**SOC 3395: Criminal Justice & Corrections**

 **Lecture 1: Overview of the Canadian Criminal Justice System 1**

\* The criminal justice system (CJS) consists of 3 major agencies:

 - the police

 - the courts

 - the correctional system

\* Each works together following formal rules & informal procedures

\* Illustration: the Latimer case:

 - accused killed disabled daughter: alleged “mercy killing”

 - police charged with first degree murder, he claimed “necessity”

 - convicted on 2nd degree, multiple appeals

 - SCC ordered new trial

 - second trial, convicted on 2nd degree

 - question re; minimum sentence/ judge’s instruction to jury

 - more appeals, ending up again in SCC

 - outcome: (1) defense of necessity narrower than alleged

 (2) judge’s response to jury question not prejudicial

 (3) mandatory minimum sentence not “cruel & unusual

 punishment”

 - ultimately: Latimer sentenced to 10 years before parole eligibility

 (Note: much of this was served under house arrest/ on weekends)

 - this is despite much public support for the accused (polls)

 - this case touches on many significant issues re: crime &

 punishment (e.g. discretion, public perceptions, constitutional

 rights, role of juries, prison vs. house arrest, offender

 reintegration, etc.)

\* Our CJS provokes a lot of controversy & debate; its complexity is mirrored by the intricacies of the law.

\* Cultural norms are often be violated by anti-social behavior. Society must establish approved rules or norms, usually reflected in systems of criminal justice

\* Social control = various types of organized responses to problematic behavior

\* Canada’s approach to control criminals is to establish a system enabling institutions of social control to investigate, detect, prosecute and punish offenders within constitutional limits

\* The CJS is a vast network of institutions and facilities, interdependent but not always coordinated. It is often controversial

\* Three general purposes of the CJS:

 - crime control (e.g. arresting, prosecuting & punishing offenders)

 - crime prevention (e.g. incapacitation & deterrence)

 - to maintain justice (conflicting views of fairness problematic)

\* Some considerations about justice (consensus hard to achieve as legal rights disproportionately invoked/ conflict with each other):

 - equality before the law

 - protection from arbitrary decisions

 - fair treatment

 - balance between the state & individual liberties

 **What is Crime?**

\* Common definitions:

 (1) Crime = violation of existing legal code;

 (2) Crime =determination of guilt by court

\* Problems:

 (1) Not every offender caught and punished;

 (2) Many acts not prosecuted when known;

 (3) Neglect the issue of why some disapproved

 behaviors are criminal, others not;

 (4) Separation of criminal process from social context

\* Other approaches:

 (1) Crime as violation of moral codes;

 (2) Crime as a social construct

\* All definitions raise questions about the nature of crime in society

 **What is Criminal Justice?**

\* The CJS has 3 main goals:

 (1) to control crime;

 (2) to prevent crime;

 (3) to maintain justice (not easy)

\* Criminal justice is said to occur when the 3 agencies in the CJS:

 (1) determine guilt, innocence & punishment in accordance with

 the evidence

 (2) the punishment fits the crime

 (3) similar cases are treated alike; different ones differently

\* Two major forms of unfairness: disparity & discrimination

\* *Disparity*: inconsistencies due to illegitimate factors influencing decisions

\* *Discrimination*: differential treatment of individuals based on negative judgements about group (e.g. race). Several types:

 - systemic: consistent differences over time throughout CJS

 - institutional: the unequal effect of established policies

 - contextual: occurring in certain situations

 - individual: based on the actions of a specific person

\* Substantive vs. procedural justice:

 (1) Substantive justice=the accuracy or correctness of outcome

 (2) Procedural justice=the fairness of the procedures used

\* Procedural aspects of our CJS: the *adversarial system*:

 - each party has the right to argue about the evidence

 - the prosecutor (state) lays appropriate charges and supports them

 - the judge (impartial fact finder) ensures proper questions asked/

 rules followed

 - defense counsel questions prosecutor’s case, argues for client

 - goals=search for truth (guilt or innocence)

 protection of accused’s rights

 fair verdict & sentence

 - criticisms: more theory than practice: more often “bargain

 justice”

 **The Structure of the Criminal Justice System:**

\* We now consider the three major agencies of the CJS

\* *Police*: municipal, provincial & federal forces:

 - municipal police serve specific municipal areas (67%)

 - provincial police (26%) deal with areas outside municipal

 jurisdiction (OPP, QPP, & RNC)

 - federal police (RCMP) deals with broader concerns (7%)

 - in 2008 there were 65,283 sworn police officers in Canada,

 Heavily concentrated in Ontario, Quebec & BC.

\* *Courts*: 3 levels in each province:

 - Provincial courts: deal with routine criminal cases: many plead

 guilty

 - Superior/ Supreme courts: try certain offences/ election offences/

 hear appeals from provincial court

 - Provincial appeal courts: hear appeals on procedure/ sentence

 - only court above these is the SCC (must obtain “leave to appeal”)

\* *Corrections*:

 - deals with offenders found guilty & sentenced to a term in system

 - provincial corrections deals with those sentenced to under 2 years

 & non-custodial sentences

 - federal corrections (CSC) deals with adults sentenced to more

 than 2 years

 - 2005-2006: 85,915 adults admitted to 192 facilities across Canada

- 76 federal & 116 provincial/territorial institutions (90% of the latter “secure”/10% “open”)

 - most in correctional population serving sentence under some

 form of “community supervision” (109,089). These include

 probation, conditional sentences, or conditional release)

 - most of correctional population is male

 - most serve relatively short periods of incarceration:

 60% of males less than 1 month provincially

 56.9% under 6 months

 - much criticism of the system by the public for apparent disregard

 for public safety: yet may play a role in public safety through

 gradual reintegration of offenders

 - needs to balance deterrence, incapacitation & rehabilitation

\* Next class: Processing cases through the CJS