**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