

The Media and the *CSI Effect*



Any intelligent fool can make things bigger, more complex, and more violent. It takes a touch of genius—and a lot of courage—to move in the opposite direction.

Albert Einstein

► ► CHAPTER OBJECTIVES

- Articulate criminal justice practices that led to the development of this book
- Enhance the reader's knowledge about the influence of the popular media upon the criminal justice process
- Comprehend the media's relationship with criminal justice
- Describe the extent of the media's influence on social perspectives
- Provide a definition of the *CSI Effect*

■ Introduction

America is caught up in events that are as ambiguous as they are deadly, from policing foreign cities, to violence in American churches, to the hard experiences of unemployment and house foreclosures. Yet implicit to American lifestyles are the fundamental rights of a democratic nation as its population experiences an economic collapse with new political leaders in the first decade of a new millennium.¹ In this new day, at the core of American political ideals is the *rule of law* (i.e., the US Constitution), and a wrongful conviction—convicting a person of a crime he or she never committed—violates fundamental prerogatives of liberty, and it follows that executing an innocent person is inexcusable. What's examined in this work are the factors that weaken democratic principles by targeting individuals through wars on crime, junkies, sex offenders, poverty, and immigrants, which are, in part, defined and encouraged by the popular media: motion pictures, popular television dramas, news reports, and newspapers.²⁻⁴ During the 60th Emmy Awards telecast in the fall of 2008, Oprah Winfrey helps guide this work: "Nothing connects us

quite like television.”⁵ However, at the heart of this work is an assumption that the popular media, through a conceptual framework referred to as the *CSI Effect* (discussed later in this chapter), helps to further wrongful convictions and capital punishment with the aid of American prosecutors.

■ Prosecutor Work Ethic

At the heart of the wrongful conviction phenomenon and the continuation of executions are prosecutors who alone possess the authority to initially charge (or indict) a suspect; if they don't act, little, if anything, happens toward obtaining justice.⁶

Most criminal justice professionals exemplify professional practice and perform their judicial obligations as treasured components of a great nation. However, a few practitioners, including prosecutors who are derelict in their behavior, are responsible for the majority of wrongful convictions, the release of guilty suspects, and the prolonged use of capital punishment. If a prosecutor declines to indict a suspect in a capital case (for more details, see Chapter 9), could the prosecutor's action produce a decline in unlawful executions, too?

The evidence in this book, which includes data from 444 prosecutors, supports the idea that the *CSI Effect* is an untenable product of the popular media because it encourages the criminal justice apparatus toward unlawful intrusion into the already difficult private lives of the American population, and furthers wrongful convictions while stabilizing capital punishment as a plausible sanction.

■ Public Safety Versus Liberty

An obvious scenario is that the American criminal justice community works hard to provide public safety, on one hand, and to safeguard *liberty* (the right of the public to choose) or freedom, on the other. Justice is the spirit of freedom, that unyielding principle of democracy as orchestrated through courtrooms, where it has been shaped by the rules of evidence, hearsay, visible accusers, and cross-examination and has been established through trial and error over centuries. It isn't perfect, but it can be tinkered with, adjusted, and the problems that step outside the rule of law can be condemned and changed to match their expectations. However, the adversarial process across the planet is under attack because at times it is both compelling and chaotic. Everyone, whether they are guilty or innocent, is entitled to a fair trial. Peter L. Berger clarifies that the first wisdom of those who study societal issues is that it is harder than expected to make the obvious apparent because “things are not what they seem . . . social reality turns out to have many layers of meaning. The discovery of each new layer, changes the perception of the whole.”^{7(p23)} It should come as no surprise that implicit in Berger's perspective is

the realization of the quantitative and qualitative hurdles that must be reached to achieve the learning objectives of this book.

■ Learning Objectives of This Work

The power to prosecute is an enormous responsibility and it is the least protected governmental intrusion upon private lives, advances C. Ronald Huff.⁸ Decisions to prosecute are centered more on what the popular media proclaims is real, such as crime and how to control crime.⁹ The power of the media is incredibly huge, and it has many opportunities to promote an appropriate image, but as Albert Einstein revealed, it takes a touch of genius and a lot of courage. However, the evidence in this work will show that the popular media glorifies corrupt supercop behavior through television dramas that emphasize vigilante and unlawful behavior in the name of justice, which also provides prosecutors with a playing field to do as they wish. Unsupervised prosecutorial discretion and consistent presentations of the media's version of reality opens the door to official violence, including wrongful convictions and executions.

What can be gained from this work is a better understanding of the primary elements of the problems, which will hasten policy makers toward a method of supervision and recommendations toward compliance (see Chapter 11). An appeal is extended to the new political administration to bring the change promised to a system that is weighed heavily upon by so many (see the chapters on the wars on crime, junkies, sex offenders, poverty, and immigrants) and has disrupted or ended their lives through disgrace, frustration, and sometimes execution whereby current reform is meaningless. The aim of this work is to reduce wrongful convictions and eliminate capital punishment as a legal sanction. First, some experiences that led to this book should be shared.

■ Practices That Led to the Development of This Book

The curiosity to examine the relationship among prosecutors, wrongful convictions, and executions arose from a study of patrol officers at the Boston Police Department who were associated with sexual assault and domestic 911 emergency calls.¹⁰ The lessons learned from that study were that the typical police officer does not work in a vacuum when delivering police services, particularly at a crime scene. This thought is consistent with Maria Haberfeld and Lior Gideon, who argue that the mission of the police to serve the “public is always subjected to the ultimate vision of the current governing body,”^{11(p11)} which is also the body that creates and passes laws and policy.

Police officers as first responders limit their official activities at crime scenes to their job descriptions, which amount to securing the crime scene and nothing more. Their motives for limited activities were interpreted from data that reveal a lack of professional training and a lack of professional supervision (more specifically, their supervisors employed intimidation methods to control them). The thinking was that the *chain of custody* (defined in Chapter 6) linked to evidence from sexual

assault crime scenes must flow from detectives to prosecutors (it was strongly suggested by supervisors that first responders contaminated evidence as though they were “bulls in a china shop”). What experienced patrol officers thought after 10 years (on average) of securing crime scenes was irrelevant, and their written reports about the conditions of the crime scene, witnesses, victims, and other factors were scrutinized by intimidating supervisors who suggested that officers described accounts that matched the expectations of their job description (not what they saw). Patrol officers were often surprised by the suspects who were eventually indicted and by those who were immediately released. An abundance of scientific studies are consistent with the findings that prosecutors legally possess the discretion to release or charge or indict a suspect for sexual assault or rape regardless of the quality of evidence and police reports.^{12–15} When prosecutors indict suspects for more serious crimes than an arrest report states, the Center for Public Integrity argues that prosecutors then ask reporting officers to *stand up* (lie or support untruthful scenarios).¹⁶

Another motivator for writing this book emerged after a peer review of a monograph about the death penalty.¹⁷ That work reveals that the final decision to charge an individual arrested in a capital crime, regardless of the evidence, depended on prosecutorial discretion. I took that to mean that a prosecutor has the authority and power to charge or not to charge a suspect with a capital case; less often than expected, a prosecutor’s decision is rarely subjected to overview, a thought consistent with the literature.¹⁸ It was an easy stone’s toss from these two perspectives (Boston’s first responders and prosecutorial capital case indictments) to conduct a study consisting of 444 prosecutors. The results were so illuminating that it requires a book to explain the results. The core of this new information is consistent with a study conducted by the Center for Public Integrity that reveals that since 1970, individual judges and appellate court panels cited prosecutorial misconduct as a “factor when dismissing charges, reversing convictions, or reducing sentences in more than 2,000 cases.”¹⁹ In thousands more cases, judges labeled prosecutorial behavior inappropriate but upheld convictions using a doctrine called *harmless error*. The center found that a few prosecutors were responsible for the most misconduct.

Most wrongful convictions are avoided through the meticulous efforts and work ethics of justice practitioners, which includes police investigators and prosecutors.

■ Three Assumptions

Three assumptions contribute to this work.

Enlightened Awareness

In part, this work utilizes the insight from a prominent criminologist who referred to news making criminology as a “call for action” among those who study

crime and punishment. His point is an attempt to move the public toward an “enlightened self-awareness about crime, justice, and society.”²⁰ Therefore, the centerpiece of this work is to enhance reader awareness of the consequences of the *CSI Effect* and its influence upon aggressive reactive police strategies, *vigilantism* (self-appointed doer of justice),²¹ and fictitious accounts of crime, all leading to wrongful convictions and executions.

Prosecutor Power

Prosecutors are the most powerful single individuals in American government because if the prosecutor does not act, judges and juries are helpless; reports from police officers and analyses from forensic crime laboratories are meaningless toward a criminal conviction without a prosecutor’s effort.²² Additionally, in most jurisdictions at least 95 percent of all cases that come to the prosecutor’s attention never reach a jury, suggesting that the only trial those defendants received took place in the office of a prosecutor.²³

Prosecutorial Deviance

Why would an individual with little or no criminal history commit an extraordinary act such as to initiate and promote a wrongful conviction, especially one that leads to a defendant’s execution?^{24–26} It’s a troubling thought, but almost anyone, given the right situational influences, can abandon moral scruples and cooperate in violence and oppression—even murder (see this book’s Dedication).^{27,28} Among strong influences for some members of the criminal justice community is the *CSI Effect*.

■ Public Behavior and Researchers

Walter Lippmann argued that a half century ago Americans spent most of their time earning a living, and when they were home, they pursued idle pleasures more than they examined constitutional issues and policy.^{29,30} Study after study, at that time, reported that the American public had little knowledge of public policy. In the final analysis, this view implies that the public lacks a working understanding of criminal justice behavior.^{31,32} Recently, Phillip E. Converse argued that most Americans are minimally consistent and minimally stable and have a minimal level of conceptualization when it comes to the formation of their opinions.^{33,34}

Researchers Mislead Readers

Although most researchers, including Lippmann and Converse, do their best to measure what their participants actually know about criminal justice policy and practices, some researchers continue to mislead readers as a result of “the ambiguous way in which survey questions are worded and the way in which poll results are reported and interpreted in the mass media,” argues George F. Bishop.^{35(pxv)} Another prominent researcher, David Weisburd, provides evidence that many

well-funded academic researchers tend to develop misconceptions about criminal justice policy and practices, especially when those researchers are studying the attitudes of personnel, clients, or customers involved with the funding agency.³⁶ As a consequence, many researchers published their work for one another or supported their own academic interests or the interests of the funding agency. Weisburd suggests that these inefficiencies, which are identified in many justice studies and public opinion perspectives, are more often closely linked to the researcher's naïveté or lack of practical experience than to a flaw of the criminal justice program, practice, or perspective. These thoughts are consistent with Randal G. Shelden's argument that history has been largely written by the privileged—those in power or the power brokers (see the following sections regarding the history of crime and punishment).^{37,38} What will be described in the pages ahead is that the popular media adds its biases and versions to circumstance, too. Nonetheless, many flawed studies supported by biased historical accounts are reinforced through the *CSI Effect* and are employed to develop criminal justice policy only to end in disappointment, imprisonment, and sometimes an execution, a trend that continues as of the writing of this work.

■ Who Controls the Popular Media?

Some argue that the popular media provides programming demanded by the public, but others say that the media sets the form, shape, and context of its programming under the influence of the power brokers or elitist socioeconomic class (the superrich). Page and Shapiro advance that in some situations, elitist thoughts and priorities shape public opinion, specifically through such avenues as news commentaries.³⁹ Elitist control is so strong that elitists' ideas can manipulate or mislead the public into a policy preference. In the last two decades, media studies have moved beyond claims of minimal effects by demonstrating how various characteristics of news stories—point of view (framing), connection to political offices (priming), emotional content, or causal implications—change public opinion.⁴⁰ For example, now that the national elections of 2008 are history, the repetitious commentary by news reporters about the candidates, the electoral process, and the outcome of those elections continues to ring in the ears of their audiences. It almost seemed as if the reporters were running for office.

Conversely, it is clear that public opinion and knowledge about justice policy are largely an independent force that often influences elitist ideals, rather than vice versa.⁴¹ One study documents that the American people are individually consistent, stable, and hold practical knowledge (sometimes through personal experiences and the experiences of others that are articulated in group meetings and as a result of training and educational processes).^{42,43} As Nancy E. Marion and Willard M. Oliver argue, when an individual has a strong philosophy, a concrete belief system, or possesses knowledge about a topic, he or she can make sound decisions, not

necessarily right or wrong decisions, but decisions that are consistent with his or her own belief system.⁴⁴ This thought implies that belief systems play a major role in the decision-making process of an individual, regardless of whether he or she has experience or applicable knowledge about a given topic, such as criminal investigations or forensic science. Individuals take information they already have, simplify the complexity of an issue, and derive a steadfast conclusion.⁴⁵ For example, police investigation dramas that depict forensic analysis are woven into viewers' thoughts despite the viewers' lack of actual working knowledge of forensic analysis; to take issue with some of the public's perspectives about the reliability of forensic science practices is seen to be similar to taking issue with their patriotism.^{46,47} In essence, these thoughts are the building blocks of the *CSI Effect*. Nonetheless, in 1991 Shanto Iyengar asked who is responsible for the inadequacies and failures depicted by the popular media, historians, and misguided researchers.^{48,49}

It is argued by prominent scholars that anyone who “studies crime and justice shares a sense of frustration about the way the media depictions dominate the common viewpoint on crime and criminal justice, often in a way that distorts reality.”^{50(pxiii)}

A distorted perspective about eliminating crime prevails among many Americans, and their conclusion is often associated with the relationship between the pervasiveness of crime and the potency of the criminal justice system—more cops, less crime. This perspective seeks criminal justice to deter crime, a thought that is inconsistent with a Gallup Poll that asked participants the best approach to lowering crime in the United States.⁵¹ Sixty-one percent of the participants reported that crime should be dealt with through social and economic programs, such as education and job training, and 31 percent said that more resources should be provided to enhance the criminal justice system. For some of us this finding contradicts the latest police television dramas. What many of us know about crime and its history can often be traced to motion pictures, popular television dramas, and news reports.

■ History of Crime

One perspective about the history of crime, advises prominent criminologists, historians, and philosophers, is that mankind has attempted to control criminal behavior since recorded history without much success; victimization is present in our families, easily observable on our streets, and exists in our churches and temples despite modern technology and a professional police presence.^{52–54} Over 100 years ago, Emile Durkheim advised that crime is really a natural kind of social activity, “an integral part of all healthy societies.”^{55(p67)} Marcus Felson added that “crime feeds off

the physical form of local life, whether in a village, town, city, suburb, or university campus. That form is organized by how people and things move about in everyday life.”^{56(p75)} For some criminals, crime is a way of life; for others, it is the result of unfortunate circumstances or a personal pathology, offers Frank Schmalleger.⁵⁷ If poverty, unemployment, and early childhood experiences were the primary sources of crime, then providing respectable jobs, decent incomes, and therapy would help resolve some of the crime; however, chronic offenders mock conventional opportunities and see little advantage in outreach programs. Before leaving this thought, if college instructors were surveyed, they would probably report that most criminal justice majors initially believe that crime can be eliminated⁵⁸; one plausible reason for student hesitance is associated with the *CSI Effect* and its illusion of stopping crime through the employment of cold hard force, including police brutality and prosecutor misconduct. Yet the reality is that the most advantageous alternative to crime is to control it, and mankind has been attempting to control crime throughout its known history through punishment.⁵⁹

■ Punishment: Confinement and Executions

What is known about law and morality or right from wrong is that they are neither naturally bestowed nor are they consistent across historic time. What is consistent (even up to the present day) is that the natural law prevails; a law of the strongest dominates the entire history and presence of mankind on this planet.⁶⁰ Death was the preferred method of administering justice, and those who held a monopoly of power administered it^{61,62} (see Chapter 9 for more details on capital punishment). Public execution precedes Western civilization as the basic form of punishment and continues to be the primary form of punishment or threat of punishment employed by many governments, yet its use has declined in modern England, Canada, and most Western European nations.⁶³ For example, in ancient Rome and during much of the Middle Ages in Europe and England, death and torture were expected forms of punishment (i.e., in the early Roman Empire, Christians, political activists, and soldiers of conquered nations were condemned) and were very popular forms of entertainment. Public executions also notified the public that the state held power over life and death and to defy the state had consequences. The public gathered at the event, cheered, joked with one another, and played with their children while an execution or torture was in progress.⁶⁴ Some might ask if violent events continue to hold entertainment value.

Nonetheless, confinement or jails were holding places for criminals who would eventually be executed or tortured in a public exhibition or used as forced labor. Later in Western historic accounts, the Germanic Law Codes of Anglo-Saxon England record the use of prisons for thieves and witches, but the most common form of punishment in England and Western Europe was mutilation, death, exile, or compensation.⁶⁵ In the violent century following the Norman conquest of England in 1066, the Crown

imposed centralized authority through laws and administration, which eventually led to the development of the Tower of London as the first royal prison; its residents included the Crown's enemies and prisoners of war. A few centuries later, the tower and other jails warehoused debtors and those who interfered with the Crown, including perjurers, frauds, and those who misinformed the courts. By 1520, there were 180 imprisonable offenses in English Common Law, including vagrancy, breaking the peace, infamy, illegal bearing of arms, and morals.⁶⁶ In royal prisons the types of accommodations varied from foul to comfortable; wealthy prisoners could pay their way out or up to a higher floor at the Tower of London. When one gate of the tower burned, a new gate was built, the Newgate Tower.⁶⁷ The compensation jailers received from those confined and from public executions was a way to raise funds and pay staff members. Sometimes tens of thousands of spectators would jam the street outside Newgate Tower to catch the last gasps of a condemned felon.⁶⁸ In 1807, for example, an estimated 40,000 people gathered to watch murderess Elizabeth Godfrey be hanged, and a resulting stampede claimed the lives of 100 people.

In the 1600s and 1700s, England and other Western European nations transported thousands of criminals to isolated islands and distant lands. England and Ireland transported thousands of felons to their Australian penal colonies. Prisoners who committed further felonies there were transported to Norfolk Island, some 1,000 miles off the east coast of Australia, and were met with severe punishment. The warden, Captain Alexander Maconochie, described Norfolk Island as a "living hell."^{69(p197)} There was little need for Captain Maconochie to describe to Parliament the vicious floggings, the cruelty of a lack of facilities, the heavy manacles, and the line of savage dogs patrolling the shores because those were typical accounts of most jailers during that time.⁷⁰

A thumbnail historic account of prisons can aid in a better understanding of the justice system's response to violators, which includes a "prosecuting attitude" that leads to punitive (retaliatory or just deserts) action.^{71(pp28-31)} In part, the thinking goes that the government or the Crown seized people in a ritual of public torture and execution for the benefit of public entertainment and a display of power. Because most prisoners met this fate, the conditions in most facilities were dreadful. Some facilities were actually closed mines, sewer systems (as were jails in ancient Rome),⁷² and caves and tunnels (such as Old New-Gate Prison and Copper Mine in East Granby, Connecticut in 1707). Sometimes facilities were raised towers, such as Newgate Tower in London and Newgate Prison in Manhattan. Men, women, and children were confined with the seriously mentally ill and psychopaths; little, if any, supervision or methods of protection were used; disease was pervasive; human waste was everywhere, furthering dysentery; and every known vicious act was visited upon those populations by other prisoners, personnel, and those who were free. Even in early American penal history, inmates were considered to be property of the state, and as such the rules of humanity did not apply.

To better understand the evolution of prisons as punishment, consider that 18th century Pennsylvanians murdered and assaulted one another, surpassing most

of their English and American contemporaries. Research shows that Pennsylvanians victimized their family members, neighbors, enemies, and rivals regardless of whether they were wealthy or poor. Pennsylvania was renowned as the “best poor man’s country on earth” and memorialized as the “Peaceable Kingdom.”⁷³ From these beginnings and with their knowledge of imprisonment in the Old World (Western Europe and England), the Quakers in Pennsylvania, in particular, were appalled at the violence among Pennsylvanians and the treatment of prisoners, the conditions of those facilities, and issues of forced labor. The Quakers promoted isolationism as an alternative to the death penalty, torture, and foulness of confinement strategies, and they helped develop the Pennsylvania Prison System, which eventually promoted the acceptance of punishment with a desire to rehabilitate in terms of humane confinement.⁷⁴

Prisoner Rights in the 21st Century

Although prisoners in American facilities hold diminished or limited constitutional rights (see *Wolff v. McDonnell*, 1974),⁷⁵ they are protected by the Constitution’s prohibition of cruel and unusual punishment, as found in the Eighth Amendment, and can pursue 42 U.S.C.A. § 1983 (1871; recodified 1979) federal litigation against correctional systems and correctional officers.⁷⁶ This protection requires that prisoners be afforded a minimum standard of care and protection. Criminal justice personnel, including volunteers and contract vendors, must (1) defuse danger where it exists and (2) provide services without compromising individual constitutional guarantees, especially due process.⁷⁷ In the final analysis, the responsibility of criminal justice personnel, in general, is public safety, and a way to accomplish this aim is to reduce the risk of danger. Reducing risk means just that: in volatile encounters, nothing can be done to escalate danger, and personnel must work toward its reduction.^{78,79} That said, it is evident that corrections in modern day America is far different than Newgate Tower, but it is also different from the way it is portrayed on popular television dramas, such as *Law & Order: Special Victims Unit* episodes.

Popular Media’s Perspective of Prisons

Television dramas produce their own version of reality in American prisons. For example, in *Law & Order: Special Victims Unit*, Season 9, Episode 15, “Undercover,” Detective Olivia Benson (Mariska Hargitay) goes undercover at Sealview, a women’s prison in New York (Bedford Hills is the women’s facility in New York), to investigate a murder and a rape. Upon her arrival at the prison, Benson submits to a full body and cavity search conducted by a lecherous-acting male “guard” (the correct term is “correctional officer”) who comments, while feeling Benson’s thighs, “someone has been working out.”

“Pervert,” Benson screams and pushes the guard against the wall. Detective Fin Tutuola (Ice-T) is also undercover as a guard and is observing the intake process.

Tutuola jumps between the guard and Benson. He waves his baton in the air, and before striking Benson, he leans toward her and whispers in her ear, “Scream like it hurts.” He strikes her and yells, “Never attack an officer! Got that, bitch?”⁸⁰ Tutuola’s supervisor says, “This isn’t Rikers,” but adds with a smile, “Not bad for your first day on the job.”⁸¹

The New York State Department of Correctional Services (NYS DOCS) tolerates little unprofessional correctional personnel performance.⁸² NYS DOCS correctional personnel, similar to corrections personnel across the country, are trained in *defensible conduct* (conduct that is not capable of a public defense against charges of impropriety)⁸³ and are aware of litigation potentials, their responsibilities, and their dedication to the correctional community, which depends on professional performance. Intake is monitored and recorded but rarely performed by unqualified personnel; female prisoners are processed by female correctional intake officers.

That said, the implication is that aggressive physical abuse and lewd comments are correctional benchmarks of prized personnel and expected behavior of personnel in state penitentiaries. Sometime after Benson’s search, she is led from the common areas of the prison by Captain Lowell Harris (Johnny Messner), also referred to as a guard; Harris apparently exposes himself to Benson before attempting to rape her. Tutuola saves the day. In court, Benson comments that Harris almost killed her, to which the defense lawyer advises that “the law gives Officer Harris every right to strike an inmate to force compliance.”

Scholarly Literature, Media, and Criminal Justice

Studies show that the popular media shapes social views of the *criminal justice community* (law enforcement that includes prosecutors, courts, and corrections) in several ways,⁸⁴ such as:

- A dramatic device for representing the sociopolitical context in which events take place and how this context influences events
- A comparator that sets a moral benchmark and provides a mark of accuracy or authenticity
- A prism that exposes a perspective at odds with official descriptions

Largely, the popular media sets in motion inappropriate and immoral responses toward targeted populations (see Chapters 3–5) and discourages support for a reformist agenda.

Other justice realities that are altered by the popular media and how those deceptions change real-world expectations and ultimately the behavior of criminal justice practitioners, especially prosecutors, is one focus of this book.

■ The Media's Relationship with Criminal Justice

It is curious that the media possesses so much power over who gets arrested, charged, or indicted and who gets convicted, as well as what kind of treatment a person should expect when he or she is in the grips of a police officer or correctional personnel. It is common knowledge that the media can also compel consumer purchases, such as which automobile to drive, what style of clothing to wear and where to buy it, and which pharmaceutical product to use for long-lasting sexuality or clear vision.⁸⁵ It could be argued that the media socially constructs (stereotypes) the framework of the appearance (physical features) and history (childhood experiences) of an offender, what crimes the alleged offender is capable of committing, how these crimes were committed, and tells cops, prosecutors, judges, and jurors what to do about it.^{86–88} Think of it this way: The media can describe motive, opportunity, appearance, and an historical account of an individual who allegedly committed a crime and then justify the behavior of criminal justice personnel in response to the person whom the media had defined as corrupt and immoral.

The evidence reveals that justice accountability does not depend upon whether an individual committed a crime or not, but how the media portrays the individual in relationship to the crime.⁸⁹

The popular media plays an important role in understanding criminal justice in five ways:

- It is a dramatic device for representing the sociopolitical and economic context in which most events take place and how this context influences events.⁹⁰
- The popular media is a comparator that sets the moral benchmark and provides a mark of accuracy or authenticity (of the good guys and the bad guys).⁹¹
- The popular media exposes a perspective of criminal justice that is at odds with official descriptions and supports assumptions of punishment and vigilante roles; at the other extreme, the media offers appropriate agendas of rehabilitation and prevention.⁹²
- The popular media socially constructs and defines which real-world experiences and issues are significant and which experiences are irrelevant.⁹³
- The popular media socially constructs and describes gender, race, and ethnicity, which includes the femininity of women and characteristics of an incompetent person and how those roles characterize the behaviors of being an aggressor, victim, or being ineligible for justice sanctions, including trial.^{94–96}

■ What Viewers See and Hear

Why viewers believe what they see and hear from the popular media is another matter. One answer is that people largely retain only 10 percent of the information they read, 20 percent of the information they hear, and 50 percent of the information they see and hear, suggesting that motion pictures and television have a clear advantage over other forms of communication, such as books.⁹⁷ Quality presentations can appear to be more truthful than lower quality presentations. Quality presentations that provide untruths don't require an apology or a retraction.

The greater the quality of the message, the more it is accepted as truth (regardless of the integrity of the message).⁹⁸

For example, in a drug trafficking case in New Orleans, a half million dollars in cash was confiscated from a drug courier by the police. The crime lab wanted to conduct a visual analysis of the bills to determine their age, insisting that this analysis would enhance the case against the drug peddlers. A New Orleans officer said that the lab technician saw a process on *CSI: Miami* and took the cash to test it to determine its age. The lab technician was referring to Episode 92 ("Free Fall") in which a lengthy optical analysis helped establish that the \$100 bills were at least 16 years old. If *CSI: Miami*'s lab expert, Calleigh Duquesne (Emily Procter), wanted to know the age of the bills, she could have looked at the series date (and possibly the letter engraved on the bill that indicates a minor revision), which gets updated with any design change or appointment of a new secretary of the treasury of the United States and has been printed on the front of all US paper currency since 1869.⁹⁹ In an attempt to be consistent with the quality of the presentation, producers of the media might want to consider an enhancement of the integrity levels of their subject matter, too.

■ The Media Shapes Social Perspectives

The importance of the media is that it shapes social perspectives, or public opinion, and official policy despite the fact that it is a prominent form of portrayal, particularly of criminal justice practices and policy.^{100–102} For example, in one scene of *Law & Order*, Episode 266, "DRI-102," Assistant District Attorney (ADA) Serena Southerlyn (Elisabeth Rohm) is learning to protect herself from a dangerous defendant by a New York City police trainer. The officer informs her to protect her face and neck against a knife thrust with her hands, and the Kevlar (highly advanced body armor) "will protect the rest of you."¹⁰³ This is not entirely true; Kevlar protects best against blows such as punches or bullets. It can protect against commercially manufactured knives or ice picks, but it will only slow, rather than completely stop, a thrust.¹⁰⁴

■ Media and Politics

Government propaganda has employed a variety of techniques to influence public opinion in the past century, but largely it has avoided the truth.¹⁰⁵ Televised episodes concerning police investigations and forensic science failures of both local and federal agencies continue to plague Americans at home, in politics, and abroad. For example, Brandon Mayfield, a Portland, Oregon lawyer, was arrested and held for two weeks in Madrid in 2004 after a terrorist attack on the train system. The FBI insisted it had found forensic trace evidence, including fingerprints, on several crucial pieces of evidence. However, the Spanish authorities disagreed with American technology and FBI political interests, and they released Mayfield without charge. Mayfield, a Muslim, filed suit saying he was singled out because of his faith.¹⁰⁶

Since 9/11 the federal approach to the arrest and prosecution of terrorists appears to be racially motivated and couched in a war on immigrants, as described in Chapter 5. Some argue that the intelligence communities of other countries and many American political watchdog groups hold strong reservations about the FBI's forensic technology, which is wrapped in a political agenda of sorts.¹⁰⁷ Clarifying this issue is the testimony of a legislative counsel for the American Civil Liberties Union (ACLU): "The 9/11 Commission report exhaustively details significant failures of the intelligence agencies, including the Federal Bureau of Investigation (FBI) and the Central Intelligence Agency (CIA), and proposes major structural changes to address those failures. The failure to 'connect the dots' to prevent the terrorist attacks of 9/11 must rank among the worst intelligence failures in American history."¹⁰⁸

Nonetheless, the Western world, including high-ranking government officials, is under the impression that prime time dramas mirror reality. For example, in early 2007 the then Prime Minister of the United Kingdom, Tony Blair, found himself involved in a racist bullying row involving Shilpa Shetty, resulting from the prime time show *Celebrity Big Brother*. Actually, a racist account could have been easily fabricated by the media to enhance ratings. In France, the state is demanding the scrubbing of gritty vulgar words and brand name identification from films and television series. News reporters manufacture their own slant on crime, and this finding is not limited to the United States. For example, in informing the public about murder in America, news reporters emphasize personal traits of an offender, but Turkish news reporters accentuate social and situational causes of murder.¹⁰⁹ It's politics as usual, but the media provides its own cutting-edge reality centered on the fantasies of politicians who understand little about the rule of law and accept the media's rationale for criminal justice corruption as amplified through television (detailed later in this chapter).

■ Media and Terrorism

Following the theme of socially constructed events by the media, one wonders in what way the media shapes international terrorism. Simon Cottle examined television news programming in six countries—Australia, the United Kingdom,

the United States, India, Singapore, and South Africa—over a two-week period in 2004.¹¹⁰ His sample consisted of 27 television channels, four international satellite providers, 56 different news programs, and 560 broadcast news programs. In almost 10,000 broadcast news items, there were 1,662 terror-related news items (17 percent). During the period studied, terrorist activities were not imminent, and it could be said that the media played a role in enhancing the fear of terrorism among listeners.

■ Media and the Fear of Crime

The fear of crime can mean different things to different people, imply Wesley Skogan and Michael G. Maxfield.¹¹¹ Intrinsic to most definitions is the fear of victimization, yet the consequences come down to similar behavioral changes, often in a negative way. By increasing fear, these manifestations of disorder are presumed to weaken the informal community controls that prevent crime.¹¹² Police departments often try to reduce the public's fear of crime through police community relations efforts and by minimizing the amount of reported crime. The police have frequently acted on the assumption that concerted efforts to solve crime and arrest criminals would reduce unwarranted fears. Some fear-reduction strategies have been tried over the years, but they were never rigorously tested.¹¹³

Dread of Becoming a Victim

A survey of over 3,000 participants conducted by the College of Criminology and Criminal Justice at Florida State University¹¹⁴ found that most participants are fearful of the following:

- Being murdered
- Being sexually assaulted
- Being robbed or mugged
- Having their home broken into when they are home
- Having their home broken into when they are out
- Having their car stolen

Cities with a greater population density reported higher levels of fear, and ethnicity also plays a role; Latinos are the most fearful, blacks are less fearful than Latinos, and both Latinos and blacks are more fearful than whites. The randomness of violence beyond high-crime areas makes people anxious, argues Robert Blendon, an expert who tracks public opinion surveys for Harvard University's School of Public Health.^{115,116} Those incidents send a symbolic message to people that crime is out of control. Extreme examples include 9/11, the massacre of 33 students at the Virginia Tech campus, and the five gunned-down students at Northern Illinois University in early February 2008. Some students felt at risk and took precautions, and others wondered where to find a safe place in their world. Their daily behavior was distinctively different. If fearful people flee from hard-working, middle-class cities and seek safety in the countryside, these fears can result in urban decay. Yet the media continues its

proliferation of crime coverage, enhancing a fear of crime among its audiences. Other studies show that college students are susceptible to suggestion from the media when formulating opinions about criminal justice policy (and life, relationships, and fun).¹¹⁷ For example, a study about attitudes toward gun control among college students used both ideological (attribution styles) and instrumental (fear of crime) perspectives and then tested whether viewing the film *Bowling for Columbine* influenced their attitudes. Participants in the experimental group reported significantly more support for gun control policies. Another study posits that the more crime-related television people watch, the more fearful they become, and they increasingly support punitive action and stricter punishment that could include capital punishment.¹¹⁸

■ Media Distortion and Advertisers

The popular media includes advertisers who have distorted truths in health and beauty products, home and entertainment amenities, and even muscle building and weight loss products, reveals documentary news reporters at ABC.¹¹⁹ Although other reporters have also discovered these fabrications and misrepresentations, the influence of earlier distortions lingers and shapes both the expectations and perceptions of many individuals.

■ Media, Integrity, and What Criminal Justice Is Supposed to Be

Simon Cottle argues that we live in promotional times when *spin doctors* employed by government, organizations, celebrities, and pressure groups mirror the rise of an increasingly media-aware and a *mediatized* society—a society where both commercial interests and cultural identities compete for media space and strategically mobilize forms of communicative power. The established media, as Cottle explains, mediates shapes and facilitates and conditions the “communication of conflicts.”^{120(p21),121} From Gregg Barak’s perspective,¹²² the media is so powerful that it attempts to dictate what the criminal justice community is supposed to be, what the legal processes are, and what practices performed by the criminal justice players (practitioners, victims, offenders, judges, and juries) are appropriate and ethical.¹²³ In a search for appropriateness and integrity in popular media dramas, the following examples are fairly typical:

- In *Law & Order: Criminal Intent*’s Episode 86, “No Exit,” ADA Carver (Courtney B. Vance) tells the grand jury that “if you see a bleeding man, it is your responsibility to help him.”¹²⁴ Unless New York state law has a vastly different law than what is taught throughout American Bar Association certified law schools, only one-half of this statement is accurate.¹²⁵ A bystander has no legal responsibility to aid an injured person. The only person who has an obligation to assist an injured person is the individual who actually caused the injury and those who are mandated to do so, such as police officers and other specific public personnel. If such an obligation described by ADA Carver existed, there

would be no need for the numerous good-samaritan laws in this country to protect bystanders who aid injured persons from future litigation.

- In *CSI*'s Episode 81, "Butterfield," after Gil Grissom (William Petersen) and Catherine Willows (Marg Helgenberger) found traces of blood and bleach in the bathroom drains, Sara Sidle (Jorja Fox) edged through the home's crawl space to check the plumbing traps. She spotted a reddish liquid, probably blood, water, and bleach, gathered under a drainage pipe. She crawled to it and looked straight up into the pipes without protective goggles.¹²⁶
- In *CSI: Miami*'s Episode 148, "Wrecking Crew," which aired November 2, 2008, lab tech Ryan Wolfe (Jonathan Togo) snaked a public toilet with a device that provided an image of the pipe's contents.¹²⁷ Leaning onto the clean, white commode while on his knees, he wore gloves and a white shirt but no protective eye gear. His female assistant wore a white medical-type gown, and quietly, with an admiring grin, looked on to the man's work. Later Ryan somehow (without tools) unbolted an S-shaped pipe below the toilet's flange. He then appeared to be in a basement of sorts and stood atop a platform, where he shoved a clawlike device into the pipe he had freed and retrieved a shell casing, which helped close the case. The lab technicians searched the public toilet days after the crime occurred when they decided the gunman tossed a single shell casing into the toilet. They were right!

■ The *CSI Effect*

The popular media has made incredible contributions (see Chapter 2 for details), but it also provides its own version of crime and the criminal justice process, which heightens the fear of victimization and changes real-world expectations about crime and how to control it. This phenomenon is referred to as the *CSI Effect*. The popularity of the media's portrayal of crime science investigations (*CSI*, not to be confused with the media's link solely to forensic science; see Chapter 6 for details) and crime itself are profound, affecting police officers, prosecutors, defense attorneys, judges and jurors, forensic scientists, victim service providers, medical personnel, witnesses, and victims' families, explains the National Institute of Justice (NIJ).¹²⁸ The NIJ should also include counselors and correctional personnel in prisons and jails, probation and parole agencies, private providers of justice services, justice trainers, policy makers, and families and friends of offenders.¹²⁹ Although the entertainment value of the popular media is worth experiencing, it justifies laziness and corruption among justice personnel, including prosecutors, says Richard Willing.¹³⁰

The ultimate illusion produced through the *CSI Effect* is an unrealistic expectation that every crime scene will yield plentiful evidence that can be analyzed through a foolproof forensic science technique and will be presented as such in the courtroom.¹³¹

The *CSI Effect* is a consequence of the popular media's skill to accomplish the following:

- Encourage aggressive, reactive criminal justice strategies
- Glorify vigilantism¹³² among justice practitioners and members of the public
- Promote fictitious accounts of crime, crime control, and its process

The popular media depicts a good police strategy as an aggressive, reactive response (for example, a person commits a crime and the police respond, as opposed to preventive initiatives and quality-of-life arrests), regardless of the guilt of the person or seriousness of the violation. Examples include justice reactive responses to the wars on crime, junkies, sex offenders, poverty, and immigrants (see Chapters 3–5), which include zero-tolerance strategies, sex offender registers, and critical special weapons and tactics (SWAT) and tact deployments, to name a few. Results from aggressive justice initiatives include wrongful convictions and continuation of the death penalty as a plausible criminal sanction. The notion of aggressive, reactive police strategies seems abstract, thus a concrete example might help: Ninety minutes after the Boston Red Sox won the World Series at Yankee Stadium, an estimated 80,000 jubilant and mostly young college students converged on Fenway Park in Boston.¹³³ Victoria Snelgrove was one of those college students, but she wouldn't be going home for the Thanksgiving break. She was killed by a police projectile that was fired into the crowd. It injured many people but slammed into Victoria's eyes. Police attempted to disperse revelers because they were afraid the crowd would spin out of control. Had authorities prepared (prevention and proactive policing) for the event instead of reacting to it, Victoria Snelgrove would have marched at her graduation with her classmates.

The *CSI Effect* depicts a good person as an individual who acts as an enforcer, judge, juror, and executioner at the same time, or what can be called a vigilante (i.e., *Dirty Harry*, Detective Elliot Stabler). The media is an enabler of the supercop mentality (see Chapters 3–5 for details). It opens the door to almost every element that contributes to a wrongful conviction (see Chapter 8) and pro-death-penalty attitudes (see Chapter 9). For example, the 2007 to 2008 television drama offered by FOX entitled *K-Ville* (perhaps the "K" is for Katrina) poorly represented the New Orleans Police Department's response after Hurricane Katrina. Similar to *CSI*, *Law & Order*, and their spinoffs, *K-Ville* dodges much of the racial politics of policing by having the criminals represented by white, wealthy corporate leaders or middle-class professionals while the police are racially (and gender) diverse. Police brutality is seen as necessary and as an honorable method to fight crime, which is a consistent theme among most movies and television dramas since *Dirty Harry* (1971). *K-Ville*'s central character, similar to other media detective shows, is concerned that he breaks the law when apprehending suspects, but he reports that New Orleans is too lawless for him to perform his job and maintain the law at the same time. Although *K-Ville* never made it out of its first season, other

television programs are consistent with these thoughts. For example, in *The Shield*, Vic Mackey (Michael Chiklis) is in charge of a crime gang unit. He enforces the law, but he and his unit work outside the law because the streets in Los Angeles are corrupt. Mackey strikes deals with drug traders, harasses gang members, and shot another a police officer in the face point blank because the officer threatened to expose Mackey's unit as corrupt.

Popular television shows and the movie industry promote supercop vigilantes, such as Clint Eastwood in *Dirty Harry* (1971); Charles Bronson in *Death Wish* (1974); Mel Gibson in *Lethal Weapon* (1987); Bruce Willis in *Die Hard* (1988) and *Live Free or Die Hard* (2007); Jackie Chan and Chris Tucker in *Rush Hour 2* (2001); Matt Damon and Leonardo DiCaprio in *The Departed* (2006); Edward Norton and Colin Farrell in *Pride and Glory* (2008), and Liam Neeson in *Taken* (2009). Although a few of these films are dated, local television stations often rerun these films and others (i.e., *Batman*, *Spider-Man*, and *Iron Man*). While the author was working on this chapter, one television station televised a *Death Wish* marathon featuring all five sequels (1974–1994), back to back; and another television station competitively offered the *Dirty Harry* collection (*Dirty Harry/Magnum Force/The Enforcer/Sudden Impact/The Dead Pool*). One problem, among others, is that none of these performances typically describe an American police detective regardless of his or her rank.¹³⁴ The other side of vigilantism is compliance and often tolerance of police authority among the American population. This thought is challenged by policy makers, but one reason community policing efforts can fail is that only a few of the residents are represented at community meetings, and many others are fearful of the police and their motives (for more detail, see Chapter 4).¹³⁵

Finally, consequences of the *CSI Effect's* fictitious accounts of crime and criminal investigations raise real-world expectations about crime and crime control. For example, every crime is reported; every violator is detected, apprehended, and arrested; and every defendant who is lawless is legally convicted (see Chapter 8) and imprisoned, and some receive a death sentence (see Chapter 9).^{136,137} Another example of fictitious accounts have led the way in the justice arena to deliver more forensic evidence because the popular media emphasizes that every criminal case can be solved through the employment of high-tech forensic science as seen on prime time drama crime shows such as *CSI*, *Criminal Minds*, and *Law & Order*.¹³⁸ Yet in reality, forensic science is limited because of a lack of funding, personnel (including human error), and standards (see Chapter 8).¹³⁹ The *CSI Effect* depicts glamour, certainty, self-discipline, objectivity, and truth and justice, all rolled into one, and in doing so it effortlessly accommodates much-heralded successes, argues David Wilson.^{140,141} What you need to know right now is that generally the *CSI Effect* promises that the judicial process is flawless. Its downside promotes the criminal justice apparatus toward unrealistic and unlawful intrusion into the private lives of the American population, which gives rise to wrongful convictions, and it reassures that capital punishment serves a purpose.¹⁴²

■ Summary

Prosecutors' work ethics suggest that at the heart of the wrongful conviction phenomenon and the continuation of executions are prosecutors who alone possess the authority to initially indict a suspect. If prosecutors don't act, little, if anything, happens toward justice. What can be gained from this work is a better understanding of the primary elements of the problems that will hasten policy makers toward a method of supervision and recommendations toward compliance.

The assumptions that underlie this book are associated with an enlightened awareness, prosecutor power, and prosecutor deviance. However, some researchers continue to mislead readers; also, some well-funded academic researchers tend to develop misconceptions about criminal justice policy and practices. These inefficiencies, which are identified in many justice studies, are more often linked to the researcher's naïveté or lack of practical experience than to a flaw of the criminal justice program, practice, or perspective. These thoughts are consistent with the idea that history has been largely written by the privileged, therefore the media provides many flawed studies that are supported by biased historic accounts and are used to develop criminal justice policy only to end in disappointment, imprisonment, and sometimes an execution.

Although crime is an integral part of all healthy societies, mankind has attempted to control criminal behavior throughout recorded history without much success. What is known about law and morality or right from wrong is that they are neither naturally bestowed nor are they consistent across historic time. What is consistent is that natural law prevails; the law of the strongest dominates the entire history and presence of mankind on this planet.

The popular media sets in motion inappropriate and immoral responses toward targeted populations and discourages support for a reformist agenda. The evidence reveals that justice accountability does not depend upon whether an individual committed a crime or not, but how the media portrays the individual in relationship to the crime.

The media is important to understanding criminal justice because it is a dramatic device for representing the sociopolitical and economic context in which most events take place and how this context influences events; it is a comparator that sets the moral benchmark and provides a mark of accuracy or authenticity. It exposes a perspective that is at odds with official descriptions and supports assumptions of punishment and vigilante roles; at the other extreme, it offers appropriate agendas of rehabilitation and prevention, and it socially constructs and defines which real-world experiences and issues are significant and which experiences are irrelevant.

The popular media also provides its own version of crime and the criminal justice process, which heightens the fear of victimization and changes real-world expectations about crime and how to control it. This phenomenon is referred to

as the *CSI Effect*. The ultimate illusion produced through the *CSI Effect* is an unrealistic expectation that every crime scene will yield plentiful evidence that can be analyzed through a foolproof forensic science technique and will be presented as such in the courtroom. The *CSI Effect* is a consequence of the popular media's skill in encouraging aggressive, reactive criminal justice strategies; to glorify vigilantism among justice practitioners and members of the public; and to promote fictitious accounts of crime, crime control, and its process. The *CSI Effect* promises that the judicial process is flawless. Its downside promotes the criminal justice apparatus toward unrealistic and unlawful intrusion into the private lives of the American population, which gives rise to wrongful convictions and reassures that capital punishment serves a purpose.

References

1. Cory, P. (2005, October). *Keynote speech by the Honorable Peter deCarteret Cory at the conference*. Paper presented at Unlocking Innocence: An International Conference on Avoiding Wrongful Convictions, Winnipeg, Manitoba, Canada.
2. Shelton, D. E. (2008). *The "CSI Effect": Does it really exist?* Washington, DC: National Institute of Justice. Retrieved May 25, 2008, from <http://www.ncjrs.gov/pdffiles1/nij/221501.pdf>
3. Stevens, D. J. (2008). Forensic science, prosecutors, and wrongful convictions. *Howard Journal of Criminal Justice*, 47(1), 31–51.
4. Stevens, D. J. (2009). CSI Effect, prosecutors, and wrongful convictions. *Criminal Law Bulletin*, 45(4), 47–53.
5. Collins, S. (2008, September 22). These Emmy Awards are not a popularity contest. *Los Angeles Times*. <http://www.latimes.com/entertainment/news/la-et-emmy22-2008sep22,0,6618115.story>
6. Krug, P. (2001, Autumn). Prosecutorial discretion and its limits. *The American Journal of Comparative Law*, 50, 643–664.
7. Berger, P. L. (1963). *Invitation to sociology: A humanistic perspective*. Garden City, NY: Anchor Books.
8. Huff, C. R. (2002). Wrongful conviction and public policy: The American Society of Criminology 2001 presidential address. *Criminology An Interdisciplinary Journal*, 40(1), 1–18.
9. Gordon, S. C., & Huber, G. A. (2002). Citizen oversight and the electoral incentives of criminal prosecutors. *American Journal of Political Science*, 46(2), 334–351.
10. Stevens, D. J. (2006). Training and management impact sexual assault conviction rates in Boston. *Police Journal*, 79(2), 125–154.
11. Haberfeld, M., & Gideon, L. (2008). *Policing is hard on democracy, or democracy is hard on policing?* Upper Saddle River, NJ: Pearson.
12. Konradi, A. (1997, Winter). Too little, too late: Prosecutors' pre-court preparation of rape survivors. *Law and Social Inquiry*, 22(1), 1–54.
13. Frohmann, L. (1991, May). Discrediting victims' allegations of sexual assault: Prosecutorial accounts of case rejections. *Social Problems*, 38(2), 213–226.
14. Krug, "Prosecutorial Discretion."

15. Spohn, C., Beichner, D., & Davis-Frenzel, E. (2001). Prosecutorial justification for sexual assault case rejection: The gateway to justice. *Social Problems*, 48(2), 206–235.
16. Center for Public Integrity. (2003). *Harmful error: Investigating America's local prosecutors*. Washington, DC.
17. Paternoster, R., Brame, R., & Bacon, S. (2008). *The death penalty: America's experience with capital punishment*. New York: Oxford Press.
18. Krug, "Prosecutorial Discretion."
19. Center for Public Integrity, *Harmful Error*.
20. Barak, G. (2007). Notes from news-making criminology: Reflections on the media, intellectuals, and crime. *Justice Quarterly*, 5(4), 565–587. Retrieved September 5, 2007, from http://www.greggbarak.com/custom4_2.html
21. *Merriam-Webster online dictionary*. Retrieved November 13, 2008, from <http://www.merriam-webster.com/dictionary/vigilantism>
22. Marion, N. E., & Oliver, W. M. (2006). *The public police of crime and criminal justice*. Upper Saddle River, NJ: Prentice Hall.
23. Center for Public Integrity, *Harmful Error*, ii.
24. This thought represents a question I have raised throughout my academic career. Stevens, D. J. (1999). Interviews with women convicted of murder: Battered women syndrome revisited. *International Review of Victimology*, 6, 117–135.
25. Stevens, D. J. (1994). The depth of imprisonment and prisonization: Levels of security and prisoners' anticipation of future violence. *The Howard Journal of Criminal Justice*, 33(2), 137–157.
26. Stevens, D. J. (1992). Research note: The death sentence and inmate attitudes. *Crime & Delinquency*, 38(2), 272–279.
27. Zimbardo, P. (2007). *The Lucifer Effect: Understanding how good people turn to evil*. New York: Random House.
28. Katz, F. E. (1993). *Ordinary people and extraordinary evil*. Albany: State University of New York Press.
29. Lippmann, W. (1993). *The phantom public*. New York: Transaction.
30. Lippmann, W. (2008). *Public opinion*. New York: BiblioLife.
31. Campbell, A., Converse, P. E., Miller, W. E., & Stokes, D. E. (1960). *The American voter*. New York: John Wiley & Sons.
32. Converse, P. E. (1964). The nature of belief systems in mass publics. In D. E. Apter (Ed.), *Ideology and discontent*. New York: Free Press.
33. Converse, "Nature of Belief Systems."
34. Marion & Oliver, *Public Police of Crime*.
35. Bishop, G. F. (2006). *The illusion of public opinion: Fact and artifact in American public opinion polls*. New York: Roman and Littlefield.
36. Weisburd, D. (2002, November). *Hot spots policing experiments and criminal justice research: Lessons from the field*. Paper presented for the Campbell Collaboration/Rockefeller Foundation meeting, Bellagio, Italy.

37. Shelden, R. G. (2008). *Controlling the dangerous classes: A critical introduction to the history of criminal justice* (2nd ed.). Boston: Allyn & Bacon.
38. National Immigration Forum. Retrieved August 17, 2008, from <http://www.immigration-forum.org/>
39. Page, B. I., & Shapiro, R. Y. (1992). *The rational public: Fifty years of trends in Americans' policy preferences*. Chicago: University of Chicago Press.
40. Popkin, S., & Kabashima, I. (2007). Introduction: Changing media, changing politics. *The Japanese Journal of Political Science*, 8, 1–6.
41. Marion & Oliver, *Public Police of Crime*.
42. Nie, N. H., Verba, S., & Petrocik, J. R. (1966). *The responsible electorate: Rationality in presidential voting, 1936–1960*. Cambridge, MA: Harvard University Press.
43. Smith, E. R. A. N. (1989). *The unchanging American voter*. Berkeley: University of California Press.
44. Marion & Oliver, *Public Police of Crime*.
45. Carmines, E. G., & Kuklinski, J. H. (1990). Incentives, opportunities, and the logic of public opinion in American political representation. In J. A. Ferejohn & J. H. Kuklinski (Eds.), *Information and democratic processes*. Urbana: University of Illinois Press.
46. Roane, K. R., & Morrison, D. (2005, April 14). The CSI Effect. *US News and World Report*. Retrieved January 13, 2008, from www.usnews.com
47. Layton, J. (2006). *How crime scene investigation works*. Retrieved January 13, 2008, from <http://science.howstuffworks.com/csi.htm>. Much of her information was provided by Joe Clayton, a laboratory agent and primary scene responder for the Colorado Bureau of Investigation.
48. Iyengar, S. (1991). *Is anyone responsible? How television frames political issues*. Chicago: University of Chicago Press.
49. Iyengar, S. (1990). Shortcuts to political knowledge: The role of selective attention and accessibility. In J. A. Ferejohn & J. H. Kuklinski (Eds.), *Information and democratic process*. Urbana: University of Illinois Press.
50. Surette, R. (2007). *Media, crime, and criminal justice: Images, realities, and policies* (3rd ed.). Belmont, CA: Thompson Higher Education.
51. US Department of Justice. (2006). *Sourcebook of criminal justice statistics online*. Table 2.28. Albany, NY: Office of Justice Programs. Retrieved November 13, 2008, from <http://www.albany.edu/sourcebook/pdf/t2282006.pdf>
52. Erikson, K. T. (1966). *Wayward puritans*. New York: John Wiley.
53. Hickey, H. W. (1997). *Serial murderers and their victims* (2nd ed.). Belmont, CA: Wadsworth Thomson.
54. Straus, M. A., Gelles, R. J., & Steinmetz, S. K. (1980). *Behind closed doors: Violence in the American family*. New York: Anchor Books.
55. Durkheim, E. (1958). *The rules of sociological method* (S. A. Solovay & J. H. Mueller, Trans.). Glencoe, IL: Free Press. Also cited in Erikson, K. T., *Wayward Puritans*.
56. Felson, M. (1998). *Crime & everyday life* (2nd ed.). Thousand Oaks, CA: Pine Forge Press.
57. Schmalleger, F. (2000). World of the career criminal. In D. J. Stevens (Ed.), *Corrections perspective*. Madison, WI: Coursewise.

58. Bell, J. G., Clow, K. A., & Ricciardelli, R. (2008, March). Causes of wrongful conviction: Looking at student knowledge. *Journal of Criminal Justice Education*, 19, 75–95. Although this research did not specifically hit on crime as a perspective as old as mankind, it does say that “criminal justice majors were not more knowledgeable in the areas of police and lawyer behavior.” One implication of the researchers’ conclusion is that criminal justice majors hold less knowledge than expected about the function of policing in present and past societies; many may be under the spell of the popular media, which suggests that violent offenders would cease to exist if offenders were dealt with in a violent manner, including execution, by authorities.
59. Samenow, S. E. (1998). *Before it’s too late*. New York: Times Books. One perspective is prevention, starting at a young age, by parents and institutions, including the criminal justice community.
60. Drapkin, I. (1989). *Crime and punishment in the ancient world*. Washington, DC: Lexington.
61. Stevens, D. J. (2005). The history of prisons: Continental Europe and England. *The encyclopedia of criminology*. New York: Routledge/Taylor & Francis.
62. Marx, K. (1978). The eighteenth Brumaire of Louis Bonaparte. In R. C. Tucker (Trans.), *The Marx-Engles reader*. New York: Norton. (Original work published 1852)
63. Morris, N., & Rothman, D. J. (1997). *The Oxford history of the prison: The practice of punishment in Western society*. New York: Oxford University Press.
64. Stevens, “The History of Prisons.”
65. Peters, E. M. (1998). Prison before the prison: The ancient and medieval worlds. In N. Morris & D. J. Rothman (Eds.), *The Oxford history of the prison*. New York: Oxford University Press.
66. Peters, “Prison Before the Prison.”
67. For example, at the Newgate Tower prison in England, being confined on a higher floor of the tower translated to a better quality lifestyle despite being jailed. Getting to those higher floors cost money. Those without funds lived in the lower sections of the tower. Morris & Rothman, *Oxford History of the Prison*.
68. Grovier, K. (2008). *The Gaol: The story of Newgate, London’s most notorious prison*. London: Hodder Murray.
69. Morris, N. (2002). *Maconochie’s gentlemen: The story of Norfolk Island and the roots of modern prison reform*. New York: Oxford University Press. Captain Alexander Maconochie is known as a strong reformer of the British prison system, in particular, and his accomplishments influenced early release systems, including probation and parole options through his innovation of the mark system, which provided hope for prisoners to build credit toward release.
70. Morris, *Maconochie’s Gentlemen*.
71. Foucault, M. (1995). *Discipline and punishment: The birth of the prison*. New York: Vintage Books.
72. Morris & Rothman, *Oxford History of the Prison*.
73. Marietta, J. D., & Rowe, G. S. (2008). College Park: University of Pennsylvania.
74. Morris & Rothman, *Oxford History of the Prison*.

75. The US Supreme Court said in *Wolff v. McDonnell* (1974) that although prisoners' constitutional rights were diminished upon conviction, and although jails and prisons can and must curtail rights to maintain discipline and control for the security and protection of all, not all rights are given up at the prison gate.
76. Cornell Law School. (2008). *Prisoner's rights*. Retrieved October 8, 2008, from http://topics.law.cornell.edu/wex/prisoners_rights
77. Logan, C. H. (1993). *Criminal justice performance measures for prisons*. Bureau of Justice Assistance. Center for program evaluation. Retrieved June 8, 2009 from <http://www.ojp.usdoj.gov/bjs/pub/pdf/pmcjs.pdf>
78. Smith, M. E. (2001, June). *What future for "public safety" and "restorative justice" in community corrections?* (NCJ 187773). Washington, DC: National Institute of Justice. Retrieved November 22, 2008, from <http://www.ncjrs.org/txtfiles1/nij/187773.txt>
79. Kurki, L. (1999). *Incorporating restorative and community justice into American sentencing and corrections. Research in brief-sentencing and corrections: Issues for the 21st century* (NCJ 175723). Washington, DC: US Department of Justice, National Institute of Justice/Corrections Program Office. Retrieved January 11, 2005, from <http://www.ncjrs.org/pdffiles1/nij/175723.pdf>
80. NYS DOCS personnel (and most enforcement personnel) do not whisper in the ear of an inmate before a strike with an impact weapon, such as baton, because reaction time and distance are critical. In the circumstance of this encounter, the officer would be trained to deliver one solid strike to the opponent's knee, which would end the encounter. A strike elsewhere in this situation would provide a serious disadvantage inside the optimum striking range and reaction distance. The first tactical response (although this situation did not necessarily call for one) is pepper spray. Information provided by tact trainer who wishes to remain anonymous at NYS DOCS Albany Training Academy, Albany, New York. (*Note:* This information is also consistent with a first strike trainer's information at North Carolina Justice Academy, Salemburg, North Carolina.)
81. Rikers is a New York City facility, and Sealview as portrayed in this episode (although Sealview Prison does not exist in NY) is a state facility. Exchanging personnel from city to state systems is not a likely prospect: different employer, different training, different unions.
82. New York State Department of Correctional Services. (n.d.). *Rules and regulations—corrections*. Retrieved November 22, 2008, from <http://www.dos.state.ny.us/info/nycrr.htm>
83. Cooper, T. L. (2008). *Handbook of administrative ethics* (2nd ed.). New York: CRC.
84. Bennett, J. (2006). The good, the bad and the ugly: The media in prison films. *Journal of Criminal Justice*, 45(2), 97–115.
85. When *Law & Order* began airing in reruns on TNT, new digital technology was used to insert product placements (paid appearances of name-brand products) into the show. The easiest to spot is Coca-Cola; any time you see a Coke can sitting on a desk, it has been added digitally. (*Source:* TV.com)
86. Iyengar, *Is Anyone Responsible?*
87. Wilson, D. (2006, September 14). Crime lab investigation. *The Guardian*. Retrieved January 14, 2008, from <http://www.guardian.co.uk/commentisfree/story/0,1871923,00.html>
88. Wilson, D. (2008). *Centre for Criminal Justice Police and Research*. Retrieved January 15, 2008, from <http://www.lhds.bcu.ac.uk/criminaljustice/>

89. McMullen, J. L., & McClung, M. (2006). The media, the politics of truth, and the coverage of corporate violence: The Westray disaster and the public inquiry. *Critical Criminology: An International Journal*, 14(1), 67–86.
90. Bennett, “The Good, the Bad and the Ugly.”
91. Chermak, S., McGarrell, E., & Gruenewald, J. (2006). Media coverage of police misconduct and attitudes toward police. *An International Journal of Police Strategies and Management*, 29(2), 261–281.
92. Phillips, N. D., & Strobl, S. (2006). Cultural criminology and kryptonite: Apocalyptic and retributive constructions of crime and justice in comic books. *Crime, Media, Culture*, 2(3), 304–331.
93. Beckett, K., & Sasson, T. (2000). *The politics of injustice*. Thousand Oaks, CA: Pine Forge Press.
94. Cavender, G., Bond-Maupin, L., & Jurik, N. C. (1999, October). The construction of gender in reality crime TV. *Gender and Society*, 13(5), 643–663.
95. Estep, R. (1982). Women’s roles in crime as depicted by television and newspapers. *The Journal of Popular Culture*, 16(3), 151–156. This reference suggests that this thought is hardly new.
96. This reference provides a discussion of incompetence and mental illness roles produced by the media. Montgomery, J., & Brooks, M. H. (2005). Use of a television crime-drama series to promote legal understanding in mentally ill, incompetent defendants: A pilot study. *Journal of Forensic Sciences*, 50(2), 465–469.
97. Tierney, P. R. (2003). *The competitive advantages of rich media*. Retrieved November 4, 2008, from <http://www.econtentmag.com/downloads/WhitePapers/jun03/tierney.htm>
98. Upshaw, L. B. (2007). *Truth: New rules for marketing in a skeptical world*. New York: American Management Association.
99. TV.Com. (2007). *CSI Miami*. Retrieved August 22, 2007, from <http://www.tv.com/csi-miami/show/8460/summary.html>
100. Barak, G. (2007). Mediatizing *Law & Order*: Applying Cottle’s architecture of communicative frames to the social construction of crime and justice. *Crime Media Culture*, 3(1), 101–109.
101. Bracken, C. C. (2006). Perceived source credibility of local television news: The impact of television form and presence. *Journal of Broadcasting & Electronic Media*, 50(4), 723–741.
102. Robbers, M. L. (2005). The media and public perceptions of criminal policy issues: An analysis of *Bowling for Columbine* and gun control. *Journal of Criminal Justice and Popular Culture*, 12(2), 77–95.
103. TV.Com. (2007). *Law & Order*. Retrieved August 22, 2007, from http://www.tv.com/law-and-order/show/180/trivia.html?season=12&tag=season_dropdown;dropdown;11
104. DuPont Advanced Fiber Systems. (2007). *DuPont Kevlar MTP for knife-stab protection*. Retrieved August 22, 2007, from http://www2.dupont.com/Kevlar/en_US/assets/downloads/K16975KevlarMTP.pdf
105. Stevens. “CSI Effect, prosecutors, and wrongful convictions.”

106. FBI apologizes to lawyer held in Madrid bombings: Man feels he was singled out because he's Muslim. (2006). *MSNBC*. Retrieved July 27, 2007, from <http://www.msnbc.msn.com/id/5053007/>
107. Miller, A. J. (2007). *An open letter to the FBI*. Retrieved September 15, 2007, from <http://www.iww.org/projects/gdc/openlet.shtml>
108. American Civil Liberties Union. (2004, August 4). ACLU Testimony of Timothy H. Edgar, legislative counsel, at a hearing on "9/11 Commission recommendations: Counterterrorism analysis and collection-the requirement for imagination and creativity" before the House Permanent Select Committee on Intelligence. Retrieved September 15, 2007, from <http://www.aclu.org/natsec/emergpowers/14499leg20040804.html>
109. Dayioglu, M. (2007, June). *Media representations of murder: A comparison of American and Turkish news reports*. Paper presented at the annual conference of the Turkish Institute for Police Studies, Istanbul, Turkey.
110. Cottle, S. (2006). Mediatizing the global war on terror: Television's public eye. In A. P. Kavoori & T. Fraley (Eds.), *Media, terrorism, and theory: A reader*. Lanham, MD: Rowman and Littlefield.
111. Skogan, W., & Maxfield, M. G. (1981). *Coping with crime*. Beverly Hills, CA: Sage.
112. Beckett & Sasson, *The Politics of Injustice*.
113. Police Foundation. (n.d.). *Police strategies to reduce citizen fear of crime*. Retrieved July 6, 2004, from <http://www.policefoundation.org/docs/citizenfear.html>
114. College of Criminology and Criminal Justice, Florida State University. (n.d.). *Fear of crime & related perceptions: A statewide survey of Florida. 1997*. Retrieved July 8, 2008, from <http://www.criminology.fsu.edu/TA/fear/sld003.htm>
115. Blendon, R. Harvard science. Retrieved June 8, 2009 from <http://www.harvardscience.harvard.edu/directory/researchers/robert-j-blendon>
116. Stevens, D. J. (2003). *Community policing in the 21st century*. Boston: Allyn Bacon.
117. Robbers, "Media and Public Perceptions."
118. Callanan, V. J. (Ed.). (2005). *Feeding the fear of crime: Crime-related media and support for three strikes*. New York: LFB Scholarly.
119. Our bodies, myths, lies and straight talk. (2006, June 16). *ABC News. 20/20*. Retrieved June 17, 2006, from <http://abcnews.go.com/>
120. Cottle, "Mediatizing the Global War on Terror."
121. Cottle, S. (2003). *News, public relations, and power*. Los Angeles: Sage.
122. Barak, "Mediatizing Law & Order."
123. One obvious cure might be that the standards of all entry personnel into the criminal justice community must possess a competitive education from an accredited institution of higher learning, solid experiences, and strong indicators of integrity that include both adult and juvenile drug-free and crime-free backgrounds.
124. TV.Com. (2007). *Law & Order: Criminal Intent*. Retrieved August 22, 2007, from <http://www.tv.com/law-and-order-criminal-intent/show/1381/summary.html>
125. TV.Com, *Law & Order: Criminal Intent*.

126. TV.Com. (2007). *CSI Las Vegas*. Retrieved May 30, 2008, from http://www.tv.com/csi/show/19/episode_guide.html
127. Personal observation of the episode by the author. November 2, 2008.
128. US Department of Justice. (2006). *National Institute of Justice annual report, 2005*. Washington, DC: Author. Retrieved May 24, 2008, from <http://www.ncjrs.gov/pdffiles1/nij/213267.pdf>
129. Hooper, R. (2008). *Television shows scramble forensic evidence*. Retrieved May 24, 2008, from <http://www.newscientist.com/channel/opinion/mg18725163.800-television-shows-scramble-forensic-evidence.html>
130. Willing, R. (2004, August 5). CSI Effect has juries wanting more evidence. *USA Today*. Retrieved September 12, 2008, from http://www.usatoday.com/news/nation/2004-08-05-csi-effect_x.htm
131. Holmgren, J. A., & Pringle, H. M. (n.d.). The CSI Effect and the Canadian jury. *Gazette Magazine*, 62(20). Retrieved June 8, 2009, from <http://www.rcmp-grc.gc.ca/gazette/archiv/vol69n2-eng.pdf>
132. Merriam-Webster, <http://www.merriam-webster.com/dictionary/vigilantism>.
133. Farragher, T., & Abel, D. (2004, October 22). Postgame police projectile kills an Emerson student: O'Toole accepts responsibility but condemns acts of punks. *Boston Globe*. Retrieved November 12, 2008, from http://www.boston.com/sports/baseball/redsox/articles/2004/10/22/postgame_police_projectile_kills_an_emerson_student/
134. Flaherty, J. (2007, September 27). *K-Ville makes police brutality acceptable*. Retrieved May 31, 2008, from http://mostlywater.org/k_ville_makes_police_brutality_acceptable
135. Walker, S., & Katz, C. M. (2008). *The police in America: An introduction* (6th ed.). New York: McGraw Hill.
136. Escobar, E. J. (2001). Race, police, and the making of a political identity: Mexican Americans and the Los Angeles Police Department, 1900–1945. *The American Historical Review*, 106(2), 578–579.
137. Skogan, W. G., Steiner, L., DuBois, J., Gudell, J. E., & Fagan, A. (2002). *Community policing and the new immigrants: Latinos in Chicago*. Washington, DC: US Department of Justice, National Institute of Justice. Retrieved August 17, 2008, from <http://www.ncjrs.gov/pdffiles1/nij/189908.pdf>
138. Stevens, "Forensic Science, Prosecutor Discretion."
139. Briody, M. (2004). The effect of DNA evidence on homicide cases in court. *Australian and New Zealand Journal of Criminology*, 37(2), 231–252.
140. Wilson, "Crime Lab Investigation."
141. Wilson, "Centre for Criminal Justice."
142. Boese, A. (2004). *Hippo eats dwarf: A field guide to hoaxes and other B.S.* New York: Basic Books.