Preclassical and Classical Theories of Crime

This section will examine the earliest logical theories of rule breaking, namely, explanations of criminal conduct that emphasize free will and the ability of individuals to make rational decisions regarding the consequences of their behavior. The natural capabilities of human beings to make decisions based on expected costs and benefits were acknowledged during the Age of Enlightenment in the 17th and 18th centuries. This understanding of human capabilities led to what is considered the first rational theory of criminal activity, deterrence theory. This theory has had a more profound impact on justice systems in the United States than any other perspective to date. Furthermore, virtually all criminal justice systems (e.g., policing, courts, corrections) are based on this theoretical model even today.

Such theories of human rationality were in stark contrast to the theories focusing on religious or supernatural causes of crime, which had prevailed through most of human civilization up to the Age of Enlightenment. In addition, the Classical School theories of crime are distinguished from theories in subsequent sections of this book by their emphasis on the free will and rational decision making of individuals, which modern theories of crime tend to ignore. The theoretical perspectives discussed in this section all focus on the ability of human beings to choose their own behavior and destinies, whereas paradigms that existed before and after this period tend to emphasize the inevitability of individuals to control their behavior due to external factors. Therefore, the Classical School is perhaps the paradigm best suited for analysis of what types of calculations are going on in someone’s head before he or she commits a crime.

The different Classical School theories presented in this section vary in many ways, most notably in what they propose as the primary constructs and processes individuals use to determine whether they are going to commit a crime. For example, some Classical School theories emphasize the potential negative consequences of their actions, whereas others focus on the possible benefits of such activity. Still others concentrate on the opportunities and existing situations that predispose people to engage in criminal activity. Regardless of their differences, all of the theories examined in this section emphasize a common theme: Individuals commit crime because they identify...
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Chapter 2: Preclassical and Classical Theories of Crime

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Benedict XVI welcomed a large group of Italian exorcists who visited the Vatican in September 2005 and encouraged them to carry on their work for the Catholic Church. Furthermore, in 1999, the Roman Catholic Church issued revised guidelines for conducting exorcisms, which recommend consulting physicians when exorcisms are performed; it also provides an 84-page description of the language (In Latin) to be used in such rituals. It should be noted that the use of such exorcisms is quite rare, especially in more developed nations. However, U.S. Catholic bishops recently (in November 2010) cited the need for more trained exorcists and even held a conference in Baltimore, Maryland, on how to conduct them. This two-day training session instructed clergy on evaluating evil possession, as well as reviewing the rituals that comprise an exorcism. More than 50 bishops and 60 priests attended this training session, despite the tendency for exorcists in U.S. dioceses to keep a very low profile.4

One of the most common supernatural beliefs in primitive cultures was that the full moon caused criminal activity. Then, as now, there was much truth to the full-moon theory. In primitive times, people believed that crime was related to the influence of higher powers, including the destructive influence of the moon itself. Modern studies have shown, however, that the increase in crime is primarily due to a Classical Theoretical Model. There are simply more opportunities to commit crime when the moon is full because there is more light at night, which results in more people being out on the streets. In any case, nighttime is well established as a high-risk period for adult crimes, such as sexual assault.

Although some primitive theories had some validity in determining when crime would be more common, virtually none of them accurately predicted who would commit the offenses. During the Middle Ages, just about everyone was from the lower classes, and only a minority of that group engaged in offending against the normative society. So, for most of human civilization, there was virtually no rational theoretical understanding of why individuals violate the laws of society; instead, people believed crime was caused by supernatural or religious factors of the devil-made-me-do-it variety.

Consistent with these views, the punishments related to offending during this period were quite harsh by modern standards. Given the assumption that evil spirits drove the motivations for criminal activity, the punishments for criminal acts, especially those deemed particularly offensive to the norms of a given society, were often quite inhumane. Common punishments at that time were beheading, torture, being burned alive at the stake, and being drowned, Stoned, or quartered. Good discussions of such harsh examples of punishment, such as quartering, can be found in Black et al's discussion of punishment.5

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Although many would find the primitive forms of punishment and execution to be quite barbaric, some modern societies still practice them. For example, Islamic court systems, as well as other religious and ethnic cultures, are societies that still practice them. For example, Islamic court systems, as well as other religious and ethnic cultures, are societies that still practice them. Fifteen individuals were whipped with canes by the government officials while being held in prison for drug offenses.

Compared to U.S. standards, the more extreme forms of corporal punishment, particularly public executions carried out by many religious courts and countries, are done out and very painful. An example is stoning, in which people are buried up to their waists and local citizens throw small stones at them until they die. Large stones are not allowed because they would lead to death too quickly. In most of the Western world, such brutal forms of punishment and execution were done away with in the 1700s due to the impact of the Age of Enlightenment.

The Age of Enlightenment

In the midst of the extremely draconian times of the mid-1600s, Thomas Hobbes, in his book Leviathan (1651), proposed a rational theory of why people are motivated to form a rational framework that all individuals are in a constant state of warfare with one another. He used the extreme examples of primitive tribes and sects. He argued that the primitive state of man is selfish and greedy, so people live in a constant state of war. Hobbes also acknowledged that fear of everyone else, the people are also rational, so they will rationally organize under the state of warfare but are one unit among many, for the purpose of avoiding the constant state of war. Interestingly, once a government is created, the state of warfare must be one unit among many because it is a new government. This can be seen in modern times; after all, it is quite rare that a person or family declares war against another (although gangs may be an exception), but we often hear of governments declaring war.

Hobbes stated that the primitive state of fear—constant warfare of everyone against everyone else—was the motivation for entering into a contract with others to create a common authority. At the same time, Hobbes specified the motivation for entering into a contract with others to create a common authority. At the same time, Hobbes specified the motivation for entering into a contract with others to create a common authority. At the same time, Hobbes specified the motivation for entering into a contract with others to create a common authority. At the same time, Hobbes specified the motivation for entering into a contract with others to create a common authority.

Strangely, it appears that the emotion that inspires people to enter into an agreement to form a government is the same emotion that inspires these same individuals to follow the rules of the government that is created. It is ironic, but it is quite true.

Given the social conditions during the 1600s, this model appears somewhat accurate; there was little sense of community in terms of working toward progress as a group. It had not been that long since the Middle Ages, when a third of the world’s population had died from sickness, and many cultures were severely deprived in an extremely state of poverty. Prior to the 1600s, the feudal system had been the dominant mode of governance in most of the Western world. During this feudal era, a very small group of aristocrats (less than 1% of the population) owned and operated the largely agricultural economy that existed. Virtually no rights were afforded to individuals in the Middle Ages or at the time Hobbes wrote his book. Most people had no individual rights in terms of criminal justice, let alone a say in the existing governmental system. The government was clearly taking issue with this lack of say in the government, which had profound implications for the justice systems of that time.

Hobbes clearly stated that, until the citizens were entitled to a certain degree of respect from their governing bodies as well as their justice systems, they would never fully enjoy the authority of government or the system of justice. Hobbes proposed a number of extraordinary ideas that came to define the Age of Enlightenment. He presented a drastic paradigm shift for social structure, which had extreme implications for justice systems throughout the world.

Hobbes explicitly declared that people are rational beings who choose their destinies by creating societies. Further, Hobbes proposed that individuals in such societies democratically create rules of conduct that all members of that society must follow. These rules, which all citizens decide upon, become laws, and the result of not following the laws is punishment determined by the democratically instituted government. It is clear from Hobbes’s statement that the government, as instructed by the citizens, is not only in the authority to punish individuals who violate the rules of the society but, more important, has a duty to punish them. When such an authority fails to fulfill this duty, breakdown in the social order can quickly result.

The arrangement of citizens promising to abide by the rules or laws set forth by a given society in return for protection is commonly referred to as the social contract. Hobbes introduced this idea, but it was also emphasized by all other Enlightenment theorists who came after him, such as Rousseau, Locke, Voltaire, and Montesquieu. The idea of the social contract is an extraordinarily important part of Enlightenment philosophy. Although Enlightenment philosophers had significant differences in what they believed, the one thing they had in common was the belief in the social contract: the idea that people invest in the laws of their society with the guarantee that they will be protected from others who violate such rules.

Another shared belief among Enlightenment philosophers was that the people should be given a say in the government, especially the justice system. All of them emphasized fairness in determining who was guilty, as well as appropriate punishments or sentences. During the time in which Enlightenment philosophers wrote, individuals who stole a loaf of bread to feed their families were sentenced to death, whereas upper-class individuals who stole large sums of money, or committed murder, were pardoned. This goes against human nature, and, moreover, it violates the social contract. If citizens observe people being excused for violating the law, then their belief in the social contract breaks down. This same feeling can be applied to modern times. When the Los Angeles police officers who were filmed beating suspect Rodney King were acquitted of criminal charges in 1992, a massive riot erupted among the citizens of the community. This is a good example of the social contract breaking down when people realize that the government is failing to punish wrongdoers of the community (in this case, ironically, and significantly, police officers) who have violated its laws.

The concept of the social contract was likely the most important contribution of Enlightenment philosophers, but there were others. Another key concept of Enlightenment philosophers focused on democracy, emphasizing that every person in society should have a say via the government. Specifically, they promoted the idea of one person, one vote. Granted, at the time they wrote, this meant one vote for each White, landowning male, and not for women, those with disabilities, or the poor, but it was a step in the right direction. Until then, no individuals outside of the aristocracy had any say in government or the justice system.
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The Enlightenment philosophers also talked about each individual’s right to life, liberty, and the pursuit of happiness. This probably sounds familiar because it is contained in the U.S. Declaration of Independence. Until the Age of Enlightenment, individuals were not considered to have these rights; rather, they were seen as instruments for serving totalitarian governments. Although most citizens of the Western world take these rights for granted, they did not exist prior to the Age of Enlightenment.

Perhaps the most relevant concept that Enlightenment philosophers emphasized, as mentioned above, was the idea that human beings are rational and therefore have free will. The philosophers of this age focused on the ability of individuals to consider the consequences of their actions, and they assumed that people freely choose their behavior (or lack thereof), especially in regard to criminal activity. Beccaria, the father of criminal justice, made this assumption in his formulation of what is considered to be the first bona fide theory of why people commit crime, described below.

The Classical School of Criminology

The foundation of the Classical School of criminological theorizing is typically traced to the Enlightenment philosophers, but the specific origin of the Classical School is considered to be the 1764 publication of On Crimes and Punishments by Italian scholar Cesare Bonesana, Marchese di Beccaria (1738-1794), commonly known as Cesare Beccaria. Amazingly, he wrote this book at the age of 26 and published it anonymously, but its almost instant popularity persuaded him to come forward as the author. Due to this significant work, most experts consider Beccaria to be the father of the Classical School of criminology, but perhaps most importantly, the father of deterrence theory and the father of the Classical School of criminology and the father of deterrence theory. This section provides a comprehensive survey of the ideas and impact of Cesare Beccaria and the Classical School.

Influences on Beccaria and His Writings

The Enlightenment philosophers had a profound impact on the social and political climate of the late 1600s and early 1700s. Growing up in this time period, Beccaria was a child of the Enlightenment, and as such, he was highly influenced by the ideas of his contemporaries. The Enlightenment philosophy is readily evident in Beccaria’s essay, and he incorporates much of its assumptions into his work. As a student of law and political philosophy, Beccaria had a good background for determining what was and was not rational in legal policy. His loyalty to the Enlightenment ideal was ever present throughout his work.

Beccaria emphasizes the concept of the social contract and incorporates the idea that citizens give up certain rights in exchange for the state’s protection. He also asserts that acts or punishments by the government that violate the social contract do not violate the overall sense of unity will not be accepted by the populace, largely due to the need for the social contract to be fair. Beccaria explicitly states that laws are compacts of free individuals in society. In addition, he specifically categorizes certain offenses as crimes.

Beccaria’s Proposed Reforms and Ideas of Justice

When Beccaria wrote, authoritarian governments ruled the justice systems, which were actually quite unjust during that time. For example, it was not uncommon for a person who stole a loaf of bread to feed his or her family to be imprisoned for life or executed. A good example of this is seen in the story of Victor Hugo’s Les Misérables. The protagonist, Jean Valjean, gets a lengthy prison sentence for stealing food for his starving loved ones. On the other hand, a judge might excuse a person who had committed several murders because the confessed killer was from a prominent family. Beccaria sought to rid the justice system of such arbitrary acts on the part of individual judges. Specifically, Beccaria claimed in his essay that "only laws can decree punishments for crimes... Judges in criminal cases cannot have the authority to interpret laws." Rather, he believed that legislatures, elected by the citizens, must define crimes and the specific punishment for each criminal offense. One of his main goals was to prevent a single person from assigning an overly harsh sentence on a defendant and allowing another defendant in a similar case to walk free for the same criminal act, which was quite common at that time. Thus, Beccaria’s writings call for a set punishment for a given offense without consideration of the presiding judge’s personal attitudes or the defendant’s background.

Beccaria believed that “the true measure of crimes is namely the harm done to society.” Thus, anyone at all who committed a given act against the society should face the same consequence. He was very clear that the law should impose a specific punishment for a given act, regardless of the circumstances. One aspect of this principle was that it ignored the intent of the offender in committing the crime. Obviously, this principle is not followed in most modern justice systems; intent often plays a key role in the charges and sentencing of defendants in many types of crimes. Most notably, the different degrees of homicide in most U.S. jurisdictions include first-degree murder, which requires proof of premeditation and malice aforethought; second-degree murder, which requires evidence of malice; and various degrees of manslaughter, which generally include some level of provocation on the part of the victim. This is just one example of the importance of intent, legally known as mens rea (literally, guilty mind). Therefore, Beccaria’s propositions infer that mens rea is essential. Despite his recommendations, most societies today in the intent of the offender in criminal sent a significant improvement over the arbitrary punishments handed out by the regimes and justice systems of the 1700s.

Another important reform that Beccaria proposed was to do away with practices that were common in “justice” systems of the time (the word justice is in quotation marks because they were largely systems of injustice). Specifically, Beccaria claimed that secret accusations should not be permitted; rather, defendants should be able to contest and prove their innocence. Writing about secret accusations, he said, “Their customary use makes men
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strongest shield, secrecy. Although some modern countries still accept and use secret accusations and disallow the cross-examination of witnesses, Beccaria set the standard in guaranteeing such rights to defendants in the United States and most Western societies.

In addition, Beccaria argued that torture should not be used against defendants:

A cruelty consecrated by the practice of most nations is torture of the accused... either to make him confess the crime or to clear up contradictory statements, or to discover accomplices... to discover other crimes of which he might be guilty but of which he is not accused.

Although some countries, such as Israel and Mexico, currently allow the use of torture for eliciting information or confessions, most countries abstain from the practice. There has been wide discussion about a memo, written by President George W. Bush's lead counsel at the White House that the U.S. military could use torture against terrorist suspects. However, at least in terms of House, claiming that the U.S. military could use torture against terrorist suspects. However, at least in terms of the United States, it has traditionally agreed with Beccaria, who believed that any information or confessions obtained under torture are relatively worthless. Beccaria's belief in the worthless of torture is a vindication of his statement that it is useless to reveal the author of a crime that lies deeply buried in darkness.

Further, it is likely that Beccaria believed the use of torture was one of the worst aspects of the criminal justice system.

It is likely that Beccaria believed the use of torture was one of the worst aspects of the criminal justice systems.

This infamous crucible of truth is a still-standing memorial of the ancient and barbarous legislation of a time when trials by fire and by boiling water, as well as the certain outcomes of duels, were called "judgments of God."

Beccaria also expressed his doubt of the relevance of any information received via torture:

Thus the impression of pain may become so great that, filling the entire sensory capacity of the tortured person, it leaves him free only to choose what for the moment is the shortest way of escape from pain.

As Beccaria saw it, the policy implications from such use of torture are that "of two men, equally innocent or equally guilty, the strong and courageous will be acquitted, the weak and timid condemned." Beccaria also claimed that defendants should be tried by fellow citizens or peers, not by judges.

I consider an excellent law that which assigns popular jurors, taken by lot, to assist the chief judge... each man ought to be judged by his peers.

It is clear that Beccaria felt that the responsibility of determining the facts of a case should be placed in the hands of more than one person, a belief driven by his Enlightenment beliefs about democratic philosophy, namely that citizens of the society should have a voice in judging the facts and deciding the verdicts of criminal cases. This proposition is representative of Beccaria's overall leaning toward fairness and democratic processes, which Enlightenment philosophers shared.

Today, U.S. citizens often take for granted the right to have a trial by a jury of their peers. It may surprise some readers to know that some modern, developed countries have not provided this right. For example, in the 1990s, Russia held jury trials for the first time in 85 years. When Vladimir Lenin was in charge of Russia, he had abolished jury trials. Over the course of several decades, the bench trials in Russia produced a 99.6% rate of convictions. This means that virtually every person in Russia who was accused of a crime was found guilty. Given the relatively high percentage of defendants found to be innocent of crimes in the United States, not to mention the numerous people who have been released from death row after DNA analysis showed that they were not guilty, it is rather frightening to think of how many falsely accused individuals have been convicted and unjustly sentenced in Russia over the last century.

Another important aspect of Beccaria's reforms involved making the justice system, particularly its laws and decisions, more public and better understood. This fits the Enlightenment assumption that individuals are rational:

If people know the consequences of their actions, they will act accordingly. Beccaria stated that "when the number of those who can understand the sacred code of laws and hold it in their hands increases, the frequency of crimes will be found to decrease." At the time, the laws were often unknown to the populace, in part because of widespread illiteracy but perhaps more as a result of the failure to publicly declare what the laws were. Even when laws were posted, they were often in languages that the citizens did not read or speak (e.g., Latin). Thus, Beccaria stressed the need for society to ensure that its citizens are educated about what the laws are; he believed that this alone would lead to a significant decrease in law violations.

Furthermore, Beccaria believed that the important stages and decision-making processes of any justice system should be made public knowledge rather than being held in secret or carried out behind closed doors. He stated, "Punishment... must be essentially public." This has a highly democratic and Enlightenment ring to it, in the sense that citizens of a society are assumed to have the right to know what vital judgments are being made. After all, in a democratic society, citizens give the government the profound responsibility of distributing punishment for crimes against the society. The citizens are entitled to know what decisions their government officials are making, particularly regarding justice. Besides providing knowledge and understanding of what is going on, this sets in place a form of checks and balances on what is happening. Furthermore, the public nature of trials and punishments inherently produces a form of deterrence for those individuals who may be considering criminal activity.

One of Beccaria's most profound and important proposed reforms is one of the least noted. Beccaria said, "The direct and most difficult way to prevent crimes is by perfecting education." We know of no other review of his work that notes this hypothesis, which is quite amazing, because most of the reviews are done for an educational audience. Furthermore, this emphasis on education makes sense, given Beccaria's focus on knowledge of laws and consequences of criminal activity as well as his focus on deterrence.

Beccaria's Ideas regarding the Death Penalty

Another primary area of Beccaria's reforms dealt with the use—and, in his day, the abuse—of the death penalty. First, let it be said that Beccaria was against the use of capital punishment. (Interestingly, he was not against corporal punishment, which he explicitly stated was appropriate for violent offenders.) Perhaps this was due to the times in which he wrote, in which a large number of people were put to death, often by harsh methods. Still, Beccaria had several rational reasons for why he felt the death penalty was not an effective and efficient punishment.

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Beccaria's Concept of Deterrence and the Three Key Elements of Punishment

Beccaria was generally considered the father of deterrence theory for good reason. Beccaria was the first-known advocate of punishment that sought to deter crime by reducing the rewards of crime and increasing the costs of committing it. He believed that if the costs of crime outweighed the rewards, then people would be less likely to commit them. This idea is often referred to as the principle of deterrence.

The three key elements of punishment in Beccaria's theory are:

1. **Swiftness**: The punishment must be administered quickly to deter the offender. Immediate punishment is seen as more effective in discouraging crime.
2. **Celerity**: The speed with which the punishment is administered is crucial. Delay in administering the punishment reduces its effectiveness.
3. **Certainty**: The punishment must be certain. An uncertain punishment is less effective because it does not provide the necessary deterrence.

**Swiftness**

The first of these characteristics was clarity, which we will refer to as **swiftness of punishment**. Beccaria saw two reasons why swiftness of punishment is important. At the same time, he wrote, some offenders were spending many years awaiting trial. Often, this was a longer time than they would have been locked up as punishment for their alleged offenses, even if the maximum penalty had been imposed. As Beccaria stated, "The more promptly and more closely punishment follows upon the commission of a crime, the more just and useful it will be." Thus, the first reason that Beccaria recommended swiftness of punishment was to reform a system that was slow to respond to offenders.

The second reason that Beccaria emphasized swift sentencing was related to the deterrence aspect of punishment. A swift trial and swift punishment were important, Beccaria said, "because of privation of liberty, being itself a punishment, should not precede the sentence." He felt that not only was this "privilege of liberty" unjust, in the sense that some of these defendants would not have been incarcerated for such a long period even if they had been convicted and sentenced to the maximum for the charges they were accused of committing, but it was detrimental because the individual would not like the sanction with the violation(s) committed. Specifically, Beccaria believed that people build an association between the pain of punishment and their criminal acts. He asserted

Promptness of punishments is more useful because when the length of time that passes between the punishment and the misdeed is less, so much the stronger and more lasting in the human mind is the association of these two ideas, and the more lasting is the impression of guilt that remains in the mind of the criminal. Envy is the last emotion that they can be properly moved by, as the case, the other as the necessary inevitable effect. It has been demonstrated that the association of ideas is the cement that forms the entire complex of the human intellect.

An analogy can be made to training animals or children; you have to catch them in the act, or soon after, or the punishment doesn't matter because the offender doesn't care why he or she is being punished. Ultimately, this has the greatest effect on the human spirit, but its duration. It is likely that many readers can relate to this type of argument, not that they necessarily agree with it; the idea of spending the rest of one's life in a cell is a very scary concept to most people. To many people, such a concept is more frightening than death, which supports Beccaria's idea that the duration of the punishment may be more of a deterrent than the short, albeit extremely intense, punishment of execution.
Beccaria argued that, for both reform and deterrence reasons, punishment should occur quickly after the act. Despite the commonplace aspects of making punishments swift, this has not been examined by modern empirical research and therefore is the most neglected of the three elements of punishment Beccaria emphasized.

Certainty

The second characteristic that Beccaria felt was vital to the effectiveness of deterrence was certainty of punishment. "The certainty of punishment, even if it be moderate, will always make a always terrify men's minds." He also said, "The certainty of punishment—swift, certain, and severity—is still highly respected and followed in most Western criminal justice systems. Despite its antiquated laws and caveats, there is no other traditional framework so widely adopted. With only one exception—namely, his proposal that a given act should always be punished in exactly the same way (see below)—Beccaria's concepts and propositions are still considered the ideal in virtually all Western criminal justice systems.

Beccaria's Conceptualization of Specific and General Deterrence

Beccaria also defined two identifiable forms of deterrence: specific and general. Although these two forms of deterrence tend to overlap in most sentences given by judges, they can be distinguished in terms of the intended target of the punishment. Sometimes the emphasis is clearly on one or the other, as Beccaria noted in his work.

Although Beccaria did not coin the terms specific deterrence and general deterrence, he clearly makes the case that both are important. Regarding punishment, he said, "The purpose can only be to prevent the criminal from inflicting new injuries on his citizens and to deter others from similar acts." The first portion of this statement—preventing the criminal from reoffending—focuses on the defendant and the defendant alone, regardless of any possible offending by others. Punishments that focus primarily on the individual are considered specific deterrence, and they are directly related to the individual who committed the crime. The second portion of this statement—deterrence of others—focuses on the prevention of a criminal act, rather than on the defendant. This is considered general deterrence.

Readers may wonder how a punishment would not be inherently both specific and general deterrence. After all, in today's society, virtually all criminal punishments given to individuals (i.e., specific deterrence) are prescribed in court, a public venue, so people are somewhat aware of the sanctions (i.e., general deterrence). However, when Beccaria wrote in the 18th century, most if not most of sentencing was done behind closed doors and was not known to the public and had no way to deter other potential offenders. Therefore, Beccaria saw much utility in letting the public know what punishments were handed out for given crimes. This fulfilled the goal of general deterrence, which was essentially scaring others into not committing such criminal acts, while it also furthered his reforms by letting the public know whether fair and balanced justice was being administered.

Despite the obvious overlap, there are identifiable distinctions between specific and general deterrence seen in modern sentencing strategies. For example, some judges have chosen to hand out punishments to defendants in which they are obligated, as a condition of their probation or parole, to walk along their towns' main streets while wearing signs that say "Convicted Child Molester" or "Convicted Shoplifter." Other cities have implemented policies in which pictures and identifying information of those individuals who are arrested, such as prostitutes or men who solicit them, are put in newspapers or placed on billboards.

These punishment strategies are not likely to be much of a specific deterrent. Having now been labeled, these individuals may actually be psychologically encouraged to engage in doing what the public expects them to do. The specific deterrent effect may not be particularly strong. However, authorities are hoping for a strong general deterrent effect on these cases. They expect that many of the people who see these sign-laden individuals on the streets, or in public pictures are going to be frightened away from engaging in similar activity.

cities in the 25 states that have such laws and concluded that there was no significant reduction in crime rates as a result. Furthermore, the areas with three-strikes laws typically had higher rates of homicide. Ultimately, Beccaria's philosophy on the three characteristics of good punishment in terms of deterrence—swiftness, certainty, and severity—is still highly respected and followed in most Western criminal justice systems. Despite its antiquated laws and caveats, there is no other traditional framework so widely adopted. With only one exception—namely, his proposal that a given act should always be punished in exactly the same way (see below)—Beccaria's concepts and propositions are still considered the ideal in virtually all Western criminal justice systems.


121 Ibid., 59.
131 Ibid., 59.
141 Ibid., 45.
There are also numerous diversion programs, particularly for juvenile, first-time, and minor offenders, which seek to punish offenders without engaging them in public hearings or trials. The goal of such programs is to hold them accountable and have them fulfill certain obligations without having them dragged through the system, which is often public. Thus, the goal is obviously to instill specific deterrence without using the person as a poster child for the public, which obviously negates any aspects of general deterrence. Although most judges invoke both specific and general deterrence in many of the criminal sentences that they hand out, there are notable cases in which either specific or general deterrence is emphasized, sometimes exclusively. Ultimately, Beccaria seemed to emphasize general deterrence and overall crime prevention, as suggested by his statement that "it is better to prevent crimes than to punish them. This is the ultimate end of every good legislation." This claim implies that it is better to deter potential offenders before they offend rather than after. The more educated an individual is regarding the law and potential punishments, as well as public cases in which offenders have been punished, the less likely he or she will be to engage in such activity. Beccaria's identification of the differential emphasis in terms of punishment was a key element in his work that continues to be important in modern times.

A Summary of Beccaria's Ideas and His Influence on Policy

Ultimately, Beccaria summarized his ideas on reforms and deterrence with this statement:

"In order for punishment not to be, in every instance, an act of violence of one or of many against a private citizen, it must be essentially public, prompt, necessary, the least possible in the given circumstances, proportionate to the crimes, dictated by the laws." 39

In this statement, Beccaria was saying that the processing and punishment administered by justice systems must be known to the public, which delegates to the state the authority to make such decisions. Furthermore, he asserts that the punishment must be appropriately swift, certain (i.e., necessary), and appropriately severe, which fits his concept of deterrence. Finally, he reiterates the need to administer the same punishment every time for a given criminal act, as opposed to having arbitrary punishments imposed by one judge. These are just some of many ideas that Beccaria proposed, but he apparently saw these points as being the most important.

Although we, as U.S. citizens, take for granted the rights proposed by Beccaria, they were quite unique concepts during the 18th century. In fact, the ideas proposed by Beccaria were so unusual and revolutionary then that he published his book anonymously. It is obvious that Beccaria was considerably worried about being accused of blasphemy by the church and of being persecuted by governments for his views.

Regarding the first claim, Beccaria was right; the Roman Catholic Church excommunicated Beccaria when it became known that he wrote the book. In fact, his book remained on the list of condemned works until relatively recently (the 1960s). On the other hand, government officials of the time surprisingly embraced his work. The Italian government and most European and other world officials, particularly dictators, embraced his work as well. Beccaria was invited to visit many other countries, even those of the most authoritarian states at that time, to help reform their criminal justice systems. For example, Beccaria was invited to meet with Catherine the Great, the Empress of Russia during the late 1700s, to help revise and improve Russia's justice system. Most historical records suggest that Beccaria was not a great diplomat or representative of his ideas, largely because he was not physically or socially adequate for such endeavors. However, his ideas were strong and stood on their own merit.

According to Enlightenment philosophy, violations of law are criminal acts not only against the direct victims of the crime but also against the entire society because they break the social contract. As Beccaria stated, the most heinous reform proposals, dictators may have seen a chance to pacify rectify revolutionary citizens who might be aiming to overthrow their governments. In many cases, reforms were only a temporary solution. After all, the American Revolution occurred in the 1770s, the French Revolution occurred in the 1780s, and other revolutions occurred (and American) societies that incorporated his ideas had fairer and more democratic justice systems than the ones that existed at that time.

The Impact of Beccaria's Work on Other Theorists

Beccaria's work had an immediate impact on the political and philosophical state of affairs in the late 18th century. The concept of deterrence was incorporated into many of the new constitutions of countries, most of them formed after major revolutions. It is quite obvious that many founding documents were constructed before and during the American Revolution, and which greatly influenced the Constitution and Bill of Rights of the United States. It is quite obvious that the many founding documents were constructed before and during the American Revolution, and which greatly influenced the Constitution and Bill of Rights of the United States. It is quite obvious that the many founding documents were constructed before and during the American Revolution, and which greatly influenced the Constitution and Bill of Rights of the United States. It is quite obvious that the many founding documents were constructed before and during the American Revolution, and which greatly influenced the Constitution and Bill of Rights of the United States. It is quite obvious that the many founding documents were constructed before and during the American Revolution, and which greatly influenced the Constitution and Bill of Rights of the United States. It is quite obvious that the many founding documents were constructed before and during the American Revolution, and which greatly influenced the Constitution and Bill of Rights of the United States.
Beyond this, Beccaria also had a large impact on further theorizing about human decision making related to committing criminal behavior. One of the more notable theorists in this area was Jeremy Bentham (1748–1832), who was inspired by Beccaria’s ideas. Bentham’s work was influenced by the Enlightenment and the Classical School of Criminology. His contributions were significant and his ideas were influential in the development of modern criminology.

One of the most important contributions of Bentham was the concept of *hedonistic calculus*, which is essentially the weighing of pleasure versus pain. This, of course, is strongly based on the Enlightenment/Beccaria concept of rationality. After all, if the expected pain outweighs the expected gain, the rational individual is expected to act in a certain way. Bentham’s list of criteria that he thought would go into the decision making of a rational individual is an analogy to the idea of hedonistic calculus. Bentham’s contributions to the overall assumptions of classical criminology did not significantly revise the theoretical model. Nonetheless, they were important in the development of modern criminology.

The Neoclassical School of Criminology

A number of governments, including the newly formed United States, incorporated Beccaria’s concepts and propositions into the development of their justice systems. The government that most strictly applied Beccaria’s ideas is the French government after the revolution of the late 1780s—found that it worked pretty well except for one concept, Beccaria’s ideas on punishment. French society after the revolution appeared to be unmolested in doing an act, such as when he or she had limited mental capacity or acted out of necessity. Perhaps most important, Beccaria’s framework specifically dismissed the intent (i.e., mens rea) of criminal offenders while focusing only on the harm done to society by a given act (i.e., actus reus). French society, as well as most modern societies such as the United States, deviated from Beccaria’s framework in that the harm done to society is accounted for in a very different way. In such circumstances, the concept of deterrence was developed, which became known as the Neoclassical School of Criminology.

The Neoclassical School of Criminology

In the next section, we will explore the key concepts and propositions of the Neoclassical School of Criminology. This school of thought is characterized by a focus on deterrence and the idea that punishment is effective in preventing crime. It is one of the dominant schools of thought in modern criminology.
on deterrence. Furthermore, a recent report concluded that proactive arrests for drunk driving have consistently been found to reduce such behavior, as does arresting offenders for domestic violence, but only if these measures are employed consistently.88

One example of court and correctional strategies is the "scared straight" approach that became popular several decades ago.89 These programs essentially sought to scare or deter juvenile offenders into going "straight" by showing them the harshness and realities of prison life. However, nearly all evaluations of these programs showed that they were ineffective, and some evaluations indicated that these programs led to higher rates of recidivism.90 There seem to be few successful deterrent policies in the court and corrections components of the criminal justice system. A recent review found that one of the only court-mandated policies that seem promising is the provision of protection orders for battered women.91

The policies, programs, and strategies based on classical deterrence theory will be examined more thoroughly in the final section of this book. To sum up, however, most of these strategies don't seem to work consistently to deter. This is because such a model assumes that people are rational and think carefully before choosing their behavior, whereas most research findings suggest that people often carry out behaviors that they know are irrational or without engaging in rational decision making,92 which criminologists often refer to as bounded rationality.93 Therefore, it is not surprising that many attempts by police and other criminal justice authorities to deter potential offenders do not seem to have much effect in preventing crime. This explanation will be more fully discussed in the final section of the book.

Conclusion

This section examined the earliest period of theorizing about criminological theory. The Classical School of criminology evolved out of ideas from the Enlightenment era in the mid to late 18th century. This school of thought emphasized free will and rational choices that individuals make, from the perspective of people who make choices regarding criminal behavior based on the potential costs and benefits that could result from such behavior. This section also explored the concepts and propositions of the father of the Classical School, which built the framework on which deterrence theory is based. We also discussed the various reforms that Beccaria proposed, many of which were adopted in the formation of the U.S. Constitution and Bill of Rights. The significance of the Classical School in both theorizing about crime and in actual administration of justice in the United States cannot be overstated. The Classical and Neoclassical Schools of criminology remain to this day the primary framework within which justice is administered, despite the fact that scientific researchers and academics have, for the most part, moved past this perspective to consider social and economic factors.

87Ibid.
89For a review of these programs and evaluations of them, see Ronald Lieder, Prevention and Control of Juvenile Delinquency, 3rd ed. (Oxford: Oxford University Press, 2001).
90Ibid.
91Ibid.
92For more on this topic, see, for example, Theoretical Perspectives: Learning from the Past and the Present (Washington, D.C.: National Institute of Justice, 1997).
93For more on this topic, see, for example, Alan Blumstein and Andrew Skolnick, Rational Choice and Criminal Behavior (New York: Routledge, 2002).
Section Summary

- The dominant theory of criminal behavior for most of the history of human civilization used demonic, supernatural, or other metaphorical explanations of behavior.
- The Age of Enlightenment was important because it brought a new logic and rationality to understanding human behavior, especially regarding the ability of individual human beings to think for themselves. Hobbes and Rousseau were two of the more important Enlightenment philosophers, and both stressed the importance of the social contract.
- Cesare Beccaria, who is generally considered the father of criminal justice, laid out a series of recommendations for reforming the brutal justice systems that existed throughout the world in the 1700s.
- Beccaria is also widely considered the father of the Classical School or deterrence theory; he based virtually all his theoretical framework on the work of Enlightenment philosophers, especially their emphasis on humans as rational beings who consider perceived risks and benefits before committing criminal behaviors. This is the fundamental assumption of deterrence models of crime reduction.
- Beccaria discussed three key elements that punishments should have to be effective deterrence: certainty, swiftness, and severity.
- Specific deterrence involves sanitizing an individual to deter that particular individual from offending in the future. General deterrence involves sanctioning an individual to deter other potential offenders by making an example out of the individual being punished.
- The Neoclassical School was formed because societies found it nearly impossible to punish offenders equally for a given offense. The significant difference between the Classical and Neoclassical Schools is that the neoclassical model takes aggravating and mitigating circumstances into account when an individual is sentenced.
- Jeremy Bentham helped reinforce and popularize Beccaria's ideas in the English-speaking world, and he further developed the theory by proposing hedonistic calculus, a formula for understanding criminal behavior.
- Despite falling out of favor among most criminologists in the late 1800s, the classical and neoclassical framework remains the dominant model and philosophy of all modern Western justice systems.

KEY TERMS

- actus reas
- mens rea
- deterrence theory
- certainty of punishment
- Neoclassical School
- severity of punishment
- social contract
- general deterrence
- specific deterrence
- swiftness of punishment
- utilitarianism

DISCUSSION QUESTIONS

1. Do you see any validity to the supernatural or religious explanations of criminal behavior? Provide examples of why you feel the way you do. Is your position supported by scientific research?
2. Which portions of Enlightenment thought do you believe are most valid in modern times? Which portions do you find least valid?
This entry, passages from Beccaria’s *On Crimes and Punishments* (originally published in 1764), is perhaps the most important in the entire book because it provides the framework on which all societies in the Western world have based their criminal justice systems. This is the model presented by the father of criminal justice, Cesare Beccaria, who published his work anonymously at first and then, once it became a widespread success, came forward as the author. The reforms that he presents in the passages excerpted here are examples of his attempts to make justice systems more fair and rational in the time that he wrote, as a son of the Enlightenment Age, which stressed rationality, fairness, and free will among individuals.

Beccaria proposed numerous reforms for justice systems that many of us take for granted, such as trial by peers, the right to confront and cross-examine accusers, the right to public notification of laws, and barring of torture and secret accusations. These reforms made him generally recognized as the father of criminal justice. Furthermore, Beccaria is widely considered the father of the Classical School and the father of deterrence theory because he was the first to be recognized as emphasizing the importance of individuals’ free will and rationale in choosing to engage in criminal behavior after considering the perceived costs and benefits. Although it is likely that he was not the first person to come to this realization, he was the first to get credit for explicitly stating this rational, decision-making process in individuals before they commit criminal acts and for identifying the three elements that make a punishment a good deterrent.

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**On Crimes and Punishments**

*Cesare Beccaria*

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**1. Origin of Punishments**

Lives are the conditions by which independent and isolated men, tired of living in a constant state of war and of enjoying a freedom made useless by the uncertainty of keeping it, unite in society! They sacrifice a portion of this liberty in order to enjoy the remainder in security and tranquility. The sum of all these portions of liberty sacrificed for the good of everyone constitutes the sovereignty of a nation, and the sovereign is its legitimate depository and administrator. The mere formation of this deposit, however, was not sufficient; it had to be defended against the private usurpations of each individual, for everyone always seeks to withdraw not only his own share of liberty from the common store, but to expropriate the portions of other men besides. Tangible motives were required sufficient to dissuade the despotic spirit of each man from plunging the laws of society back into the original chaos. These tangible motives are the punishments established for lawbreakers. I say "tangible motives," since experience has shown that the common crowd does not adopt stable principles of conduct, and the universal principle of dissolution which we see in the physical and the moral world cannot be avoided except by motives that have a direct impact on the senses and appear continually to the mind to counterbalance the