I. Criminal Justice System

A. Structural Functionalism: Emile Durkhiem

1. Society as moral order

a. conscience collective

b. socialization

c. regulates and integrates

2. Five primary institutions: family, education, religion, politics,

economy functioning together

3. function: CJS as an institution

a. control certain types of behavior: labeled criminal

b. arrest, punishment, re-socialization

c. maintains social order, i.e., social solidarity

B. Conflict Theory: Karl Marx and Max Weber

1. Society is site of struggle between powerful and powerless.

2. Primary and secondary institutions organized in the interests

of the most powerful groups

3. CJS functions:

a. maintain status quo of the powerful

b. controls less powerful groups through:

i. writing laws that target crimes of powerless

ii. targeting poor and minorities

iii. disproportionate sentencing

c. different system of justice for wealthy

i. civil sanctions ii. fines

I. Inequality: Crime and the Criminal Justice System

A. Questions:

1. How does inequality influence society’s understanding of

crime?

2. How does inequality effect the criminal justice system?

3. What do we ignore?

B. Answer to (A1 part of A2).

1. Two defintions of crime

a. crimes of the wealthy: corporate crime

b. crimes of the poor: “street crime”

2. Crimes of the wealthy

a. cost more in $, lives, illness, injury

b. understood and treated differently

i. media

ii. venue: regulatory agencies or civil court

iii. politicians: friendly laws

3. Crimes of the poor

a. counted in FBI statistics (Uniform Crime Reports)

i. types: property and person

ii. rate and pattern

b. media treats differently

i. news: “if it bleeds it leads”

ii. entertainment

iii. consequences: Annenberg Study

c. politicians: “tough”

i. 3 strikes

ii. mandatory and determinate sentencing: crack cocaine

iii. capital punishment

C. Effect on Criminal justice system (A2)

1. police: pressure

2. prosecutors: convictions

3.courts and judges: harsh

4. jurors

5. poor defendants

a. plea bargaining: public defender

b. appointed: sleeping, high, disbarred

c. contract

6.. consequences

a. prison-industrial complex $150 billion

b. incarceration

c. who is going to prison? Demographics

d. pressure and wrongful convictions

E. Criminal justice system and wrongful convictions

1. Innocence Project: 100, 133,167, 175 exonerations (capital crimes and rape)

2. Reasons

a. police and prosecutorial misconduct

i. suborning perjury

ii. manufacture or falsify evidence: Roger Keith Coleman

iii. exclude exculpatory evidence: Roy Criner

b. coerced confessions:

i. “Murder on a Sunday Morning”

ii. Eddie Jo Lloyd

iii. Central Park Wilding

c. jailhouse snitches: Ford Heights Four

d. eyewitness: Clyde Charles

E. Solutions

1. Access to competent lawyers

2. Resources for lawyers

3. Access to DNA

4. No statute of limitation on exculpatory evidence

F. What do we Ignore?

1. social causes: relation of poverty to crime

2. recidivism

a. drugs and recidivism

b. therapy, education and recidivsim

3. racism

a. profiling: Blacks 3x more likely to be arrested

b. sentencing

i. Blacks 7x more likely to end up in jail

ii.Blacks 6x as likely to go to federal prison

iii. Blacks 50% longer sentences

c. juveniles

1

B. Is crime a significant social problem?

1. Media and crime

a. news: “if it bleeds, it leads”

b. entertainment:: Cops to Law and Order to CSI

i. frequency: 64% of characters

ii. 3x an hour

2. Politicians “out tough” each other on crime

a. Clinton

i. Omnibus Crime Bill of 1994 +50.000 police

ii. Anti-terrorism and Effective Death Penalty Act

death penalty for non-capital offenses

eliminate reasons for appeal

limit time on new evidence

b. Gray Davis

3. To the Average citizen

a. surveys: crime is significant problem

b. one study: 50% afraid to walk at night near there neighborhood.

4. To heavy TV viewers: Annenberg Study

a. consequences: anxious, angry, frustrated, fearful ( stranger),

and insensitive

b. protective measures

c. support policies: three strikes, juveniles as adults, determinate

sentencing, more police

C. Is crime a significant social problem: Definition and stasticis

1. Definition and Sources: FBI Uniform Crime Report and National Crime Victimization Survey

2. Crime rate UCR:

a. violent crime 2003: 1.4 million

b. murder: 16,503

c. property: 8 million

3. Comparison: crime rate NCVS and other surveys

a. violent crime: 7 million (3 million women, 1-3 million children)

b. National Institute of Justice survey only 5% reported

4. Comparison: other first world countries

a. violent crime; 3x to 8x greater

b. property crime: about the same

5. Trend:

a. violent crime: declining since 1994, 2003 all time low

b. property crime: declining

6. Penal system

a. 6.6 million in system

b. 2 million incarcerated

i. 1980 200,000

ii. comparison: highest per cent of population of any

country

7. Resources allocated:

a. cities, counties, states, federal $150 billion

b. trend: since 1980s +200%-400%

c. comparison: other countries, within states

d. incarceration: cell $60,000, year $25,000-$31,000

D. Function of the criminal justice system

1. structural functional

a. maintains social/moral order by controlling deviance that has been

labeled criminal

b. “thin blue line”

2. conflict

a. as an institution it reflects the system of inequality

b. emphasis on “street crimes”

i. resources: 80% of police work and 50% of arrests are related to

moral crimes: prostitution, drug use, gambling

ii. unfairness: increasing rate of incarceration and longer sentences

related to violation of drug laws

iii. unfairness: targeting and prosecution of minorities and poor areas

iv. plea bargain and the poor

public defenders, court appointed, contract (1455, 48)

c. another “criminal justice” system: corporate crimes

i. definition

ii. fewer resources to investigate and prosecute

iii. different system: regulatory agencies or civil trials

iv. different punishment: fines

v. more resources to defend

vi. cost benefit analysis

vii. tort reform

3. Which is the greater and more serious social problem?

a. Types of corporate crime

i. knowingly selling dangerous and defective products and

concealing it from the public

ii. knowingly polluting the environment with toxic and

hazardous waste and concealing it from the public

iii. knowingly exposing workers to dangerous conditions

and concealing it from them.

v. corporate fraud

vi. violation of labor laws and regulations

vii. human rights violations

b. Social cost: corporate crime vs street crime

i. death, injury, disease and illness

ii. cost

iii. corporate crime and government contracts

II. Capital Punishment and the criminal justice system

A. Public opinion and capital punishment

1. Majority of Americans support death penalty but it is declining

2. When given choice capital vs life in prison (41% vs 44%)

3. Public: 62% say capital punishment is not a deterrent

4. Police Chiefs: 1% say it is effective in limiting crime (31% say “reducing drug abuse)

5. 11 states have no death penalty

6. international: EU

B. Recent Supreme Court Rulings

1. 2002 Atkins v Virginia: mentally retarded

2. 2995 Roper v Simmons: juveniles

C. Capital punishment and its problems

1. Since 1976 over 100 persons waiting execution have proven their innocence, and been exonerated

2. ( DOJ 2 out 3 capital cases being overturned)

3. Innocence Project (167 exonerations including those sentenced to long

terms for rape)

4. 18 in last fifteen years Il ( conservative pro-death penalty governor commute sentences)

5. Two studies: wrongful convictions (Innocence Project and Center for

Wrongful Convictions

a. police and prosecutorial misconduct

i. suborning perjury

ii. manufacture or falsify evidence

iii. exclude exculpatory evidence or testimony

iv. Roy Criner

b. False confessions

i. coerced: extended interrogations without legal representation, physical threats, and violence

ii. mentally retarded: Eddie Jo Lloyd

iii. juveniles: Central Park Jogger (Wilding)

iv. “Murder on a Sunday Morning”

c. False testimony

i. cell mates, snitches, informants

ii. Ford Heights Four

d. Eyewitness (third study of 67)

i. 51 whole or part of evidence

ii. 32 convicted only on testimony of one

eyewitness

iii. Brent Butler and Clyde Charles

C. Institutional Analysis of CJ system: Politicization of the System

1. Mass Media creates climate for convictions

2. Politicians

a. campaign “tough on crime”

b. write the laws: labeling behavior criminal

c. sentencing: mandatory sentencing for drugs

d. allocate resources

e. pressured from media and constituency, pressure police, DA

2. Judges

a. appointed by politicians who run on crime

b. elected for being "tough on crime"

c. mandatory and determinate sentencing

d. power of discretion

i. setting bail, as long as 18 mos, not wealthy

ii. evidence

iii. witnesses

3. Prosecutors

a. political office

b. run on crime

c. reelected on their success

d. stepping stone to political office, better have a

tough on crime record

e. convictions through "plea bargain"

i. 9 out of 10 cases plea bargained

ii. in interests of poor to plea bargain

iii. if not high bail, more serious crime

f. "doctrine of finality"

4. Police

a. pressure from DA

b. pressure to close cases from superiors

c. pressure from the media

5. Juries

a. not of peers

b. presumed guilty

D. The Other side: Inadequate defense

1. Sixth Amendment, attorney, but 80-90% to poor to

hire their own attorney

2. Attorneys in Death row convictions

a. sleeping

b. high

c. disbarred

3. In some states judges appoint attorneys

a. campaign contributions

b. keep trial moving

4. public defender systems

A. AL, MISS, VI, GA no public defenders, as Gov of

TX George Bush vetoed PD system

B. limited time

C. limited funds, AL $1000 out of court for

capital case, and MISS just $1000

D. AL capital case $4.98 per hour, another $5.05

(NYTimes March 1, 2000)

E. lawyers refuse capital cases too little funding

E. frequently no funding for appeals, DNA, no money for investigation (Innocence Project)

5. 20% of largest counties have "contract" systems

a. privatize defense to cheapest bid

b. one county $75.00 per case

c. one county 1455 cases to one lawyer, everyone

but 1% plea bargained

d. in one day pleaded 48 people, "a uniquely productive way to do business

C. Consequences

4. 90% on death row are poor.

III. The bias of the system and the death penalty

A. UN, ABA, and AI have all asked that US adopt a moratorium on the death penalty, and EU will not extradite

1. US Supreme Court: Atkins vs Virginia, no longer can

execute mentally retarded (nation 7/22,02)

a. Sandra Day O'Connor who wrote 1989 decision

supporting execution of mentally retarded said

she had doubts about credibility and quality of

capital cases and was concerned that innocent people had been executed

b. footnote 21 "Within the world community the

imposition of the dealt-penalty for crimes

committed by the mentally retarded is

overwhelmingly disapproved"

c. footnote 25 “We cannot ignore the fact that within recent years a disturbing number of inmates on death row have been exonerated.”

d. death penalty cases being overturned at rate

of 2 out of 3

2. Federal Judge ruled Federal Death Penalty Act

unconstitutional "undue risk of executing innocent

people."

4. not the system working, extra judicial

a. NW journalism class and the Chicago Tribune

b. Innocence Project

5. Justice Dept findings

a. 2 out of 3 appeals overturned conviction

b. serious errors, incompetent lawyers, police or

prosecutor misconduct

A. Consequences: the politicization of the criminal justice

System

1. Politicians

a. pressure: media, constituency, own promises

b. pass laws

i. harsh penalties

ii. resources for enforcement

c. examples

i. drug laws

ii. teenagers as adults

d. case: Central Park Jogger

2. Judges

a. pressure: same as politician

b. power of descretion

i. bail

ii. evidence and testimony

iii. except plea bargain

A. Bias of the system

1. Central Park Jogger

2. Introduction of DNA into the cj system

a. embraced as prosecutorial device

b. revealed the biases of the system

B. Cases

1. Ford Heights Four

a. four men and women convicted of rape and

murder of a couple

b. evidence

i. cell mate/informant: alleged jailhouse admission

ii. forensic evidence

iii. confession

c. biases

i. prosecutor suborned perjury of cell mate

ii. forensic evidence was falsified

iii. confession was coerced

iv. police withheld exculpatory evidence

d. guilty discovered by journalism class

i. eyewitness

ii. corroborated by DNA evidence

iii. and physical evidence

e. $36 million settlement

2. Eddie Joe Lloyd convicted of murder and rape

a. evidence: confession

b. biases

i. confessed while on therapeutic drugs

ii. while in a mental health institution

c. DNA exonerated

3. Brent Butler “Murder on a Sunday Morning”

a. crime

b. evidence:

i. eyewitness

ii. confession

d. biases

i. eyewitness

ii. coerced confession

e. similar to Clyde Charles who was convicted of

rape

i. evidence: eyewitness

ii. bias: police misconduct

4. Central Park Jogger convicted five black teenagers

of brutal assault and rape

a. evidence: confessions

b. coerced confessions

i. 24 hours straight of interrogation

ii. lied to

iii. differing accounts

c. DNA exoneration of the five and conviction of another through DNA

d. “Wilding”

5. Corethian Bell convicted of killing in mother

a. evidence: confession

b. bias: confession coerced

i. 50 hours

ii. threatened

iii. lied to about lie detector test

c. DNA exoneration

6. Roy Criner

a. crime:

i. rape and murder of Diana Ogg 1986

ii. convicted of rape sentenced to 99 years

b. evidence:

i. alleged admission to friends

ii. matching blood type

c. biases

i. exculpatory evidence

ii. DNA

iii. DA: no new trial

iv. Texas Court of Criminal Appeals: only proved he might be innocent

D. Response of our politicians and some judges

1. Anti-terrorism and Effective Death Penalty Act

a. limit habeus corpus

i. review facts as determined by state court,

ii. decision must be "unreasonable" not just

"incorrect" Supreme Ct

iii. violation of constitution

b. after that only technical legal or procedural

2. limit time that new exculpatory evidence can be

admitted

a. 12 months

b. some states 30 days

c. some states closed discovery, prevents journalists and defense attorneys from reviewong the evidence after a conviction

3. Michael Mccormick, presiding judge of Texas Ct of

Criminal Appeals: states shouldn't have to provide legal

aid to poor

4. Judges from 11th Circuit; lets speed up these executions