this is partly because the justice system places so much enforcement effort on street crimes compared to white-collar crimes.

White collar crime is *very* lightly monitored, rarely prosecuted or not even *defined* as crime. This certainly skews the statistics. Greed at the top of the economic ladder appears to be every bit as common as at the bottom, and it has been a lot more profitable.





Most soft drinks contain roughly one teaspoon of liquified sugar *per ounce*. The 30 ounces promoted in this Subway ad certainly won't help the nation in its struggle with diabetes which kills many more people each year than all illegal drugs and car accidents combined. One half of the citizens in the USA are now either diabetic or pre-diabetic already. Why aren't dangerous food-industry products *defined* as crimes? Conflict sociologists would ask: Who is benefitting from not prosecuting white collar crimes?



Teens are the only age group naïve enough to start smoking. These ads are therefore aimed at youth that are eager to promote an exciting self-image. The industry has also paid teens' favorite actors to smoke in movies. It works. Tobacco is as addicting as heroin and, as noted earlier, kills many times more people each year than all illegal drugs combined. The logical disconnects in the Justice system are many. All are a key focus of sociologists. A crime requires three elements: harm, a motive and intent. Here we have deaths, profits and decades of baiting youth to known hazards...but no indictments.





Should the commercial removal of trees that began growing thousands of years ago be considered a crime? Although many of us may think so, it is not *defined* as an environmental crime. Yet minor acts of littering may trigger a serious sanction for individual citizens.

**The poor have little opportunity to fix product prices, to evade major taxes or manipulate the stock market; they are generally limited to low yield / high risk acts** like shoplifting, drug sales, burglary and larceny. By contrast, the wealthy have the ability to access criminal options with highest-yield/lowest-risk outcomes. More importantly, the monitoring, imprisonment or conviction of wealthy violators is rare.

For example, one of the most expensive crimes in the history of the world was the S&L banking scandal which began during President Reagan's administration in the 1980s. This single white-collar crime cost our nation over \$600 billion from stolen banking assets that the federal government had guaranteed. *At the time, this figure was many times the total sum of all the conventional "street" bank robberies in all of our history combined.* But many rich and powerful citizens, including several senators from both political parties, were involved. Only a tiny fraction of stolen assets were recovered, few offenders were prosecuted, and the majority of convicted offenders merely received probation.[9] A similar outcome occurred during the banking scandals that rocked the entire world economy in years 2007-09.

The fact that few resources are expended to monitor and prosecute the most destructive crimes committed by wealthy criminals is a measure of how thoroughly our views on crime are shaped by culture. Our law enforcement personnel (generally from middle to poor

backgrounds) are almost exclusively policing street criminals (also from middle to poor backgrounds). This has led some sociologists to suggest that the upper class in our nation has cleverly succeeded in turning the classes beneath them *against each other*.<sup>[10]</sup>

### "Consensual" Crimes.

A debate exists over whether any crime is completely victimless. However, there are several crimes which are *less victim-intensive*. The term "**consensual crimes**" may be defined as crimes committed by consenting adults in private places. In other words, these are crimes from which few people, if any, suffer directly other than (potentially) the offenders themselves. **Prostitution and illegal drug use/sales are examples of crimes that generally do not intentionally injure others.** Yet these crimes account for at least half of police arrests and *most* of our prison population.

The prosecution of these activities has been extremely expensive. But there is little evidence of any enforcement success in reducing these human activities.

In fact, sociologists have long suggested that criminalizing popular consensual behaviors is actually counter-productive. Illegal drug arrests are by far the largest contributor to our nation's embarrassing rate of incarceration. But drugs are still universally available with steady prices despite decades of exhaustive attempts at interdiction. Keeping these activities illegal places the production and distribution in the hands of organized crime; **the basis of organized crime is the provision of goods and services that are otherwise unavailable.**



Gary Payne, 2010, Jigjiga market, Somalia



Above left - a woman in Somalia openly markets *Kat*, a popular stimulant chew in East Africa. *Kat* is legal in that region although most citizens admit its use can be problematic. The question is whether the population would be better off criminalizing *Kat*. So far, it has not done so.

Above right - when the USA tried to arrest Panamanian dictator Manuel Noreiga - a drug lord and CIA operative - he fled the scene. President George H. Bush ordered our military to bomb parts of Panama's capital city trying to kill him. Instead, 3000 innocent civilians were killed by bombs and fires. Noreiga later surrendered on his own. The unintended negative consequences of the Drug War have been enormous.

Prostitutes, illegal drug users and sellers tend to be poor and less educated but otherwise rather typical citizens. Once incarcerated however, they are more likely to engage in **secondary deviance – additional forms of deviance new to their experience** when they exit prison environments. Imprisonment tends to *expand* their criminal boundaries.

**Europe, Canada and New Zealand have *eliminated most penalties for consensual crimes*. This is defined as “decriminalization.”** Happily, this reduces incarceration rates and the profits to organized crime. It also allows the public regulation of drug and sex-worker activities for better health. And it then becomes possible to tax prostitution and drug use to pay for treatment programs and other potential remedies to self-destructive behavior. Our nation could do the same, but moralistic and demonizing attitudes towards offenders have blocked decriminalization efforts in the USA.

Some critics of today's drug war have asked whether law enforcement is pointed towards the key actors responsible for the damage done to citizens by drugs in the USA. CNN's Chief medical reporter (and renowned brain surgeon) Dr. Sanjay Gupta reported on 8/11/2017 that 4 out of 5 opioid addicts became addicted first - not by illegal drug dealers - but by physicians who grossly over-prescribe legal drugs. *Physicians* have become the primary drug connection for the most deadly drugs of our times. Yet our prisons are definitely *not* filling up with rogue physicians despite the fact that opiates are the nation's most deadly drug problem; physicians face very little demonization, monitoring, prosecution, stigma or labeling. Their traditionally high status seems to protect them.

Gupta also estimated that the USA is using nearly 80% of global opiate drugs even though we are less than 5% of the world's population. That suggests that our focus should be on what *cultural defects* are causing people to drug themselves so heavily in order to be able to tolerate life in the USA? I've made some suggestions in the pages later in this chapter.

## **CORRECTIONS**

***Corrections* are sanctions that society applies to convicted criminals:** prison, probation or parole. The term "corrections" suggests that these ***sanctions - rewards or punishments for conformity or non-conformity*** - somehow 'correct' or improve the criminal who receives the sanctions. At this point in this text, the reader is well aware that time spent in a prison, a *total institution*, usually fails to improve the behavior of the people who enter it.

How should sociologists objectively measure the level of success or failure of a corrections system? One measure stands out as the most useful and widely accepted: the rate of **recidivism - repeat crime that returns a convicted criminal back into incarceration after being re-arrested**.

In 2019 the Bureau of Criminal Justice found the *recidivism* rate for state prisoners was 83% in a nine-year period and 64% for violent federal prisoners over eight years after



being released. But it usually doesn't take that long. About half of all prisoners were re-arrested in the first year of release. And since it may be assumed that some released convicts do not get caught when they re-offend, the actual failure rate in the corrections system is even higher.[11]

It would be difficult to find a government program with a worse outcome for all parties. Sociologists therefore suggest we focus on *prevention of crime* rather than incarceration or retribution.



Gary Payne, Guyana 2012

Traveling through Guyana in 2012, I came across the above story in the *Kaieteur News*, that nation's primary daily newspaper. Reporters had discovered that \$90 million of U.S. drug war funds had somehow vanished. The money was to have been used by U.S. special operations soldiers to train Guyanese police as shown in the photograph. It is widely understood throughout Guyana that drug lords have paid off the enforcers, and little is being accomplished. Before returning home from Guyana, I came across a later issue of the *Kaieteur News* that indicated that the government had decided against doing an investigation of the missing \$90 million.

## Retribution

Few government programs continue for long with such dismal outcomes. But the term "corrections" conceals what many sociologists assume is the latent cultural purpose of incarceration. The "corrections" system is not primarily focused on correcting criminals, but on **retribution: revenge through punishment**. A very long history of barbaric retribution may be traced back to Western religious traditions of demonization and is still popular in the USA.

Yet retribution triggers a cycle of increasing harm. For example, executions often trigger a mild *increase* in homicides in regions where they are publicized, which is referred to as the "brutalization effect."<sup>[12]</sup> Apparently, a state's use of execution (however justified it may seem for a vicious killer) establishes killing as a legitimate option in the minds of some individuals. As Mahatma Gandhi once wisely noted, "An 'eye for an eye' will merely end up making the whole world blind."

Human rights advocates and sociological researchers have demonstrated the futility of engaging in retribution, an illogical concept with intensely problematic outcomes. Most modern democratic governments now recognize this as a fact. Every Western democracy has eliminated capital punishment with the exception of the USA.

## Racism in the Criminal Justice System

The process of becoming a labeled criminal requires many steps through the criminal justice system: passing laws, police monitoring and detention, arrest, arraignment, possible pre-trial release, provision of attorney, verdict/adjudication, sentencing, probation and eventual opportunity for parole.

At every step of the process there is the potential for racism to affect outcomes.

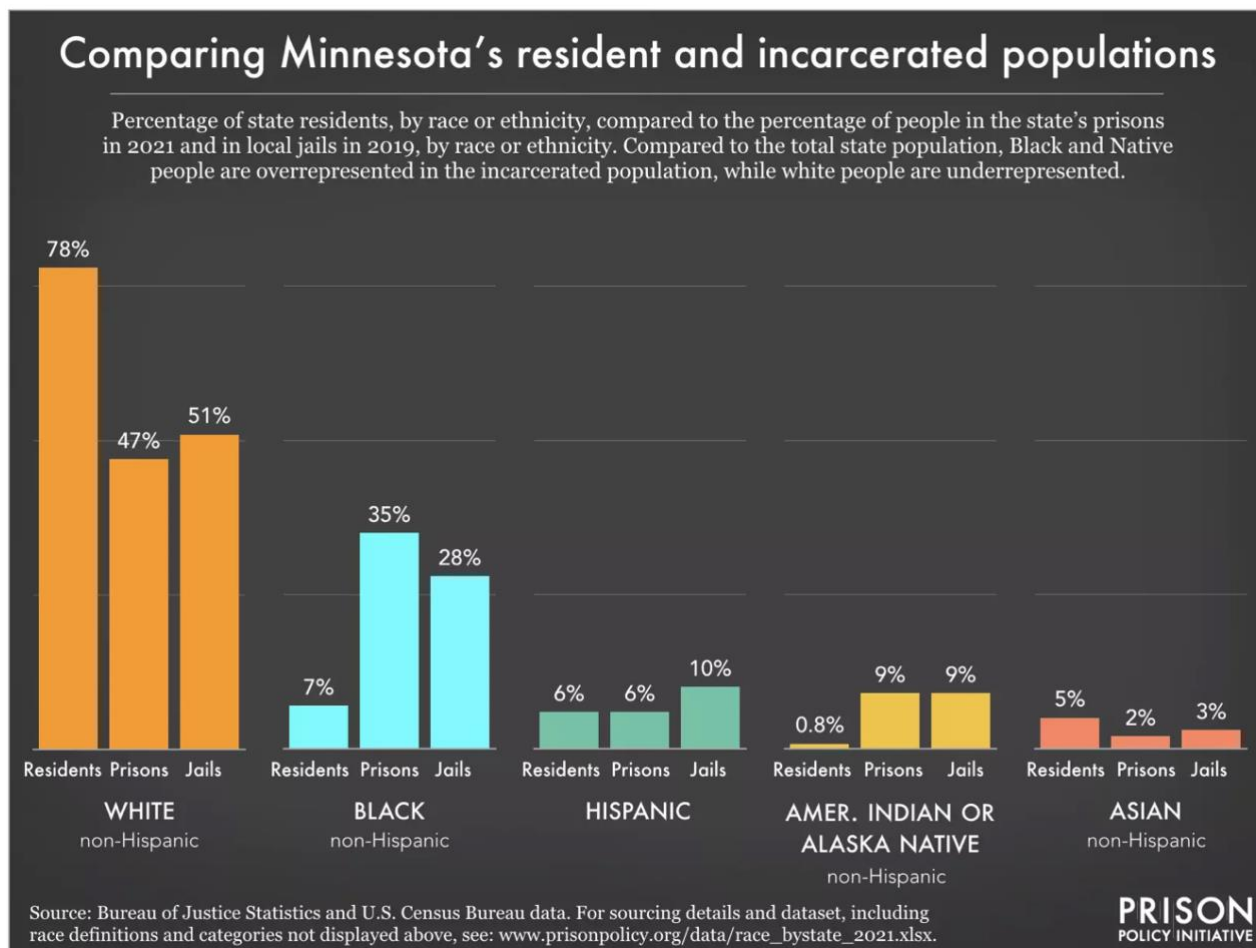
The issue of justice system bias sprung to life during the Civil Rights battles of the 1960s. In an analysis of executions for the crime of rape in the state of Virginia, Donald Partington studied 2800 cases of men from all races that had been convicted over a half century, ending in the year 1963. Of those convicted, a total of just 54 men had been executed for rape or attempted rape in that half century. Not a single one of the executed convicts had been white.<sup>[13]</sup>

As evidence like this was publicized in academic journals, the Supreme Court felt compelled to rule by 1972 that the death penalty was unconstitutional as applied at that time, and executions were temporarily stopped across the nation. However, by 1977, new laws were put in place to reduce racial bias and executions again became commonplace in the USA. Unfortunately, racial bias is still strongly in evidence. Even though blacks are only 13% of our nation's population, they constitute about half the population of death row as well as the nation's prison population.

Nearly one-third of black men ages 20-29 are either behind bars or on probation or parole, and more black men today are behind bars than are in college.[14] It is a sad reality that - in terms of funding - incarceration has become the dominant “youth program” for young black men in the USA.

**Numerous studies demonstrate the continued existence of flagrant racial bias in the U.S. criminal justice system, especially in regards to the race of the *victim*.** A typical example comes from research in Georgia where prosecutors only sought the death penalty in 15% of murder cases with black victims, but did so in 45% of cases with white victims, an alarming 300% difference. Juries in the same study were 700% more likely to impose death penalties on black defendants than white defendants.[15]

Racial bias is not merely a problem for the southern states, however. In year 2001, Minnesota did its own study of police contacts with citizens of various races over a one-year period. The results were shocking, especially since the data was gathered by the police departments. **Minnesota’s Black citizens were 42 times more likely than Whites to be arrested for not having a valid driver’s license, and 27 times more likely than whites to be arrested for “lurking.”**[16] This may explain why Minnesota Blacks were behind bars at a rate 12 times the rate for Minnesota Whites.



20 years later, Blacks and American Indians were still incarcerated at over 9 times the rate of White citizens in Minnesota. Whatever improvements were made in over two decades, they were not enough.



## THE MEDICALIZATION OF DEVIANCE

The concept of deviance has evolved through three basic stages in the history of Western civilization. As noted earlier, traditional religious views from many centuries ago originally defined deviance in the stark terms of good and evil. By the 1700s, psychologists were offering a popular alternative view; that deviants were not evil, but mentally “ill.” That is, bizarre or criminal behavior was considered a medical problem rather than a matter of wickedness, witchcraft or demonic possession.

The psychological perspective was an advance towards a more *humane* solution, as centuries of intensely cruel religious persecution of unpopular or unusual people began a permanent decline that continues today. But sociology as a discipline arrived on the academic scene later, and when it did, it had its own perspective.

**Sociology objects to some aspects of both the religious and psychological models of deviance because both models focus too much on the individual**, and not enough on defective cultural institutions that actually trigger stress and problematic behavior in individuals. Sociology’s focus was intensely focused on *prevention*. The sociological model is more popular in Europe and Canada than in the United States where its approach has faced cultural resistance.

**TABLE 7.3 THE EVOLVING CONCEPT OF DEVIANCE: THREE MODELS**

Perspective:	Christianity	Early Psychology	Sociology
Conclusion:	“Deviants are evil.”	“Deviants are ill.”	“Deviants are created by illogical social institutions.”
The Solution:	“Punish/execute them.”	“Treat their illness.”	“Improve the institutions.”

In the USA, the psychological perspective has gradually overtaken religious perspectives in the field of deviance. In psychology, a vast range of problematic behaviors – from gambling to alcoholism, over-eating, shoplifting, mental disorders, anorexia, hyperactivity in children, etc. – are seen as *diseases* embedded mostly *within* individuals.

Instead of redesigning institutions, some psychiatrists “treat” their patients’ symptoms with electric shock “therapy” that may cause memory loss or by prescribing drugs that may be habit-forming or trigger powerful negative side effects. Sociologists seek to avoid such measures. As you’ll see in the pages ahead, we focus tightly on *prevention* so that significant symptoms and self-destructive behaviors are less likely to develop in the first place.

## Mental Illness as Potential Myth

In the latter half of the 20<sup>th</sup> century sociology began to get some support for its perspective from Thomas Szasz[17], an influential psychologist who criticized his own discipline of psychology in a series of books, including *The Myth of Mental Illness* and *Ideology and Insanity*. Szasz agreed with sociologists that psychology's focus on individuals overlooked the institutional origins of deviance. Szasz further agreed that psychological approaches covered up embarrassing institutional failures, and even threatened to become a form of tyranny.

But Szasz's critique went even farther. After a career in prestigious psychiatric positions, he claimed that psychiatry was incapable of making *objective* scientific diagnoses, that it used pretentious labels to build a veneer of scientific respectability around itself. He suggested that what are called "mental illnesses" are not illnesses or diseases at all. Behaviors that are labeled quirky, manic, depressive, explosive, brutal, paranoid, self-destructive, inappropriately sexual or extremely detached are driven by impulses that we all have, but which only some of us can keep within normal limits on an everyday basis. These behaviors should therefore not be defined as *disease*, he claimed.

According to Szasz, the difference in whether these behaviors can be kept under control by any individual is largely due to the unique social history *around* each individual... not factors *within* individuals. These problem behaviors are not usually seen as *illness* until they inconvenience others in significant ways. Instead of working on the social world to support individuals, the psychological model tries to "treat" individuals for what is really a social problem.

This might explain why we often see little improvement in psychologically "treated" persons, for the problem is not located *within* them. Drugs, electro-shock treatment and lobotomies (now only rarely performed) merely reduce an individual's brain functions to a point at which they may no longer inconvenience others. The social situations that created their misbehaviors are not improved by these treatments.

Szasz's perspective was surprisingly sociological, but a significant number of psychologists agree with most or part of it today. In a hopeful sign of progress, some psychologists have shifted their priorities from the individual to the family and the social environments affecting early childhood development. It is a step in the right direction from a sociological point of view.

In fairness to psychology, it should be noted that organic brain malfunctions *do* occur that are totally unrelated to the social environment and can certainly affect behavior in bizarre and problematic ways. Example: brain damage due to accidental trauma or strokes. Medication can be useful and needed in these cases. But sociologists would point out that these are *physical* disorders, not diseases, *per se*.



Gary Payne 2013

The nation moved away from using the electric chair after several horribly botched executions. Reviewing the electrocution of several inmates, Florida Supreme Court Justice Leander Shaw claimed the method was, “more befitting a violent murderer than a civilized state.” But today’s lethal injections have often been botched as well.

**TABLE 7.4 A TIMELINE OF DEATH PENALTY ABOLISHMENT IN DEMOCRACIES**

Source: Amnesty International

<u>Wealthy Democratic Nations</u>	<u>Death Penalty Abolished</u>
Canada, United Kingdom, Switzerland, Ireland, Spain.....	1990s
New Zealand, Germany, Australia, France, Netherlands.....	1980s
Luxembourg, Norway, Denmark, Finland, Sweden, Austria.....	1970s

## Institutional Design and Mental Disorders

The term “mental illness” does not fit into the sociological perspective, as it implies the presence of actual disease. **Sociologists prefer the term “mental disorder” since it allows for the *external* influences on individuals.**

**Sociologists suggest that most mental disorders are actually problematic attempts by *externally* stressed individuals at coping behaviors.** Mentally disordered individuals adopt problematic *coping behaviors* as a means of dealing with or avoiding *external* stresses that threaten to overwhelm them. This stress comes from the illogical design and ideology of institutions that promote (or allow) the extremes of inequality, intolerable living conditions, demonization of “others,” punishment, bullying and ranking.

These cultural traits encourage higher levels of fear, shame, guilt, jealousy, frustration, sleeplessness, hopelessness, self-isolation, hatred, acts of retribution, drug abuse, violence and emotional dysfunction than in many other nations. These reactions are not symptoms of disease; they are signs of cultural dysfunction.

We typically fail to notice these negative influences of institutions. After all, they have been around us our entire lifetimes; they precede our own existence. The role our cultural institutions play in mental disorder is thereby overlooked. So few of us question these institutional arrangements that these institutions remain defective, and continue to create more mentally disordered individuals.

Consider the design of our nation's elementary and high schools as one example. Unlike schools in many nations, our public school environments tend to be very impersonal, extremely competitive, authoritarian and crowded. Our elementary school class sizes - which are nearly double Europe's class sizes - leave our children with much less care, supervision and support from teachers.

This contributes to emotional stress in students. Overburdened teachers (also highly stressed as a result) are then forced to remove disruptive students quickly from such a heavily populated environment, because the teachers have less time to devote to each student's special needs. These are *institutional failures* that could be fixed.

Some students are often labeled as having “Attention Deficit Disorder” (ADHD) very quickly in overcrowded classrooms. And that likelihood has been increased in recent years by reducing art and music classes and/or recess options in which children may relax or blow off steam during their day. In an attempt to increase school scores on nationwide testing by shifting student leisure time to study time, hourly breaks also have been reduced in some schools down to as little as 3 minutes.

This means that students in primary and secondary schools are forced to remain seated and mostly silent almost continuously for their entire school day, an obvious fundamental contradiction of their social and biological requirements. Why would we *not* expect problematic coping behaviors to arise in these social circumstances?





Gary Payne, Ireland 2006

Irish kids at recess, blowing off steam in a healthy way. The primary school classrooms I visited never had more than 14 students in them, about half the class size found in similar schools in the USA.

U.S. students who react badly to any of these or other illogical school arrangements, or who just cannot be quiet and hold still for eight hours are often labeled as having a “disease” and forced to take drugs. Our nation's children consume five times more Ritalin than all other students in the entire rest of the world combined. A 2019 analysis indicated that we are only 4% of the world population but taking 83% of manufactured Ritalin. Over \$20 billion is spent on drugging kids just for ADHD. [18]

Sociologists are doubtful that “hyperactive” children are experiencing a disease or that drugging them is justified.

In 2008, five pharmaceutical companies received warning from the FDA regarding false advertising in promoting ADHD medication.[19] In September 2008 the FDA sent notices to Novartis Pharmaceuticals and Johnson & Johnson regarding advertisings of Focalin XR and Concerta in which they overstated products' efficacies.[20] A similar warning was sent to Shire with respect to Adderall XR.[21] Buyer beware.

Unequal opportunity in education also contributes to student anger and misbehavior. For example, some popular after-school activities are unavailable to students who cannot afford fees to participate. A substantial segment of the student populations in our schools



arrives without breakfast, without clean clothes, and without testing for visual or hearing impairments. The constant ranking of students in academics, sports, beauty and popularity establishes an informal hierarchy of student statuses which discourages those at the bottom from participation and recognition.

Those on the lower end of that rank order are the most likely candidates to be school dropouts or involved in school shootings. When those shootings occur in the USA, the vast majority of our nation's citizens and leaders are tempted to point the finger at the "deranged killers," and their families. But this ignores the pressures of the institutional environment that may foster the behavior. Presently, educational violence including mass killings continue in the USA at rates far higher than in similar nations.



Gary Payne, 2005, Trinidad, Cuba

A typical class size for struggling readers in Trinidad, Cuba, 2005. Students that get this much attention early in their school years are more likely to learn and behave well. Ritalin is not used here, or needed.

The paragraphs above actually understate the overall emotional challenge faced by both children and adults. Irrationality within our educational processes is just *one* aspect of many institutional threats to our mental health. We live our lives in a virtual crossfire of institutional irrationality. *Most* of us are forced to balance several stressful situations on



any given day, and *most* of us can handle this burden *most* of the time. However, the probability of behavioral disorder or emotional collapse in multi-stress contexts is higher for every institutional failure we overlook.

Sociologists hold that institutional design is the primary source of criminal deviance and mental disorder. This perspective explains why rates and types of deviance vary so much from nation to nation. Sociological solutions like expanding early childhood development programs like Headstart and reducing class sizes could make a substantial difference in the lives of individuals, and later, in national statistics regarding problematic and criminal behavior.



Gary Payne, 2013, Dominica

The students at the Salbyia Indian Elementary School on the island nation of Dominica live in a much less stressful classroom environment than students in the USA. They are allowed to stand at their desks, they may walk around as they please to help or work with each other on projects and may take personal items like teddy bears and other objects to school. And since their class size is half that of the typical class in our nation, the teacher has more time to keep everyone up to speed. This insures that students are not left behind as is typical in our presently overcrowded classrooms. Not surprisingly, the principal of the Salbyia School reported that *none* of her students needed to be drugged to control their behavior.

However, resistance to sociological solutions is traditionally very high in the USA. We live in a nation that does not think in cultural terms. Many citizens view the costs of public education as already too expensive. They do not seem to make the connection with the vast negative financial consequences of operating inadequate institutions. Mentally disordered children, high school dropouts and juvenile delinquents trigger much higher incarceration and productivity costs to a nation than the costs of operating logically designed educational institutions.

Societies face choices. Shall we make our institutions even more demonizing and punitive...or more fair and supportive? **Sociology makes *prevention* through proper institutional design the highest priority.** Prevention works better than treatment or punishment because it is usually cheaper, more humane and less likely to be racist or classist. The idea is to redesign our institutions to make ourselves happier, healthier, safer, more creative, more free, intelligent and comfortable with each other.

It's time to rethink our institutional design. Other nations have done this. We can too.



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An entertaining and dubious example of commercial advertising from our past. Buyer beware.