
**PUBLIC
OPINION,
CRIME,
A N D
CRIMINAL
JUSTICE**

**Julian V. Roberts
Loretta J. Stalans**

Crime & Society

Public Opinion, Crime, and Criminal Justice

CRIME & SOCIETY

Series Editor John Hagan
University of Toronto

EDITORIAL ADVISORY BOARD

John Braithwaite, Robert J. Bursik, Kathleen Daly,
Malcolm M. Feeley, Jack Katz, Martha A. Myers,
Robert J. Sampson, and Wesley G. Skogan

Public Opinion, Crime, and Criminal Justice,
Julian V. Roberts and Loretta J. Stalans

Poverty, Ethnicity, and Violent Crime, James F. Short, Jr.

Great Pretenders: Pursuits and Careers of Persistent Thieves,
Neal Shover

Crime and Public Policy: Putting Theory to Work,
edited by Hugh D. Barlow

Control Balance: Toward a General Theory of Deviance,
Charles R. Tittle

Rape and Society: Readings on the Problems of Sexual Assault,
edited by Patricia Searles and Ronald J. Berger

FORTHCOMING:

Women's Careers in Violent Crime: Casualties of Community Disorder,
Deborah R. Baskin and Ira B. Sommers

Public Opinion, Crime, and Criminal Justice

Julian V. Roberts
and Loretta J. Stalans

 **Routledge**
Taylor & Francis Group
New York London

Crime & Society

First published 2000 by Westview Press

Published 2018 by Routledge
711 Third Avenue, New York, NY 10017, USA
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

Routledge is an imprint of the Taylor & Francis Group, an informa business

Copyright © 2000 Taylor & Francis

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

Notice:

Product or corporate names may be trademarks or registered trademarks, and are used only for identification and explanation without intent to infringe.

Library of Congress Cataloging-in-Publication Data

Roberts, Julian V.

Public opinion, crime, and criminal justice / Julian V. Roberts
and Loretta J. Stalans.

p. cm.—(Crime and society)

Includes bibliographical references.

ISBN 0-8133-2318-5 (hc) ISBN 0-8133-6793-X (pbk).

1. Crime—United States—Public opinion. 2. Crime—Great Britain—Public opinion. 3. Criminal justice, Administration of—United States—Public opinion. 4. Criminal justice, Administration of—Great Britain—Public opinion. 5. Criminal statistics—United States. 6. Criminal statistics—Great Britain. 7. Public opinion—United States. 8. Public opinion—Great Britain. I. Stalans, Loretta J. (Loretta Jane) II. Title. III. Series: Crime & society (Boulder, Colo.)

HV6789.R63 1997

364.973—dc21

97-15795

CIP

ISBN 13: 978-0-8133-6793-4 (pbk)

To Kay Roberts and the teachers in my life
— Julian V. Roberts

*To Raymond B. and Diane T. Stalans for
their strongly held opinions and their love*
— Loretta J. Stalans



Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

Contents

<i>Acknowledgments</i>	xi
1 Introduction and Overview: Crime in the Public Eye	1
Public Concern About Crime, 1	
Prime-Time Crime, 3	
Public Opinion and Criminal Justice Policy-Making, 5	
Going Beyond the Results of Polls, 7	
Plan of the Book, 9	
Crime Control Versus Due Process Models of Justice, 12	
Consensus Versus Conflict, 12	
Information Processing by the Public, 13	
Research Methodologies, 14	
Conclusions, 20	
Notes, 21	
2 Public Knowledge of Crime: Myths and Realities	23
Crime Rates and Patterns, 26	
Criminal Recidivism Rates, 30	
Conclusions, 32	
Notes, 34	
3 Legal Reforms and Criminal Justice Statistics: What Does the Public Really Know?	35
Knowledge of the Law and Legal Rights, 35	
Knowledge of the Sentencing Process, 43	
Conclusions, 51	
Notes, 52	
4 Crime Seriousness	53
Seriousness of Crime as a Social Problem, 54	

Perceptions of the Relative Seriousness of Different Crimes, 56	
Conclusions, 71	
Notes, 72	
5 Beyond Public Responses: The Hidden Effects of Context, Recall, and Stereotypes	75
Context, 76	
Time Pressure and Answers to General Questions, 77	
The Public as Pragmatic Decisionmaker, 81	
People as Creative Storymakers, 89	
Conclusions, 104	
Notes, 106	
6 Origins of Crime and Crime Prevention	107
Beliefs About Why Crimes Are Committed, 107	
Schemata of Criminal Events, 110	
Stereotypes of Offenders, 111	
Crime Prevention, 123	
Conclusions, 125	
Notes, 125	
7 Evaluating the Police and the Courts	127
Confidence Across Institutions and Clarification of Diffuse Support, 128	
Evaluations of the Procedural Fairness of Courts, 140	
Evaluations of Procedural Fairness: The Role of Direct Experience, 144	
Relation Between Encounters with Authorities and Diffuse Support, 149	
Conclusions, 152	
Notes, 153	
8 Legislative Definitions of Crimes and Law Enforcement Priorities	155
Public Definitions of Crimes and Defenses to Crimes, 156	
Evaluations of Police Competence, 167	
Conclusions, 176	
Notes, 177	

9 The Adversarial System and the Institution of the Jury	179
Desired Procedures to Resolve Disputes and Their Accuracy, 180	
Fairness and Accuracy of Jury Verdicts, 186	
Conclusions, 195	
Notes, 196	
10 Sentencing and Parole	197
Public Interest in Sentencing, 198	
The Purposes of Sentencing and Imprisonment, 199	
Proportionality in Public Views of Sentencing, 204	
Criminal Record and the Sentencing Process, 205	
Attitudes Toward Sentencing Severity, 207	
Relative Punitiveness of the Public and the Courts, 209	
Attitudes Toward Parole, 217	
General Versus Specific Measures of Public Opinion, 218	
Conclusions, 222	
Notes, 223	
11 The Death Penalty	225
Power of the Death Penalty as Cruel and Unusual Punishment, 225	
Power of Instrumental Arguments to Change Death Penalty Attitudes, 238	
Conclusions, 243	
Notes, 244	
12 Privacy and Free Speech	247
Public Versus Judicial View of Privacy, 248	
Community Standards and Judgments of Obscene Materials, 258	
Conclusions, 263	
Notes, 264	
13 Juvenile Crime and Juvenile Justice	265
Knowledge of Juvenile Justice Trends, 266	
Sentencing Juvenile Offenders, 274	

Conclusions, 276	
Notes, 276	
14 Gun Control	277
Possession and Ownership of Guns, 278	
Views About Gun Control Laws, 279	
Conclusions, 287	
Notes, 289	
15 Drawing Conclusions	291
Educating the Public, 291	
Researching Public Opinion, 293	
Educating Criminal Justice Professionals, 294	
<i>References</i>	297
<i>About the Book and Authors</i>	337

Acknowledgments

The preparation of this book was aided by the research assistance of Pao Yang and the Department of Criminal Justice at Loyola University, who provided support for a research assistant. The authors extend their gratitude to Sylvie Chiasson from the University of Ottawa for her assistance in preparing the manuscript. Loretta Stalans also is grateful for the patient and loving support of her husband, Paul Yarnold.

Julian V. Roberts

Loretta J. Stalans



Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

Public Opinion, Crime, and Criminal Justice



Taylor & Francis

Taylor & Francis Group

<http://taylorandfrancis.com>

1

Introduction and Overview: Crime in the Public Eye

To the public, crime seems to be everywhere, from the boardrooms to the bedrooms of the nation, in peoples' homes and on their television screens. Americans worry about criminal victimization, are concerned about the proliferation of illegal drugs, and the transformation of many urban centres into "no-go" areas. But it is not just crime that engages the public's attention: The criminal justice response is equally interesting. Most Americans have seen footage of the assault on Rodney King in what became the most well-known amateur video since Zapruder's footage of the Kennedy assassination. The ensuing trials of the officers involved in the Rodney King case also fascinated the public. Rodney King, William Kennedy Smith, the Menendez brothers—all these cases attracted prime time media coverage. Riveting though they were for the public, none have attracted the degree of media coverage or public interest than the Simpson murder trial which in 1995 attracted more media attention than any other news story in America. Well over one hundred million Americans watched television in anticipation of the verdict in that case. Millions more followed the case in other countries.

Public Concern About Crime

An indication of the degree of public concern about the crime issue can be found by examining poll data. In 1994, crime was identified as the number one problem confronting America (Maguire and Pastore, 1994). Fully 37 percent of the public endorsed this view, a much higher percentage than any other social problem, including unemployment or the economy.

Examination of the historical record shows that concern over crime is greater now—and by a substantial degree—than ever before. In 1993 only 9 percent, and in 1992 only 5 percent of Americans identified crime as the number one national problem. In fact, this statistic had never been in excess of 10 percent since the question was first posed in 1980. The results are the same whether people are asked about the whole country or their own specific communities. When respondents were given a list of fifteen neighborhood problems, crime was identified more frequently than any other issue, including unemployment (Maguire *et al.*, 1993). In a poll published by Gallup as the U.S. Crime Bill passed in 1994, over 80 percent of Americans surveyed thought that crime was the most serious threat to individual rights and freedoms in America. Only 41 percent of respondents identified lack of economic opportunity as the most serious threat in this respect.

Another indication of the concern of Americans regarding the crime problem is to be found in their willingness to pay for additional criminal justice expenditures. Even though the justice system costs almost the country seventy-five billion dollars a year, fully three-quarters of the American public believe that too little is being spent to combat crime (Maguire and Pastore, 1995). This attitude has not changed appreciably in the past fifteen years: In 1980, 69 percent of the public held this opinion (Maguire and Pastore, 1995). Finally, it is important to note that the uneven distribution of criminal victimization means that fear or concern is also distributed differentially across the country. For example, Asian Americans are significantly more likely than African-Americans to identify crime as the most important problem facing their community (Maguire and Pastore, 1994).

This widespread public concern over crime in America is accompanied by a highly negative view of the criminal justice response. Here too, there has been a shift in public opinion. The last few years have witnessed a significant decline in public support for the criminal justice system. When Americans were asked in 1994 how much confidence they had in various institutions, the criminal justice system received the lowest ratings. Over half the sample said that they had "a great deal" or "quite a lot" of confidence in the U.S. military and the Church, while only 20 percent expressed a similar degree of confidence in the criminal justice system. Over 40 percent of respondents acknowledged that they had very little or no confidence in the justice system (Maguire and Pastore, 1995). Only one quarter of Americans believe that equal justice exists all or most of the time (Keeva, 1994).

Most people view the criminal justice system as excessively lenient and tilted towards protecting the offender at the expense of the rights of the individual victim, or society in general. In fact, one of the ironies in the field

is that the public perceive the criminal justice system itself as a cause of crime. When asked to state the cause of increased crime rates, leniency by the courts and the prison system were identified by more respondents than any other possible cause (Maguire and Pastore, 1995). Over 41 percent identified the law enforcement system or the courts and the prison system as the part of society that is most to blame for the increase in crime. Although no stage of the criminal justice system escapes criticism, the public are far more critical of the courts and correctional authorities than the police. Thus almost two-thirds of the American public rate the police in their community as being excellent or good. Ratings of prosecutors are less positive (48 percent), as are ratings of judges (45 percent). It is the authorities responsible for parole who receives the most negative evaluation: Fewer than one in four Americans perceives them to be doing a good job (Maguire *et al.*, 1993).

Prime-Time Crime

Media coverage of crime stories explains much of the public's interest in criminal justice, as well as the limited extent of their knowledge of the criminal justice system. The news media pay a great deal of attention to crime, whether in the form of fictionalized dramas or news programs. People who watch a lot of television or who read a lot of newspapers will be exposed to a steady diet of crime stories. The information conveyed, however, will not necessarily reflect the true nature of crime as recorded in official crime statistics or victimization surveys. The same can be said for news media coverage of the criminal justice response to crime. Here too, media coverage presents a distorted view of reality, one that stresses the leniency of the system. Finally, with the possible exception of research on the effectiveness of capital punishment, the results of systematic research in the field of criminology are seldom transmitted to the public via the media.

Criminal cases involve conflict, between individuals, or between individuals and the state. Conflict lies at the heart of all drama, so crime stories are inherently dramatic. This is particularly true of the criminal cases that attract the attention of the news media. They almost always involve conflict, at the time of the crime and in subsequent judicial proceedings. There is frequently a degree of mystery: What really happened? In a murder trial, only one person, (the accused) may know the truth, and he or she is not obliged to say anything either before or during the trial. There is also a sense of curiosity too, when a trial unfolds with two sides providing contradictory accounts of events. The model of procedural justice employed in America (the common law system), heightens the drama. Courtroom

events follow an adversarial model: Two theoretically equal adversaries representing opposing sides in the dispute. The inquisitorial model,¹ followed in many European jurisdictions such as France, is from the perspective of the public less compelling, and this may explain in part, Americans' fascination with crime and justice.

The link between criminal justice and the public is also closer in America than other nations. One reason for this is the presence of television cameras in courtrooms. Americans are able to participate (passively at least) in every major trial, as though they were jurors. In theory they have access to same amount of information as jurors. It is interesting to compare the media coverage and public interest in major criminal cases in different countries. The trial of the boys charged with killing Jamie Bulger in England received a significant amount of media attention, but almost exclusively in the newspapers. Television cameras were excluded from all stages of the judicial proceedings.

Although attitudes are formed and modified by direct and indirect experiences, in the area of crime and justice, the news media are predominant. Polls in the area of sentencing illustrate the point well. A nation-wide survey in Canada found that 96 percent of the public cited the news media as their source for information about the punishment of offenders. Most people have only very limited direct experience with the criminal justice issues that generate most controversy. For example, many people have strong views on what prison life is like, and what it should be like, yet how many people have actually spent time inside a prison, or visited inmates often enough to understand what goes on behind bars? We rely on the media, through factual and fictional representations, to provide us with information about crime and justice. Our perceptions of offenders are based on what we see on the screen not what we see in the streets.

In Canada, cameras are restricted to the steps of the courthouse, and not permitted inside the court room. In fact, in the most notorious criminal case in recent years, the news media were effectively gagged from reporting anything other than the verdict.² In contrast, Americans interested in following any of the major trials in recent years needed only a television and the time to watch to have access to all the information provided to the actual courtroom participants and witnesses.

The most dramatic crime stories evoke—indeed compel—public attention in a way that can be matched by no other issue. The Simpson trial generated more public interest than any other single event in recent memory. Media coverage of crime stories has always been extensive, or excessive, depending on one's perspective. The trial of Bruno Hauptmann, who was accused of killing the son of aviator Charles Lindbergh received a great deal of coverage in the 1930s. However, in the absence of television, there was a limit to how much—and how quickly—the public could learn

of developments in the case. The only source of information for the public in those days was the print medium or newsreels that played in movie theatres. Today, over 96 percent of American households contain at least one television set. This means that almost every American could have followed the Simpson trial on a daily basis. Crime is brought to the public in a way that was simply not possible prior to the advent of television. Live television coverage of the trials of O.J. Simpson or the Menendez brothers has brought criminal justice news to the public to a degree unknown to this time. Even trials without the national profile of the Simpson case are brought to the public through edited summaries on programs such as "Inside America's Courts." If people miss these television programs, they can now retrieve from the Internet complete transcripts of high profile cases.

The media have also made criminal justice a truly international issue. High-profile cases such as the assault on Rodney King or the Simpson murder trial are covered by the international news media, and followed by the public in several countries, not just in America. Concern over the ten-year olds convicted of murdering a toddler in a Liverpool suburb was not restricted to people in Britain. Cases such as this, and the mass murders that occurred in Gloucester have become, through the news media, international crime stories. In this sense much has changed over the past thirty years. The "Moors" murders in the early 1960s in England (in which a couple were convicted of torturing and killing children) attracted considerable attention in Britain, but not elsewhere.

Crime, then, is in many ways a social issue like no other. Clearly the public have opinions, sometimes strong ones, on other questions such as whether the U.S. should intervene militarily in the world's hot spots, or what to do about the economy or the health care system. But criminal justice engages our attention and stirs our emotions on many different levels. We respond viscerally to images of urban violence projected by the news media. We feel a more detached sense of outrage when we learn of corruption by senior public officials, or of offenders who commit serious crimes and yet who escape with derisory penalties.

Public Opinion and Criminal Justice Policy-Making

No other people on Earth expect as much from their justice system as Americans do. When we feel we've been wronged, we expect the law and courts to set things right. When we feel threatened—by crime, hatred or intolerance—we expect law enforcement, the corrections system and the courts to restore a semblance of safety and calm. (Keeva, 1994, p. 46)

Considering crime and criminal justice naturally leads to debates over crime control policies. Such debates have become ever more heated in recent years, as one solution after another has been adopted or rejected, sometimes adopted then rejected. The war on illegal drugs, violent crime in the inner cities, insider trading, illegal immigration—all these and many other problems have generated seemingly endless debates over crime policies. Should we build more prisons and pass harsher sentencing legislation, or invest in crime prevention through social development? Do we need more police, or more social workers? Should we abolish capital punishment or simply work harder to ensure that it is not applied in a discriminatory manner? Are more rigorous gun controls necessary or simply harsher (or mandatory) sentences for offenders who commit crimes with a firearm? Is it wrong to execute offenders who were juveniles when they committed the crimes that landed them on death row? The vigorous discussion around the 1994 Crime Bill attests to the high degree of public interest in the policy questions surrounding crime.

Public opinion plays an important role in criminal justice policy-making. This too, sets it apart from many other social issues. It is true that policy-makers involved in foreign affairs frequently consult public opinion surveys, but public views in the area of criminal justice are more directly engaged. American judges who have to face re-election are more responsive than their counterparts in other countries who are appointed to the bench for life. Politicians at the state and federal level listen to the views of the public. Law and order has consistently emerged as a key issue during elections. The case of Willie Horton is now well-documented. Horton was a murderer who killed a second time while on furlough. His case played a key role in the defeat of democratic candidate Michael Dukakis (see Tonry, 1995). Law and order has played a similar role in elections in other countries as well. The "Three strikes" sentencing laws in America (such as the one contained in the Violent Crime Control and Law Enforcement Act of 1994) were passed, in large part, as a result of public pressure for governments to do something about violent, recidivist crime. And finally, the issue of community values has played an important role in several Supreme Court decisions relating to criminal justice cases.

All too often legislators and policy-makers and newspaper editorialists use public opinion to advance their own criminal justice policy agendas. "This is what the people want," we are told, as politicians attempt to peddle their pet criminal justice policy. For example, appeals to public opinion have been used to bolster proposals to toughen juvenile offender legislation in Canada (Bala, 1994) as well as the U.S. (see Schwartz, Guo and Kerbs, 1993). Advocates in many different areas of criminal justice have claimed that the public is on their side. These claims, however, are almost never accompanied by public opinion data. At best, they cite letters to the editor,

readership surveys and similarly unsystematic measures of public opinion. When the results of public opinion surveys have been cited, the results are often surprising. In this book we shall identify issues where policy-makers, politicians or Supreme Court judges have drawn conclusions about public opinion which do not stand up in light of actual survey results.

Going Beyond the Results of Polls

In order to understand public views of crime and criminal justice we need to explore more than just the results of surveys. We need to know about the ways in which people process information, and how our views relate to previously-existing beliefs and attitudes. Whether you believe that Anita Hill was an innocent victim of predatory male sexuality may well depend upon your view of gender relations in society. Whether you feel that William Kennedy Smith committed the crime of rape may well depend upon what kinds of conduct you believe to be acceptable between men and women. As for the Rodney King case, people with a strong law and order orientation and who identify with the police may well "see" a different event as they watch the videotape of the assault on Mr. King. Was Bernard Goetz exercising his legitimate right to defend himself when he shot three black youths in the New York subway? Or was he committing the crime of attempted murder? People's positions may well be determined by whether they have been victimized. And finally, opinions about the verdict in the Simpson trial are related to the race of the respondent: Polls have demonstrated a strong racial difference in reactions to the verdict. African-Americans were significantly more likely to believe that the accused was not guilty.

This book is about crime, criminal justice and the public. Since the 1960s, crime has been the focus of a great deal of polling and public opinion research. Pollsters have surveyed the public on almost every topic relating to criminal justice. Some issues—such as capital punishment—have been addressed so often that a significant historical analysis is now possible. We now know a great deal about the ways in which people select, assimilate and respond to news about crime and criminal justice. We shall review research upon this issue. Throughout this book we shall attempt to go beyond the results of public opinion polls. For example, approximately two-thirds of the public in America, Canada and Great Britain support the use of the death penalty for offenders convicted of murder. But this is the beginning, not the end, of the story. This bald empirical fact does not tell us *why* the public endorse capital punishment, what kinds of cases they have in mind or whether they have considered alternative punishments such as life in prison without the possibility of parole. Nor does it tell us what they

know about the administration of the death penalty, or its effectiveness (relative to life imprisonment) as a general deterrent to murder.

Simple polls also fail to tell us what underlies the attitude, whether it is founded upon bedrock support for harsh, retributive punishment or perhaps a more malleable (and mistaken) belief in the deterrent efficacy of the death penalty. The same argument applies to many other issues in the area of criminal justice. Some of these questions can be (and have been) resolved by additional research, but others require knowledge of material from several fields of inquiry including social psychology, criminology and the study of the law. Our plan is to convey an understanding of public views of crime and criminal justice, rather than simply provide an inventory of findings from surveys on criminal justice topics.³

We also aim to highlight areas in which the public have significant misperceptions about crime, offenders or criminal justice. It is important to know whether a particular attitude is founded upon faulty knowledge, or some fundamental value. Whenever possible, we contrast the opinions of the public (as reflected in the results of representative surveys) with the results of systematic research from the field of criminology. We shall show, for example, that the public systematically over-estimate critical statistics such as criminal recidivism rates and crime rates. At the same time, they under-estimate the severity of the justice system. Many of these misperceptions feed into, and sustain a general public ideology with regard to crime and punishment. This view is that crime is a phenomenon committed by a small, identifiable group of people, and that crime can be prevented or offenders deterred if the system would simply impose harsher penalties.

It is important to note that the public are far from monolithic in their attitudes. People from different backgrounds and life experiences do not always share the same views about criminal justice. This is particularly true when demographic characteristics relate to involvement in crime or contact with the criminal justice system. Perhaps the most obvious example of this is that of race. Michael Tonry has demonstrated that incarceration rates for Black Americans are approximately seven to eight times higher than for whites (Tonry, 1995, p. 4). For this reason, it is perhaps not surprising that African-Americans and Caucasian Americans have different views about criminal justice policies. To take just one example, when Bernard Goetz (the so-called "Subway Vigilante") was acquitted of charges arising from the shooting of several black youths in the New York subway, public opinion surveys showed a deep racial split: 83 percent of Caucasian-Americans supported the verdict compared to only 45 percent of African-Americans (Fletcher, 1990). A similar racial split emerged after the verdict in the Simpson trial was announced: A significantly higher percentage of African-Americans believed that Simpson was not guilty. Throughout the book, we

shall point out subjects which provoke very different responses from different groups in American society.

The principal focus in this book is upon Americans' knowledge of, and attitudes toward crime and criminal justice. However, we also draw upon polls and research conducted in other countries, principally Canada, the United Kingdom and Australia. While there are obviously differences between these countries in terms of their crime rates and criminal justice systems, there are also important common attributes. The differences in crime rates tend to be ones of degree. For example, the percentage of crime involving violence is fairly constant in all these nations, although the actual rates of violent crime vary considerably. The same can be said for public attitudes towards criminal justice issues. Americans share many of the same concerns faced by Britons, Canadians and Australians. As well, there are basic problems and processes that are common to residents of all these countries.

Some restrictions upon the breadth of issues covered in this book have been necessary, and should be made explicit at this point. First, for the most part, only polls or research conducted in English have been reviewed. (For research pertaining to other jurisdictions, see, for example, Makela, 1966 (Finland); Podgorecki, Kaupen, Van Houtte, Vincke and Kutchinsky, 1973 (Scandinavia); van Dijk, 1978 (Holland); Ocqueteau and Perez Diaz, 1990 (France); Zimmerman, Jeangros, Hausser and Zeugin, 1991 (Switzerland); Sebba, 1983 (Israel)). Thus few cross-cultural comparisons will be made. Second, the extensive literature on public fear of crime is not addressed here as it has already been the object of previous publications (see for example, Stinchcombe *et al.*, 1980). Finally, beyond the brief discussion provided in this introductory chapter, we shall not discuss methodological issues in great length. Several monographs already exist for the reader interested in knowing more about the way that polls are conducted.

Plan of the Book

The rest of this introductory chapter is devoted to articulating the concepts that guide the subsequent discussion. Pollsters, researchers and indeed the general public use terms such as "attitude," "belief" and "opinion" in different ways. While we try to avoid being dogmatic, we shall at least try to lay down a conceptual framework and terminology to guide the reader through the rest of the volume. After this conceptual framework has been elaborated, we shall provide a brief description of the principal methodologies employed in the study of public opinion.

Chapter 2 explores public knowledge of crime rates and the characteristics of offenders. The next chapter (3) examines public awareness of legal

reforms and the criminal justice response to crime. This chapter reviews research on public knowledge of crime and critical criminal justice statistics such as sentencing trends and recidivism rates. We also review public knowledge of important criminal justice policies and legislation. In these two chapters dealing with knowledge rather than opinion, we argue that what the public thinks about crime and criminal justice can only be understood in light of what they know about the issues.

Chapter 4 examines research on public perceptions of the seriousness of crime as a social problem: How serious does crime seem when compared to other important social problems such as health care or the economy? This chapter also reviews research on public perceptions of the relative seriousness of different crimes. How much consensus is there regarding the crimes that are most serious and which accordingly should be punished most harshly?

Chapter 5 is devoted to information processing by the public. People do not simply absorb information like computers: We are highly selective in the information that we acquire, and the ways in which we use this knowledge. This chapter reviews the social psychological literature dealing with the way that people assimilate and process information about crime and criminal justice. We address questions such as the following: Do the public change their views when they receive additional information, or are attitudes quite immutable? As we shall see, while some beliefs are highly resistant to change, others shift more easily.

Public theories of crime and perceptions of offenders are the subject of discussion in Chapter 6. We examine lay explanations of delinquency, which obviously have an important bearing upon public support for various criminal justice policies: How we respond to delinquency reflects our conceptions of what (or who) is responsible for crime. We all have theories of criminal behavior. Some theories stress concepts of personal responsibility, others lay emphasis on social factors such as unemployment and discrimination. Chapter 6 explores these theories and the ways in which they relate to reactions to crime.

Chapter 7 explores public evaluations of the ethical standards and the procedural fairness of the police and courts, and the role of direct experience in shaping public support for these institutions.

In Chapter 8, we review data pertaining to public perceptions of the way the police handle cases, and the correctness and competence of decisions made about arrest. This chapter also explores public evaluations of the courts. Chapter 8 also explores the question of whether community sentiment about crime is consistent with legislative definitions of crimes.

Chapter 9 examines public reaction to two corner-stones of the western legal tradition: The adversarial system and the jury. Are both of these institutions central to public conceptions of justice?

Sentencing and parole attract more attention (and criticism) than any other topic in criminal justice. Notions of punishment are central to our conceptions of justice, and this issue has generated more surveys and research than any other. In Chapter 10, we review research on questions such as the following: Which sentencing aims are favored by the public? Are the public harsher than the judiciary towards offenders? Is there a gap between public opinion and the perceptions of public views held by politicians?

Chapter 11 deals with the ultimate punishment. The death penalty has been the subject of more debate (and more opinion polls) than any other single topic in criminal justice. As well, the U.S. Supreme Court has cited public opinion research in several of its judgements relating to the constitutionality of capital punishment. The chapter concludes with a discussion of social science measures of community sentiment and the Supreme Court's use of social science evidence.

Chapter 12 explores the ways in which public opinion is used to define central concepts in constitutional law such as obscenity and privacy. Supreme Court Justices have explicitly recognized the importance of community sentiment in these areas.

The proliferation of firearms has become a source of public concern as well as legislative activity in several countries. Many proposals have been advanced, and several laws passed in western nations to restrict access to guns, particularly handguns. Where do the public stand on the issue of gun control? Chapter 13 reviews the data on this topic.

Youth crime is another priority for criminal justice systems in America, Great Britain as well as Canada. The public believe that crime rates by young offenders have escalated dramatically in recent years, and that lenient youth justice legislation is in large measure responsible. This chapter (14) takes a close look at public sentiment regarding crime by the young, and solutions that have been proposed.

Finally, in the last chapter (15), we draw some conclusions about public attitudes to crime and justice and suggest a number of steps that need to be taken to advance the field. Although there has been a steady accretion of opinion polls over the past few decades, a number of topics have been overlooked, including, for example, the ways in which public attitudes towards criminal justice are predictive of public behavior vis-a-vis crime. We conclude by addressing the question of whether public opinion should play a formal role in the criminal justice system.

Before turning to some methodological matters, we now describe some basic conceptual distinctions that are relevant to the material that follows.

Crime Control Versus Due Process Models of Justice

Herbert Packer has outlined two competing models of criminal justice. According to the due process model, the justice system should incorporate numerous safeguards to protect the rights of the suspect or the accused. For example, a police officer is obliged, when making an arrest, to provide a clear statement to the suspect of his or her rights under the law. Likewise, when gathering evidence, the police cannot just search any premises; they must first obtain permission from the owner or a search warrant from a judge. Evidence obtained without these precautions will probably be ruled inadmissible, even if it points clearly to the guilt of the accused. These due process safeguards have the effect of making it harder for the state to secure a conviction. For this reason, some people oppose them. Critics of the due process model favor an alternative, which is known as the crime control model. According to this perspective, the prevention of crime and the punishment of offenders should take precedence over other concerns. Protecting the rights of the accused is less important. Advocates of the crime control model endorse the use of extensive police powers, few rights of appeal and limited accountability of criminal justice professionals.

It is easy to see how the two models can be in conflict with one another. Advocates of the crime control model would argue that what is important is whether the evidence obtained points to the guilt of the accused, not the manner in which it was acquired. Consider the case of a man charged with first degree murder who confesses to police as soon as they begin questioning him in custody. The confession is videotaped. Later, the man recants the confession and asserts his innocence. His attorney notes that he was not given the standard Miranda warning about his rights prior to making the confession. Crime control advocates would consider the confession (witnessed by several officers) to be a legitimate piece of evidence. Due process supporters would argue that the confession should be ruled inadmissible, and that the jury should not be made aware of its existence. Where do the public stand regarding this dichotomy? Are they due process supporters or advocates of crime control? As we shall see, they tend to endorse elements of both models, and are not consistently on one side of the debate.

Consensus Versus Conflict

Another important dichotomy of relevance to the issue of public opinion concerns the nature of criminal justice itself. There are two principal opposing conceptions of justice: consensus and conflict. According to the consensus view, the laws and the administration of justice reflect agreement

throughout society regarding subjects such as the relative seriousness of crimes. Consider the issue of sentencing. The consensus view argues that the legal system punishes some crimes more severely than others because this is what society as a whole believes should be done. There is agreement in society that street crimes of violence are more serious than white collar crimes, and the sentencing trends merely reflect this degree of consensus. Laws and criminal justice policies emerge from a social consensus about the nature of criminal law and how it should be administered. On the other hand, the conflict perspective stresses an absence of consensus. Following this logic, conflict theorists assert that certain crimes are punished more severely than others because the dominant social class has been able to impose its view upon the system. Throughout this book we shall see how the views of the public follow these two perspectives on criminal justice.

Information Processing by the Public

Research in the field of social and cognitive psychology has shown that people do not always use information in a rational, scientific manner. The way in which we respond to information depends on a number of factors, including our prior attitudes. This fact has important consequences for attitudes to crime and justice since for many issues information plays a critical role. Capital punishment is perhaps the classic example. Although there is an obvious moral dimension to the question of whether we should execute offenders convicted of murder, information also plays a critical role in determining public attitudes. For a significant number of people, the deterrent effect of capital punishment is central to their pro-death penalty position.

The literature on public opinion generates two images of the public. One is that of a "lazy cognitive miser" who is apathetic and uninformed about justice topics. Supporters of this perspective suggest that laypersons should play a very circumscribed role in criminal justice policy and should have only limited participation in the decisions made in the criminal justice system. In support of the lazy cognitive miser view, these critics of public participation point to research that shows that people use cognitive shortcuts to arrive at opinions (e.g., Converse, 1964; Kahneman, Slovic, and Tversky, 1982). These critics also note that people change their opinion when the decision-making context changes. For example, research has found that prior questions affect responses to subsequent questions in surveys, and that the specificity of a crime story determines the punitiveness of the public's response (e.g., Doob and Roberts, 1984; Doble, 1987; Stalans and Diamond, 1990; Tourangeau and Rasinski, 1988).

An alternative view to the lazy cognitive miser perspective is the image of a pragmatic social thinker who is interested in justice issues and conserves energy for the most difficult topics (Stalans and Lurigio, 1996). The pragmatic social perspective suggests that people may not make optimal decisions, but they may often make decisions that are in some significant sense "good enough" for the task at hand (Fiske, 1992). Even professionals use cognitive shortcuts and prior beliefs to make decisions; it is not the reliance on these processes that determines the quality of the decision. To determine whether decisions are "good enough," researchers must know the beliefs, perceptions, and values on which people based their judgments. Cognitive shortcuts do not automatically produce biased decisions; it depends on whether the perceptions driving the decisions are unrepresentative or are irrelevant to the issue. In this book, we attempt where possible to highlight the underlying meaning of opinions expressed in public opinion polls. By examining the concerns underlying an opinion, we are better able to understand the relativity, validity, and stability of expressed views.

At this point we provide some information on methodologies in the area of public opinion research.

Research Methodologies

The following material is provided to give the reader an idea of research methods employed in the area, but it is not intended to be anything more than an overview. For further information about survey methods, the reader is directed towards several excellent texts on the subject (e.g., Hoinville *et al.*, 1978). Research on public opinion falls into one of three principal methodological categories: quantitative analyses of representative samples of the public; qualitative analyses of much smaller "focus groups;" studies employing non-representative "purposive" samples, usually college students. Attitudes and opinions have been measured or explored in other ways (e.g., Sarat, 1977; Shoemaker and South, 1978; Webb, Campbell, Schwartz, and Sechrest, 1981) but these alternate measures account for few studies in the field.

Representative Surveys

Along with the penetration of television into modern society, we have also witnessed a proliferation of public opinion polls. Surveys are conducted daily on a national or state-wide level, dealing with almost every conceivable social issue. Crime is frequently one of the issues addressed. As

well, public opinion polls have become more sophisticated and are now capable of rendering accurate estimates of population trends on the basis of relatively small samples of respondents. Surveys of representative samples of the public account for most contemporary research. (See Durham, 1993, for a discussion of earlier polling work).

There is no substitute for a well-conducted representative poll. Research on the jury illustrates this. As we shall document later in this volume, the public are strong supporters of trial by jury. However, this finding does not necessarily emerge if the poll is not representative of the population from which it was drawn. When readers of a national magazine were asked to respond to a question about the jury, four-fifths stated that they would like to scrap the jury system entirely (cited in Antieu, 1996). Representative surveys reveal a very different result.

Surveys are typically conducted by major polling companies (e.g., Louis Harris, Gallup) either as an independent survey for a specific client or as part of monthly or annual surveys; recently there has been an increase in the number of polls conducted by university-based polling centers. In addition to mail surveys, both telephone and in-person interviews have been used, although researchers show a preference for the former, as they cost less and result in comparable accuracy (Klecka and Tuchfarber, 1978; Quinn, Gutek, and Walsh, 1980).

National and state-wide surveys all use a probability sampling procedure which ensures a final sample that conforms to the characteristics of the population from which the sample was drawn. This entails over-sampling respondents in certain categories that would be under-represented by a simple "sweep" survey in which interviews are conducted with whoever happens to be at home when the interviewer calls. Different polling companies employ different sample sizes. The critical issue common to all is sampling error, which refers to divergences between results obtained from the sample, and results that would have been obtained had a census of the population been conducted. Consider a poll using a sample of 1,000 respondents with a margin of error of plus or minus 4 percent that finds 33 percent of respondents favor the abolition of parole. This means that the actual percentage of the population (from which the sample was drawn) that favor parole abolition lies somewhere between 29 percent and 37 percent, although 33 percent is more likely to be correct than a statistic located at the extremes. For most criminal justice issues, this degree of precision is probably adequate; whether the percentage favoring parole abolition is 30 percent or 34 percent is not a critical difference. In this respect, polls are a more useful tool to criminologists than to political scientists, who require greater precision. After all, a 5 percent difference in voting patterns can, when converted to parliamentary seats, mean a change in government.

In recent years the representative survey has evolved in some interesting ways, principally to incorporate the advantages of small-scale surveys. The general idea is to increase (and sometimes manipulate) the amount of information and the manner in which that information is conveyed. Two techniques in particular have proved fruitful. One is known as the factorial survey, and was pioneered by Peter Rossi and his colleagues (see Rossi and Anderson, 1982; Rossi and Nock, 1982; Rossi, Simpson and Miller, 1985). This technique permits researchers to explore the independent (and interactive) effects of several variables simultaneously. The simultaneous manipulation of multiple independent variables would typically be reserved for factorial experiments conducted in a laboratory using college students as subjects.

In a factorial survey, computer-generated vignettes are presented to a large number of subjects in a way that ensures the statistical properties of a randomized factorial experiment. For example, Rossi, Simpson, and Miller (1985) explored the effects of several offense and offender characteristics on ratings of crime seriousness and punishment severity. Using this technique, researchers can see how different crimes (and different offender characteristics) affect judgments of the appropriate penalty in the case. The benefits of a factorial survey are clear: The design permits the researcher to run complex experiments with large numbers of subjects; the technique has become increasingly popular (e.g., Applegate, Cullen, Link, Richards, and Lanza-Kaduce, 1996; Miller, Rossi and Simpson, 1986; Roberts and White, 1986; Thurman, 1989).

A second survey innovation is known as Computer-assisted telephone interviewing (CATI). This is a computerized opinion poll which has several advantages in terms of cost-saving and efficiency, but it also permits greater flexibility in the nature of the questions posed. Specifically, CATI permits the researcher to manipulate variables such as the wording of the question, or the nature of the information that precedes the question. For example, in a survey about capital punishment, half the respondents may be given a small amount of information about the case, while the other half would be given a more complete account of the case. Both groups would then be asked to respond to the same question (e.g., "Is the death penalty appropriate in this case?"). This means that a randomized experiment is possible, using a representative survey of respondents. Of course the technique can also go much further than this. The computer can easily provide further information to respondents, the exact nature of the information being contingent upon the respondent's response to the preliminary question. Innovations of this kind will have considerable application in criminal justice, where to date, polls have employed more traditional techniques (see Cantril, 1980; Bradburn and Sudman, 1988, for further information).

Focus Groups

This kind of study is a relatively recent innovation in public opinion research, although the idea of intensive discussion, or "focused interviews" goes back many years (see Merton, 1987, Krueger, 1988, for discussion of the historical antecedents of focus groups). The concept arose from dissatisfaction (see Bertrand, 1982; Himmelfarb, 1990) with polls in which the interviewer poses questions that require answers within seconds, usually entailing a simple choice among a small number of alternatives. Focus groups generate an environment in which respondents have the opportunity to reflect upon the question posed, and can then discuss their reflections with other participants. These groups are designed to go beyond the reflexive (but far from reflective) responses elicited by surveys posing simplistic questions such as "Are you in favor of, or opposed to, the use of the death penalty?"

Generally speaking, focus group studies consist of small numbers of people (usually ten-fifteen) selected to represent major demographic categories (to the extent that this is possible with so small a number). Several groups are conducted in different cities, with an attempt made at the end to synthesize the findings. In short, focus groups are a kind of public opinion jury, in which the task is not to render a verdict (in this case a single unanimous opinion), but to generate qualitative material which is recorded and later summarized for publication. Unlike juries, there is usually a moderator present who directs the discussion and who, in some cases, is responsible for introducing material to which group discussants are asked to respond. The focus group approach has become popular in North America; reports of recent studies employing this approach can be found in Doble (1987); Doble and Klein (1989) and Environics Research Group (1989a).

What exactly do focus groups add to the information derived from a large-scale, representative public opinion poll? They clearly generate material that cannot be derived from an opinion survey, but how far should such qualitative data be trusted, and to what extent are they a reflection of public opinion rather than the views of a particular moderator (or of the person who happens to summarize the group's discussion for publication)? Some empirical research into the way in which focus groups are conducted, with direct comparisons with other methodologies would be informative; unfortunately none appears to be available at the present. At the very least, focus groups offer researchers an opportunity to explore the phenomenology of responses to questions posed on large-scale surveys. Thus a focus group discussion of the death penalty would quickly uncover the fact that many proponents of capital punishment have specific offenders in mind,

and are in fact prepared to rule out capital punishment for many kinds of offenders.

Focus groups also provide researchers with an opportunity to test the strength of attitudes by providing discussants with relevant information, counter-arguments and so on. This function of a focus group was explored with considerable success in a recent analysis of public attitudes towards punishing offenders in Alabama (Doble and Klein, 1989). Focus group participants were asked to sentence several offenders described in vignettes. At a later point the moderators provided information about alternative dispositions and asked discussants to re-sentence the offenders. The sentencing preferences of the group shifted significantly once they were made aware of the alternative sanctions. This kind of technique is less feasible in a large-scale survey.

This measure of public opinion is open to criticism on several methodological grounds. In a study such as the sentence-re-sentence study in Alabama (Doble and Klein, 1989), the "manipulation" must be apparent to subjects. This can lead to the presence of "demand characteristics," cues inadvertently given which then permit subjects to guess the hypothesis being tested. In some cases, the subjects then respond in ways to confirm the hypothesis they perceive is being tested. This phenomenon must be considered as a plausible alternative explanation of the findings. Subjects may have felt compelled to use the alternative sanctions simply because the moderator introduced them. And issues of external validity must also be addressed when one is attempting to make general statements about the residents of a state on the basis of a non-representative sample of (in this case) 420 focus group participants. As long as broad generalizations are not made (and to date authors of reports based on focus group discussions have been scrupulous in setting the limits beyond which their data cannot be stretched), the focus group approach constitutes a valuable adjunct to surveys using larger, representative samples.

Experimental Research with Convenience Samples

This final category of research has proved to be at least as useful as the others. It includes all experimental, quasi-experimental and correlational research, usually conducted on a university campus, but sometimes using more heterogeneous samples of subjects than university students. While precluding generalization to national, state, provincial or county populations, these studies have permitted researchers to examine the effects of various experimental manipulations which cannot be used on representative surveys. Examples of this approach can be found in: Vidmar and Dittenhoffer (1981); Doob and Roberts (1983); Higginbottom and Zamble

(1988) and Hilton (1989). In the study by Doob and Roberts for instance, a sample of 115 members of the general public were randomly assigned to read either the newspaper description of a sentencing hearing, or a description of the same hearing but based upon the actual court documents. Thus the sentence imposed was the same in both cases. The purpose of the study was to see if subjects would rate the sentence differently depending upon whether they read the news media account or an account based on court documents. A representative survey was not necessary to test this hypothesis. Estimating population values was not the goal of the study. What was at issue was whether the two groups, statistically equivalent before the study began (due to random assignment) would react differently.

The distinction between large-scale traditional opinion polls, and a more recent techniques such as focus groups or Deliberative Polling (see below) reflects the distinction proposed by Yankelovich (1991) between mass opinion and public judgment. According to Yankelovich, top-of-the-head responses to simple polls reflect mass opinion; they tend to be volatile, have little internal consistency and indicate the respondent may be giving a response without accepting (or even considering) the consequences of the view. On the other hand, public judgment is characterized by acceptance of the consequences of the opinion, by firmness (indicating the view changes little over time) and by the degree of consistency between this view and others held by the respondent.

To cite a concrete example, when people are asked "Are you in favor of, or opposed to alternatives to incarceration?", they frequently express opposition. This reflects mass opinion more than public judgment. Why? Because the percentage opposing alternative measures frequently varies from poll to poll, and because responses change dramatically when the consequences are made clear to respondents. To date, surveys in criminal justice have all too often reflected mass opinion rather than public judgment. Developments such as CATI and Focus groups are a definite step towards establishing the true nature of public opinion in the field. The most recent innovation combines elements of the focus group approach with the advantages of a representative survey, with the goal of uncovering the true nature of public opinion.

Deliberative Polls

This hybrid methodology is known as a Deliberative poll (see Fishkin, 1995). A random sample of the public is contacted and asked to respond to a series of questions. From this original sample, a sub-set of several hundred participants are brought together for an entire week-end. Over the course of this period, participants are encouraged to reflect on the issues, discuss

their ideas with other individuals and in small groups and even to pose questions to panels of experts in the field as well as politicians. At the end of the week-end, participants complete the questionnaire a second time. The differences between their opinions on the first and second occasions reflect the difference between public opinion and informed public judgment. To date, the only deliberative poll on crime was conducted in England in 1994.⁴

Significant shifts of opinion emerged, for some issues at least. For example, before the week-end sessions, a third of the group was opposed to sending first-time burglars to prison. This percentage rose to half the sample at the second administration of the questionnaire. Statistically significant shifts also emerged for other issues such as the right of suspects to remain silent under questioning by the police. Comparisons of the original large sample, and the smaller subset who actually participated in the experiment indicated that these shifts were not due to certain kinds of individuals self-selecting themselves to participate. The second sample was representative of the sample originally contacted. No significant shifts emerged for some issues. For example, there was no change in the percentage of participants/respondents who thought that the death penalty is the most appropriate sentence for some crimes, or the percentage who agreed with the statement that "Prison life is too soft" (see Fishkin, 1995, pp. 177-181).

It is too early to conclude that deliberative polling is the wave of the future in terms of public opinion research. One obvious impediment to its widespread application is the cost of assembling the participants. In the future, this may be circumvented by electronic "meetings." As well, there is as yet no scholarly literature on the topic. Questions remain: To what extent are the shifts in opinion dependent on the information provided to the participants? Is there a danger that deliberative polls can be manipulated by the choice of "experts" that participate? To what extent are the shifts in opinion a function of the fact that on the first administration the surveys were completed in respondents' homes, while on the second occasion they were completed in the presence of others? Without scrupulous attention to balancing the material on controversial issues such as the use of imprisonment and the rights of defendants, the outcome of deliberative polls may reflect more the agenda of the organizers than informed public judgement.

Conclusions

Responding to crime has become a priority for the public in all western nations. In America, the percentage of Americans concerned about crime is currently at an all-time high. The public have a keen interest in criminal justice issues, and awareness of some specific cases is widespread. For this

the media are largely responsible. Crime news captures the attention of the public like no other topic. This is particularly true for dramatic, individual cases such as the Simpson murder trial in America, the Bernardo trial in Canada and the serial murders committed in Gloucester in Great Britain. As the debate continues as to the best way to respond to the crime problem, politicians and policy-makers appeal to the public for support. Judges, too, are sensitive to public reaction to the sentences that they impose. For these reasons, it is important to have an accurate understanding of public opinion in the area. This entails going beyond a surface reading of public opinion poll findings.

A comprehensive picture of public knowledge and opinion in the area of criminal justice can only be obtained by a multi-method approach. Representative opinion polls are necessary to set the approximate bounds on public attitudes and in order to identify issues requiring greater public education (Margarita and Parisi, 1979). Focus groups are needed in order to evaluate the depth of a particular opinion, and laboratory-based research is essential to test experimental hypotheses. In this volume we shall discuss research drawing upon all these methods, although we draw most heavily upon the findings of surveys using samples of respondents that are representative of the populations from which they are drawn.

Notes

1. Under the inquisitorial system, judges take over many of the functions of the defense and prosecution.

2. This did not prevent details of the case from leaking out. The judicial "gag" of news media applied only to publications within Canada. Accordingly, Canadians with access to American television or certain American publications could learn about the case. In fact, notwithstanding the restraining order, within six months, a poll showed that one-third of the residents of Ontario (where the case occurred), were aware of some aspects of the case.

3. For readers wishing to consult polls regarding crime and justice, the annual "Sourcebook of Criminal Justice Statistics" which goes back many years now, contains a section summarizing the results of national surveys in the U.S. The Sourcebook is published by the U.S. Department of Justice. In this volume we draw upon material from the most recent Sourcebook (1995) available at the time this book went to press in 1997.

4. A two-hour videotape of the British Deliberative Poll on Crime is available from Channel Four in London.