

10-4/a.  
App-10/19/10  
Senate Info. -11/2/10

### Undergraduate Distance Education Review Form

(Required for all courses taught by distance education for more than one-third of teaching contact hours.)

#### Existing and Special Topics Course

Course: CRIMINOLOGY (CRIM) 403 Dilemmas in Criminology and Criminal Justice

Instructor(s) of Record: JAMIE MARTIN

Phone: 724-357-5975

Email: martin@iup.edu

#### Step One: Proposer

A. Provide a brief narrative rationale for each of the items, A1- A5 after the signature pages.

1. How is/are the instructor(s) qualified in the distance education delivery method as well as the discipline?  
SEE ATTACHED SHEETS

2. How will each objective in the course be met using distance education technologies?

3. How will instructor-student and student-student, if applicable, interaction take place?

4. How will student achievement be evaluated?

5. How will academic honesty for tests and assignments be addressed?

B. Submit to the department or its curriculum committee the responses to items A1-A5, the current official syllabus of record, along with the instructor developed online version of the syllabus, and the sample lesson. This lesson should clearly demonstrate how the distance education instructional format adequately assists students to meet a course objective(s) using online or distance technology. It should relate to one concrete topic area indicated on the syllabus.

Received

SEP 30 2010

Liberal Studies

**Step Two: Departmental/Dean Approval**

Recommendation:  Positive (The objectives of this course can be met via distance education)

Negative

Kathleen Hannah 9-30-2010  
Signature of Department Designee Date

Endorsed: Mary E. Sumner 9/30/10  
Signature of College Dean Date

Forward form and supporting materials to Liberal Studies Office for consideration by the University-wide Undergraduate Curriculum Committee. Dual-level courses also require review by the University-wide Graduate Committee for graduate-level section.

**Step Three: University-wide Undergraduate Curriculum Committee Approval**

Recommendation:  Positive (The objectives of this course can be met via distance education)

Negative

Gail Sedquist 10/19/10  
Signature of Committee Co-Chair Date

Forward form and supporting materials to the Provost within 30 calendar days after received by committee.

**Step Four: Provost Approval**

Approved as distance education course

Rejected as distance education course

\_\_\_\_\_  
Signature of Provost

\_\_\_\_\_  
Date

Forward form and supporting materials to Associate Provost.

*Current signature attached to back of proposal*

**Mid-Term Essay Exam**  
**CRIM 403 /W/04**  
**Spring 2006**  
**(75 points)**

By now you should have read the material on reserve (*Crime and Punishment*), and Chapters 2 & 3 of the Braswell, McCarthy and McCarthy book. Answer each of the following questions. Your response(s) should be typed and double-spaced, and should be grammatically sound (e.g. use paragraphs, spell check, proofread, etc.). Please number each response in your answer. This essay is not to be an “opinion” piece. This is not to say that I am not interested in your informed interpretations. Your responses should demonstrate an understanding of the material and careful thought in the application of the material. Be certain to provide support for your position. You must properly cite and reference your responses (using APA). The elements that you will be graded on are content, critical thought, writing (including appropriate citation), and organization,

- 1) In the article, *The causes and consequences of prison growth in the United States*, the author (Marc Mauer) discusses the U.S. prison buildup since the 1970’s and the consequences of this growth.
  - (a) Discuss the factors that led to the prison boom.
  - (b) During the 1970’s the U.S. began a “War on Crime”. How did this influence our “Get Tough” policies?
  
- 2) The author discusses the prison reform movement which includes alternatives to prison such as, community corrections, community service, day reporting centers, etc.
  - (a) Summarize and discuss the reasons why this reform effort has not been successful
  
- 3) Provide a brief overview of both the Deontological ethical perspective and the Utilitarian ethical perspective.
  
- 4) Use both ethical perspectives to analyze the information in the Mauer article. In other words, how would a Utilitarian view the continued use of incarceration versus the use of prison reforms outlined in this article. How would a Deontologist view this issue?
  
- 5) Now that you have considered this issue from both perspectives, which provides the more compelling conclusion? Provide support for your answer.

Cite for Mauer Article:

Mauer, M. (2001). *The causes and consequences of prison growth in the United States. Punishment and Society*, 3, 9, (pp. 9-20).

A1. The instructor (Dr. Martin) has developed and delivered two undergraduate courses (CRIM 101 & 401) and one graduate course (CRIM 730) via distance education. During the process of development, she has attended multiple workshops on both WebCT (now defunct) and Moodle. She has used both WebCT and Moodle in her on-campus courses since 2000 as a way to augment the learning experience and exchange of information for her students. She is also the coordinator of the Criminology M.A. Online Program.

A2. **Course Objectives: Students will:**

**1. Examine and identify various theories of ethics.**

To accomplish this objective, students will read material from the assigned book and from e-reserve readings. While we will examine and discuss various ethical theories, we will focus particular attention on Utilitarianism and Deontology. There are discussion questions for each chapter in the book (and for the reserve readings). These discussion questions are made available through Moodle. The students will be required to prepare written answers to the questions and submit those *prior* to the discussion of this material.

The students enrolled in the course will be placed in small groups (approx. 4-5 people). The instructor will have access to, and will participate in, the discussions that occur within each group. The discussion questions will provide the basis for the group discussion, but it is expected that these questions will lead to other related discussion.

**2. Discuss a variety of ethical/moral issues, which characterize and define the different facets of criminology/criminal justice.**

The early chapters of the required book focus on ethical theories (deontology and utilitarianism). The latter chapters of the book focus on the various components of the criminal justice system (police, courts, and corrections) and provide information on ethical dilemmas that are inherent in each. Throughout the semester, we will discuss how these dilemmas would be viewed through the 'lens' of both deontology and utilitarianism

The ethical/moral issues we examine and discuss include both the system level (such as police interrogatory practices, plea bargaining, incarcerating the elderly, capital punishment, etc) as well as ethical dilemmas faced by individuals employed in the system (for example, use of force, use of discretion, etc.). We will discuss these topics, and dilemmas, throughout the semester.

**3. Analyze the process by which they consider ethicality and morality in decision-making**

At the beginning of the semester, students will be provided information about the development of one's own personal ethics (from where do they come) and the important role that one's personal ethics in play in the assessment of ethical issues and dilemmas. The students will also compose and submit a brief essay discussing the four most ethical people they know (see syllabus). One of the goals of this paper is to have the students begin thinking about the qualities and characteristics that define ethical behavior – and we will discuss how this is related to their own personal beliefs. The students will be encouraged to continue to examine their personal beliefs as we explore the topics for the class and will be encouraged to consider how their beliefs about ethics and

morals influence their views of, and the ways in which they would resolve ethical issues in the criminal justice system. The encouragement to explore their personal beliefs will occur in both the discussions that take place and in feedback from the instructor.

#### **4. Assess, through self-reflection, the critical factors that influence ethics and morality**

This objective will be met in the class discussions, in written responses to the discussion questions, and in feedback from the instructor (in group discussions and in writing). As the students discuss the various topics throughout the semester it is expected that different students will express different views about a specific topic – and this will lead to an exploration about why this is the case. Students will be encouraged (by the instructor) to explore the critical and necessary factors that comprise ethical/moral behavior. For example, in our discussion about the war on terrorism, we will explore whether the use of torture is ever appropriate. In teaching this course on campus, some students will agree that it is appropriate in some cases (and point to a utilitarian justification) while others disagree that it is appropriate (and point to a deontological rationale). Students will be ‘pushed’ to assess and consider what characteristics and factors they consider in arriving at their conclusion. As we further explore this topic the students often realize that their own personal values and ethics lead to the position that they adopt. This is tied back to the development of ethics. This type of reflection occurs in considering most of the topics that we cover.

#### **A 3. How will instructor-student and student-student, if applicable, interaction take place?**

As discussed above, there will be a great deal of both student-student and instructor-student interaction throughout the course. Specifically:

Student-Instructor interaction will occur through (a) the discussion board; (b) through virtual office hours in Wimba; (c) through the weekly videos that will be posted by the instructor at the beginning of each week that provide an overview of the events of the upcoming week and feedback on the prior week (when applicable), and; (d) through feedback provided to the students on written work that is submitted.

Student-Student interaction will occur primarily through the discussion board but may also occur during virtual office hours in Wimba. More than one student can talk with the instructor during office hours. If needed, the instructor can provide group discussion areas in Wimba where the students can ‘meet’ face-to-face if they desire.

#### **A 4. How will student achievement be evaluated?**

Student achievement will be evaluated in exactly the same manner as the on-campus course. Students will be graded on the written assignments that they submit (i.e. the exam, their responses to the discussion questions and the video/audio guides). They will also be evaluated on their participation in the group discussions. The expectations for this component are detailed in the accompanying syllabus.

A 5. How will academic honesty for tests and assignments be addressed?

The instructor does recognize the concern about academic honest in a distance education course. However, I do submit that this concern exists in an on-campus course of this nature. Specifically, in the distance education course the students must submit written work and the concern is that the students write and submit individual work. This concern exists in every course taught on campus. While there is never a guarantee that this will occur, the instructor provides information on the academic integrity policy in the syllabus. Further in all writing the 'voice' of the author can be heard. The instructor will examine the writing submitted throughout the semester by each student to look for consistency – and this can also be compared to the writing that takes place in the discussion board. One other assignment, the exam, could raise concern about academic integrity. To address this, the exam will be timed, the writing of the short answer and essay questions will be examined for consistency of 'voice'. Any instances of academic dishonesty will be dealt with according to University Policy. Finally, it is possible to look at the properties and details of WORD documents to determine the author, the date of creation, etc.

# Official Syllabus of Record

## **I. Catalog Description**

CRIM 403 Dilemmas in Criminology and Criminal Justice

3 class hours

0 lab hours

Prerequisites: CRIM 101 and 102

3 credits

(3c-0l-3cr)

Overview of prominent ethical issues facing professionals in criminology and criminal justice, with an emphasis on encouraging individual students to explore their own ethical and moral systems and how they make ethical/moral decisions. The course is primarily discussion/ seminar oriented.

## **II. Course Objectives**

Students will:

1. Examine and identify various theories of ethics.
2. Discuss a variety of ethical/moral issues, which characterize and define the different facets of criminology/criminal justice.
3. Analyze the process by which they consider ethicality and morality in decision-making.
4. Assess, through self-reflection, the critical factors that influence ethics and morality.

## **III. Course Outline**

Unit I: Introduction (8 lectures)

Eye to Eye: Alternative Ways of Knowing

Morality, Ethics, and Human Behavior

Developing Moral Behavior

The Principles of Justice

Criminal Justice Ethics: A Survey of Philosophical Theories

Individual Rights vs. Social Unity: A Search for the Golden Zigzag  
Between Conflicting Fundamental Values

Academy of Criminal Justice Sciences Code of Ethics

Unit II: Ethics and Applications of Law Enforcement and Punishment



**A. Enforcement (9 lectures)**

Ethics and the Law

Ethics and the Police

Deception by Police

Overstepping Police Authority

Learning Police Ethics

**B. The Courts (9 lectures)**

Ethics and the Courts

Ethical Issues in Sentencing

Myth that Punishment Can Fit the Crime

A Life for a Life? Opinion and Debate

A Life for a Life? Reply

**C. Corrections (6 lectures)**

The Ethics of Punishment and Corrections

Moral Development and Corrections

Keeping an Eye on the Keeper: Prison Corruption and Its Control

Ethical Issues in Probation and Parole

**Unit III: Ethics and Making the Law (5 lectures)**

Crime, Criminals, and Crime Control Policy Myths

The Ford Pinto Case and Beyond: Assessing Blame

**Unit IV: Ethics in Criminological/Criminal Justice Research (5 lectures)**

Ethics and Criminal Justice Research

Ethical Dilemmas in the Research Setting

Internal Review Board (IRB) Guidelines

#### **IV. Evaluation Method**

The final grade for the course will be based on the accumulated points from four different assignments (800 total points), as follows:

1. The "take stock paper" is worth 150 points, (approximately) 19% of the final grade.

For the second class meeting, the student will write a short paper (4-6 pages typed) briefly describing/defining the concept "ethics" and exploring its relationships to morality and justice. The students must also address the questions of: from where do ethics (morality) come; why is this an important area of concern in criminology/criminal justice; and, how do they go about making ethical/moral decisions. They may not conduct outside research for this paper; they are to draw all information from "inside." The fundamental point of this assignment is for the students to take stock of her/his own views and beliefs.

2. The journal is worth 250 points, (approximately) 31% of the final grade.

The student is to keep a journal during the semester, in which he/she should record their thoughts, reactions, questions, etc. relating to ethics, morality, justice, etc. The journals will be collected periodically, and a general grade will be assigned. The journal is designed to help address one of the main goals of the class, which is to provide the student an opportunity to get in touch with his/her own beliefs, values, morals, and system of ethics. The journal will also be used to encourage critical thinking about ethical issues. It is expected that the student will keep her/his entries up to date. Students will be informed to always bring their journals to class with them, as no notice will be given prior to collecting the journals for review.

The journal will be reviewed 3 times during the semester. Each time, a numerical score between 1 and 10 will be assigned. At the end of the semester, the average score from the three reviews will be multiplied by 25 to arrive at a point total for the journal (maximum of 250 points).

3. The "issue paper" is worth 200 points, 25% of the final grade.

The student will select a specific ethical issue (to be approved by the instructor) relating to criminology/criminal justice, and develop a comprehensive paper around it. The paper must include: a review of the history of the issue in the discipline; a description of the current state of affairs as it relates to the issue; speculation about the future of the issue and how it will be addressed; a supported ethical stand on the issue; and, an exploration of the potential positive and negative consequences of the stand that has been adopted.

It will be indicated that the paper should be 12-15 pages in length.

4. Class participation will be worth 200 points, 25% of the final grade.

The students will receive the following information about the class participation evaluation process:

As this course is being conducted primarily as a seminar, discussion is essential. Consequently, points will be awarded for class participation. Two hundred points are reserved for participation;

they are your points to keep or to lose. To be able to participate fully and effectively, you will have to come to class well prepared and willing to get involved in our discussions. To be well prepared, you must do the reading in advance and give some serious thought to the material. Just showing up and saying something is not effective participation. There are two aspects that will be considered when evaluating participation, quantity and quality.

Quantity refers to the amount/frequency of your involvement. You need to get involved in our discussions on a regular basis. While being physically present in class is (obviously) necessary for participation, it is certainly not synonymous with it. In other words, being in class is not participation; it is attendance, and you are not being graded on attendance. If you come to class every day and do not ever participate in our discussions, you will get "0" participation points.

Quality refers to the kinds of comments you offer, questions you ask, etc. and the level of thinking that is reflected. To increase the quality of your participation, it will be absolutely necessary that you prepare for class. The nature of your comments, etc. will indicate the level at which you have read and thought about the material. We are looking for high quality in the participation process.

At (roughly) the mid-point in the semester, you will be informed as to what your participation grade would be, if assigned at that time. You will also be provided with some brief feedback on your class involvement to that point. This information will be provided to allow for the opportunity of improving your participation score, if necessary and/or desired.

**Grading Scale:** Grades will be computed on the following scale:

A = 90% and above, B = 80-89%, C = 70-79%, D = 60-69%, F = 0-59%

## **V. Attendance Policy**

Individual faculty will denote an attendance policy on specific course syllabi.

## **VI. Required Textbooks, Supplemental Books and Readings**

### Textbooks:

Pollock-Byrne, J. (1997). Ethics in crime and justice: Dilemmas and decisions (3<sup>rd</sup> ed.). New York: Wadsworth Publishing Company.

Braswell, M.C., McCarthy, B.R., & McCarthy B.J. (2001). Justice, crime and ethics (4<sup>th</sup> ed.). Cincinnati, OH: Anderson Publishing.

### Supplemental Readings:

Academy of Criminal Justice Sciences. (2001). Code of ethics [On-line].

Available: <http://www.acjs.org/PDF%20Files/ethics.pdf>.

Wilber, K. (1980). Eye to eye. In R.N. Walsh and F. Vaughn (Ed.s), Beyond ego (pp. 216-221). Los Angeles: Jeremy P. Tarcher, Inc.

Indiana University of Pennsylvania. (2001). Internal review board guidelines [On-line]. Available: <http://www.iup.edu/gradua/irb/>.

## **VII. Special Resource Requirements**

None

## **VIII. Bibliography**

Academy of Criminal Justice Sciences. (2001). Code of ethics [On-line]. Available: <http://www.acjs.org/PDF%20Files/ethics.pdf>.

Babbie, E.B. (1998). The politics of social research (excerpt). The practice of social research (8<sup>th</sup> ed.). Belmont, CA: Wadsworth Publishing.

Baumrind, D. (1964). Psychology in action: Some thoughts on ethics of research after reading Milgram's "Behavioral study of obedience." American Psychologist, 19(6), 412-423.

Braswell, M.C., McCarthy, B.R., & McCarthy B.J. (1998). Justice, crime and ethics (3rd ed). Cincinnati, OH: Anderson Publishing.

Centre for Applied Ethics. (2001). Applied ethics resources on the www [On-line]. Available: <http://www.ethics.ubcica/resources/>.

Haney, C., Banks, C., & Zimbardo, P. (1973). Interpersonal dynamics in a simulated prison. International Journal of Criminology and Penology, 1,(1), 69-97.

Hagan, F.E. (1989). Ethics in criminal justice research. Research methods in criminal justice and criminology (2nd ed.). New York: MacMillan Publishing.

Indiana University of Pennsylvania. (2001). Internal review board guidelines [On-line]. Available: <http://www.iup.edu/gradua/irb/>.

Jones, J.R., & Carlson, D.P. (2001). Reputable conduct: Ethical issues in policing and corrections. Upper Saddle River, NJ: Prentice Hall.

Lester, P.M. (2001). Police ethics [On-line]. Available: <http://www.commfaculty/fullerton.edu/Lester/ethics/police.html>.

Milgram, S. (1963). Behavioral study of obedience. Journal of Abnormal and Social Psychology, 67(4), 371-378.

Pollock-Byrne, J. (1997). Ethics in crime and justice: Dilemmas and decisions (3<sup>rd</sup> ed.). New York: Wadsworth Publishing Company.

Ready, T. (1999, November-December). Science for sale. Utne Reader, 60-62.

Schurr, G.M. (1982). Toward a code of ethics for academics. Journal of Higher Education, 53(3), 318-333.

Shernock, S. (1984). Social control and criminal justice education. Wisconsin Sociologist, 21(2/3), 81-86.

Snell, M.B. (1995, Sept.-Oct.). Habitat for inhumanity. Utne reader, #71, 82-91.

Strike, K.A. (1995, Fall) Professional ethics and the education of professionals. Educational Horizons. 29-36.

Wilber, K. (1980). In R.N. Walsh and F. Vaughn (Eds.), Beyond ego (pp. 216-221). Los Angeles: Jeremy P. Tarcher, Inc.

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... .. **On-Line Syllabus** ... ..

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*Please Note: The syllabus is set up as if this were a 5-week course.*

**COURSE OUTLINE – CRIM 403**  
**Online – Section 801**  
**Dilemmas in Criminology and Criminal Justice**

**Professor:** Jamie Martin

**Office:** G-18 Wilson Hall

**Phone:** 357-5975 (personal office) or 357-2720 (dept. office)

**E-mail:** jmartin@iup.edu

**Virtual Office Hours:** Monday 9:00-10:00 ; 2:00-3:00

Tuesday 10:00-12:00

Friday 9:00-10:00

My office hours will be held in the Wimba forum in the Moodle site. If you are unable to 'meet' during the listed hours, I will be happy to schedule an appointment with you.

**Course Description:** Overview of prominent ethical issues facing professionals in criminology and criminal justice, with an emphasis on encouraging individual students to explore their own ethical and moral systems and how they make ethical/moral decisions. Primarily discussion/seminar oriented.

**Course Objectives: Students will:**

1. Examine and identify various theories of ethics.
2. Discuss a variety of ethical/moral issues, which characterize and define the different facets of criminology/criminal justice.
3. Analyze the process by which they consider ethicality and morality in decision-making.
4. Assess, through self-reflection, the critical factors that influence ethics and morality.

**Book:** *Justice, Crime and Ethics* (6<sup>th</sup> ed.), Michael C. Braswell, Belinda R. McCarthy and Bernard J. McCarthy. (2008). Anderson Publishing.

For some of the units, there will be additional readings, which will be available on e-reserve.

**Class Preparation:** There will be a significant amount of discussion of various topics in this course. It is imperative [and expected] that **everyone get fully involved in the discussions. To do so effectively, you must be fully prepared.** Being "fully prepared" means that you will have thoughtfully read and considered all of the material, prior to it being discussed in class. To help provide some guidance, discussion questions will be given for the reading assignments. These questions are meant to serve as a general guide and to offer some basic structure for our discussions; they are not presented as the only topics/issues that can or will be addressed. You should always

feel free (and at some level obligated) to bring up, for consideration, any topics, issues, and/or questions that you believe will be of value for the class.

### **Pace of Course**

I want to provide you with some information about this class. As a summer class, we are compressing 14 weeks of material into 5 weeks. The pace of the class will be fast. The workload will be heavy. You should expect that you will have to be in the course site (in Moodle) at least 4-5 days per week – and that time you spend in class will span the entire week. In other words you will need to be in the course site at the beginning of the week, in the middle of the week, and at the end of the week. This is required – you are going to have to determine how to balance your other commitments to permit this level of participation. Please keep in mind – I have to do the same. Teaching this course will require me to be in the course site on a regular basis and requires me to balance this with all of my other commitments. Let me be clear on this point – there is no other way to approach this. If you fail to become fully involved in discussions, if you fail to get into the class site regularly, you will get behind very quickly and may not be able to catch up. Because of the nature of the assignments in this class if you fail to get into the course site on a regular basis you will not do well in the class.

### **Process of Discussion in Moodle:**

For those of you who may be new to taking an online course, I want to provide you with some information on the way a discussion ‘works’ in such a course. In the Moodle site, there is a discussion ‘area’. I will break the class into small groups and you will have access to your specific group discussion site. It is in this area that our discussion of the course material will occur. I will have access to, and participate in, each small group site. The topics that we discuss will be based upon the readings, the discussion questions for each chapter that we read, and other assignments that you submit (i.e. your essay on the 4 Most Ethical people you know). As outlined above, you must be involved in the discussion on a regular basis.

### **Assignments:**

All assignments must be submitted via Moodle and must be WORD documents. Please note that any/all assignments that are submitted late will be subject to a point deduction as outlined below (except in cases of extreme and dire circumstances). Assignments submitted after the specified time will be considered late

Late assignment deductions - After the specified day/time but later the same day (10% deduction)  
Next day (20%) – Each subsequent day (add’l 10% each day)

### **Class Requirements (380 total points)**

**Brief Essay – “4 Most Ethical People I Know” (30 points)**  
**Discussion Questions (125 points)**  
**Exam #1 (75 points)**  
**Video Guides (30 points)**  
**Class Participation (120 points)**



***4 Most Ethical People I Know – (30 points)*** – For the second day of class you are to write, and submit, a brief essay. The essay should reflect upon individuals who you believe are ethical and moral and the reasons why this is so. The individuals you identify could be well known people OR individuals that you personally know. The essay should be no more than 3 pages in length –be sure to describe why you believe these individuals demonstrate ethicality and morality. The essay must be submitted via the assignment forum in Moodle. We will discuss these in essays in the group discussion forum.

***Discussion Questions (125 points)*** – During the course of the semester, you will provide answers to discussion questions related to the readings for the course. You are to complete the readings and answer the questions *prior* to the discussion of this material. The discussion questions are posted in Moodle. You must retrieve the questions, read the material in the book, and respond to the questions and *upload your written responses in the Assignment area in Moodle*. The questions will not be the only things we discuss; they will simply serve as a “launching point” for our discussion.

Each set of written responses to the discussion questions is worth up to 25 points. The grade for this assignment will be based upon the answers you supply (the substance) and on the writing (i.e. grammar, appropriate punctuation, etc.).

***Essay Exam (75 points)*** – This essay exam will focus on the application of the two primary ethical theories (Deontology and Utilitarianism) that we will cover and discuss in class. The exam will require you to use the two standard ethical theories to analyze and assess a criminological issue. You should carefully read and outline the material in Chapter 2 in the Braswell, McCarthy and McCarthy book, and Chapters 9 and 10 from the Banks book (this material is on e-reserve). In a few days, I will make available an outside reading on e-reserve. This reading along with the book will prepare you for the mid-term exam. The mid-term exam will be provided to you via Moodle about mid-way through the course (date will be announced). You will have 2 days to complete the exam and submit it via Moodle.

***Video Guides (30 points)*** – We will watch a number of videos and video clips related to the topics that we discuss in class and video guides for them are posted in Moodle. The video guides will serve to focus our discussion of the video. You must submit the video guides via Moodle after you watch the video AND before we discuss it. The video guides are worth a total of 30 points.

***Class Participation (120 points)*** – Due to the strong emphasis on discussion, points will be awarded for class involvement. In order to provide you with some information about my expectations, participating is *answering questions, asking questions, engaging in the ongoing discussion, and generally becoming regularly and fully involved and immersed in the dynamics of class*. It also must be kept in mind that there is a ***strong qualitative*** aspect to participation. In other words, “just saying stuff” is not considered to be effective and appropriate participation. This relates back to being prepared, which necessitates doing the reading, devoting some critical thought to what you have read, and preparing answers to the discussion questions. It also relates to paying close attention to the views and perspectives of one’s peers and really hearing what they are saying. You can earn up to **24 points per week** for participation.

**Grading:** There are 380 possible points for the semester. All points will be totaled at the end of the semester, and grades will be computed as follows:

342 points and up = A

304 - 341 = B

266 - 303 = C

228 - 265 = D

227 and below = F

### **CLASS POLICIES**

**CIVILITY:** Creating an effective and pleasant learning environment requires cooperation. This is especially important in a course like this one, in which we discuss controversial topics. Remember to respond to *ideas*, not people, and to treat each other with respect.

**Academic integrity and civility are of utmost importance in this class. I take these very seriously and they are core to this class. Remember to show both personal and social ethics as we move through the semester.**

#### **Academic Integrity – from the Undergraduate Catalog**

IUP is an academic community within the society at large. All members within this community are expected to accept the responsibility for academic integrity and honesty. Academic dishonesty seriously erodes the quality of educational pursuits and is unacceptable at IUP. **Please review this entire policy at in your undergraduate catalog.**

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### ***Course Outline and Tentative Calendar***

What follows is the tentative schedule for the class. The topic dates and discussion questions due dates are subject to minor changes, depending on class progress and discussion of the topics. Students who miss class are responsible for finding out whether schedule changes have been announced. Be sure to contact the individual you listed above.

#### ***Week 1: Introduction/Basic Issues***

Information & Discussions on Theories of Ethics

#### ***Readings:***

Braswell et al - Chapters 1-3

Braswell – *Ethics, Crime and Justice: An Introductory Note to Students*

Gold – *Utilitarian and Deontological Approaches to Criminal Justice Ethics*

Braswell & Gold – *Peacemaking, Justice and Ethics*

***Additional Readings: Information for Accessing E-reserve is in the Moodle site***

Banks (on E-Reserve)  
Chapter 9 – *Duty and Principle*  
Chapter 10 – *Considering the Consequences*

### **Power Points**

Dr. Martin's Introductory PowerPoint  
Banks – Chapters 9 and 10

### **Assignments:**

Group Discussion – Monday through Saturday  
Responses to discussion questions for Braswell Chapters 1-3 - Due 9pm (EST) on Class Day #2

Responses for discussion questions for Banks Chapters 9&10 - Due 9 pm (EST) on Class Day #4

### ***PLEASE NOTE:***

Responses for discussion questions for Braswell Chapters 4-7 – Due at 9 pm (EST) on the Sunday evening prior to Week #2

## ***Week #2: Ethics and Law Enforcement***

### ***Readings:***

Braswell et al - Chapters 4-7  
Ellwanger – *How Police Officers Learn Ethics*  
Skolnick & Leo - *The Ethics of Deceptive Interrogation*  
Pollock & Becker - *Ethical Dilemmas In Police Work*  
Kappeler & Potter - *Police Ethics, Legal Proselytism, and the Social Order: Paving the Path to Misconduct*

### **Power Points**

Chapter 2: "Ethics and the Police"  
Important Court Cases - Police Interrogation  
Police Ethics, Legal Proselytism, and the Police

### **Assignments:**

Group Discussion – Monday through Saturday

***PLEASE NOTE:*** Responses for discussion questions for Braswell Chapters 9-11 – Due at 9 pm (EST) on the Sunday evening prior to Week #3

### ***Week #3: Ethics and the Courts and Sentencing***

#### *Readings:*

Braswell et al – Chapter 9 - 11

Kania and Dial – Prosecutor Misconduct

Travis – Criminal Sentencing: Ethical Issues and the Problems of Reform

Gould and Sitren – Crime and Punishment: Punishment Philosophies and Ethical Dilemmas

#### **Power Points**

Lawyers and Ethics

The Purpose of Criminal Punishment

Criminal Sentencing

#### **Video Documentary – “*The Plea*”**

This 90 minute Frontline Documentary examines the moral, judicial and constitutional implications of plea bargaining. The experiences of 4 individuals who are faced with the dilemma of accepting a plea bargain are presented. The video guide for this documentary is in the Moodle site. This video can be viewed at:

<http://www.pbs.org/wgbh/pages/frontline/shows/plea/>

#### **Assignments:**

Group Discussion – Monday through Saturday

***PLEASE NOTE:*** Responses for discussion questions for Braswell Chapter 16 and Talvi (e-reserve)  
Due at 9 pm (EST) on the Sunday evening prior to Week #4

### ***Week #4: Ethics in Corrections***

#### *Readings:*

Braswell et al – Chapter 16

Whitehead – Ethics and Prison: Selected Issues

**On-Line Article:** *this can be retrieved from the URL's following the title of article:*

Talvi – *The Prison as Laboratory: Experimental medical research on inmates is on the rise*  
Available at: <http://www.inthesetimes.com/issue/26/03/feature4.shtml>

#### **Power Points**

Ethics and Corrections

## **Video Documentary– “No Escape: Prison Rape”**

This short documentary explores the issue of rape in correctional settings. There is no video guide for this video. We will, however, discuss it. This documentary can be viewed at:

<http://www.youtube.com/watch?v=0MOtz-eJIPE>

### **Assignments:**

Group Discussion – Monday through Sunday

**PLEASE NOTE:** Responses for discussion questions for Braswell Chapters 12 & 22 - Due at 9 pm (EST) on the Sunday evening prior to Week #5

## ***Week #5: Special Topics: Ethics and Justice***

### ***Topic #1: The Death Penalty***

#### *Readings:*

Braswell – Chapter 12

Whitehead – To die or not to die: Morality, Ethics and the Death Penalty

### **Audio Documentary #1: “Witness to an Execution”**

This 22 minute audio documentary presents interviews with individuals who have witnessed executions, including correctional officers, ministers, a prison warden, and reporters. There is an “audio guide” available in Moodle.

You must have Real Audio to listen to this documentary which can be accessed at:

[http://soundportraits.org/on-air/witness\\_to\\_an\\_execution/](http://soundportraits.org/on-air/witness_to_an_execution/)

### **Audio Documentary #2: “Parents at an Execution”**

This short audio documentary presents interviews of the parents of a child who was murdered and with the mother of the man convicted of that murder. The interviews occurred as the execution date for the condemned man neared. There is no audio guide for this documentary, but we will discuss it.

You must have Real Audio to listen to this documentary which can be accessed at:

[http://soundportraits.org/on-air/parents\\_at\\_an\\_execution/](http://soundportraits.org/on-air/parents_at_an_execution/)

### **Power Points**

- The Death Penalty
- Miscarriages of Justice in Capital Punishment
- Arbitrariness and Discrimination in Capital Punishment

## ***Topic #2: The War on Terrorism***

### *Readings:*

Braswell et al – Chapter 22

Crank & Gregor – *The Canary's Song: Guantanamo and the War on Terrorism*

### **E-Reserve Articles:**

Wolfendale – *Training Torturers: A Critique of the "Ticking Bomb" Argument*

Massimino – *Leading by Example? U.S. Interrogation of Prisoners in the War on Terror*

Newman & Clarke – *The Situational Prevention of Terrorism: Some Ethical Considerations*

### **Power Points**

- "Ethics and the War on Terrorism"
- What is Terrorism

### **Assignments:**

Group Discussion – Monday through *final day of class*

Lesson Module

PowerPoint Slides  
&  
Accompanying Lecture



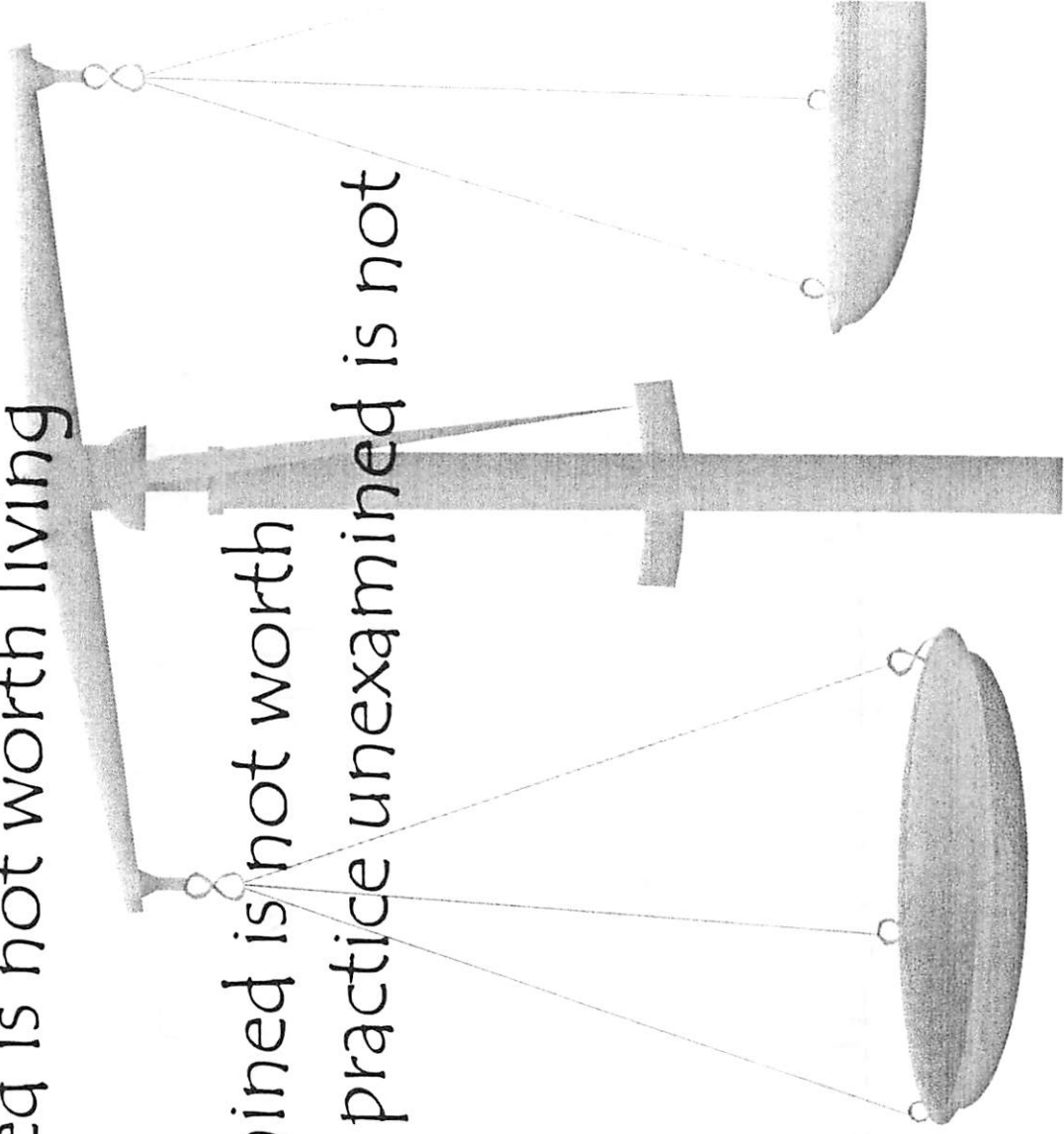
CRIM 403

Why Study Morality/Ethics?



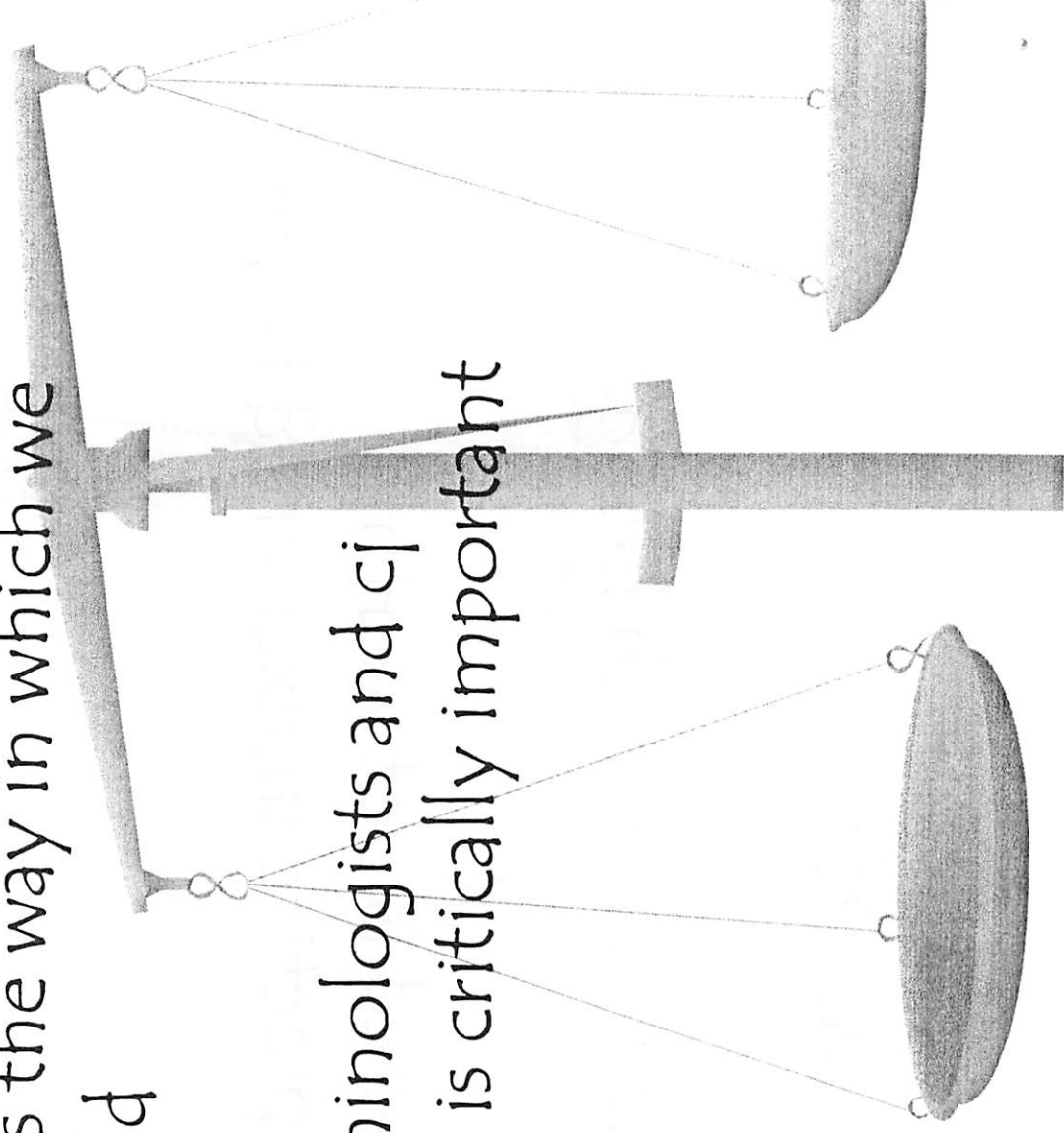
# *Socrates*

- A life unexamined is not worth living
- A policy unexamined is not worth implementing; a practice unexamined is not worth executing



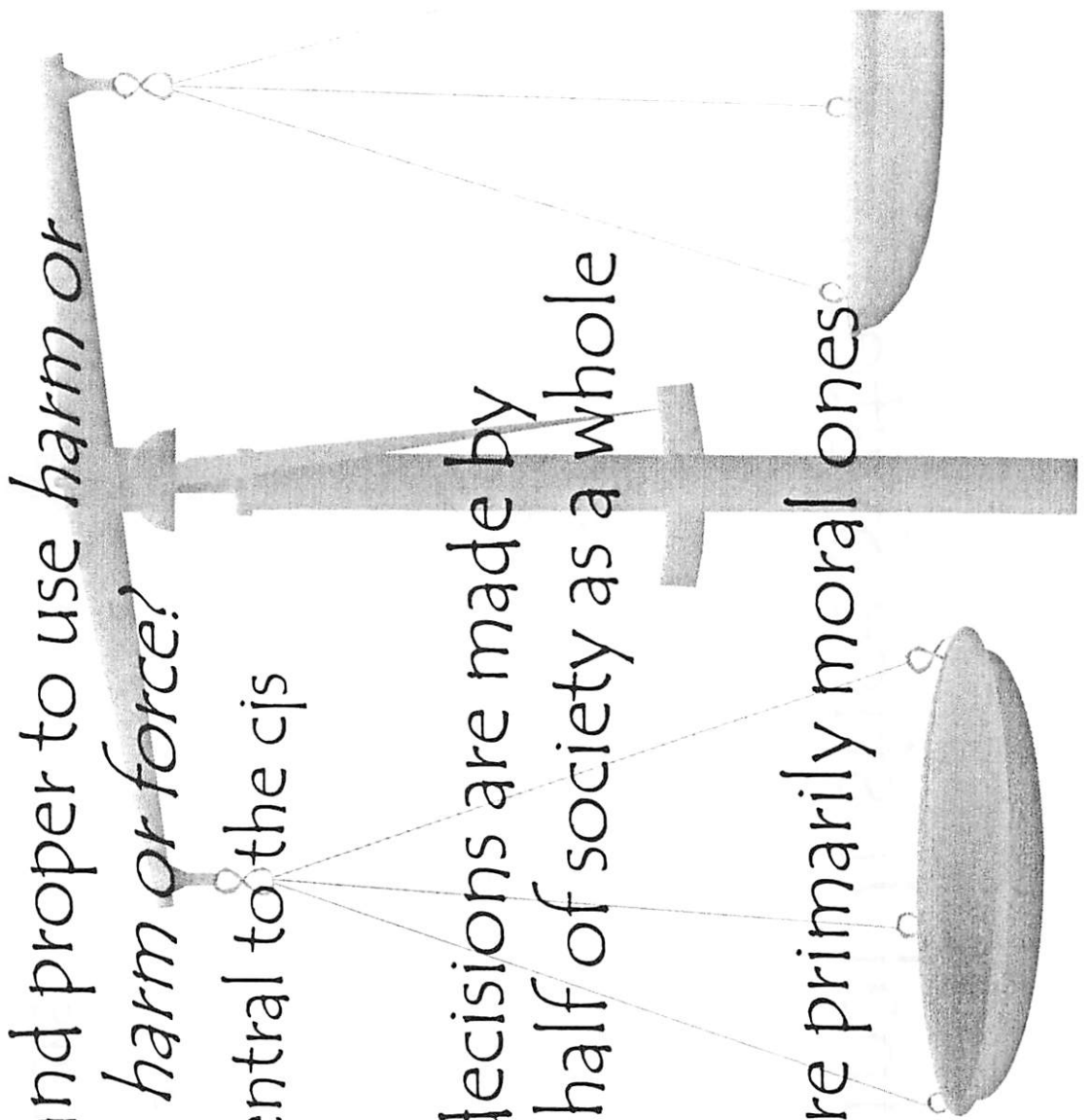
# Our personal history...

- Shapes and colors the way in which we perceive the world
- As potential criminologists and cj practitioners this is critically important



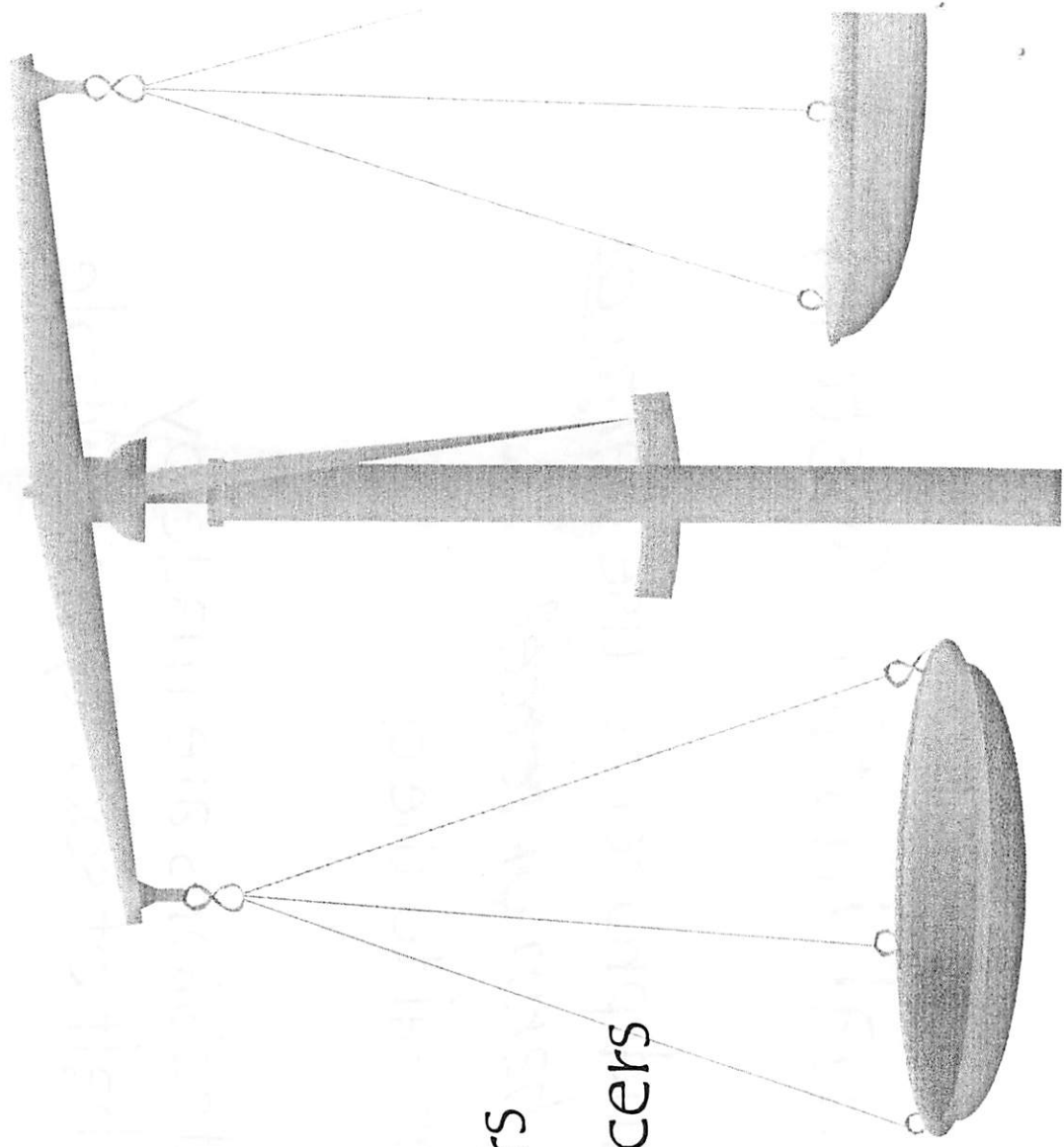
# In the Criminal Justice System

- Is it appropriate and proper to use *harm or force* to prevent *harm or force*?
- Use of force is central to the cjs
- Criminal justice decisions are made by individuals on behalf of society as a whole
- These decisions are primarily moral ones



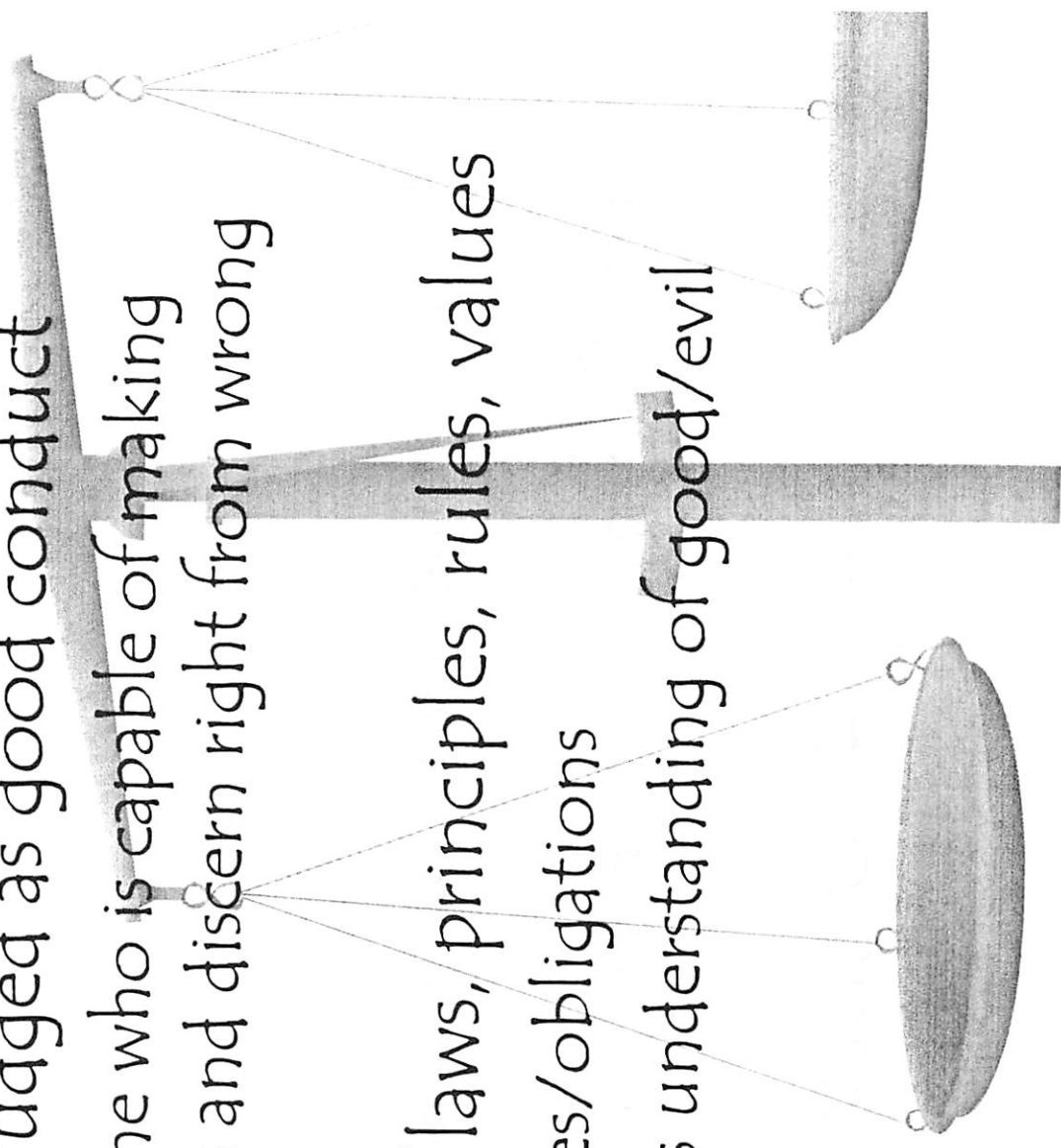
# In the Criminal Justice System

- Legislators
- Police officers
- Prosecutors
- Judges
- Probation officers
- Correctional officers



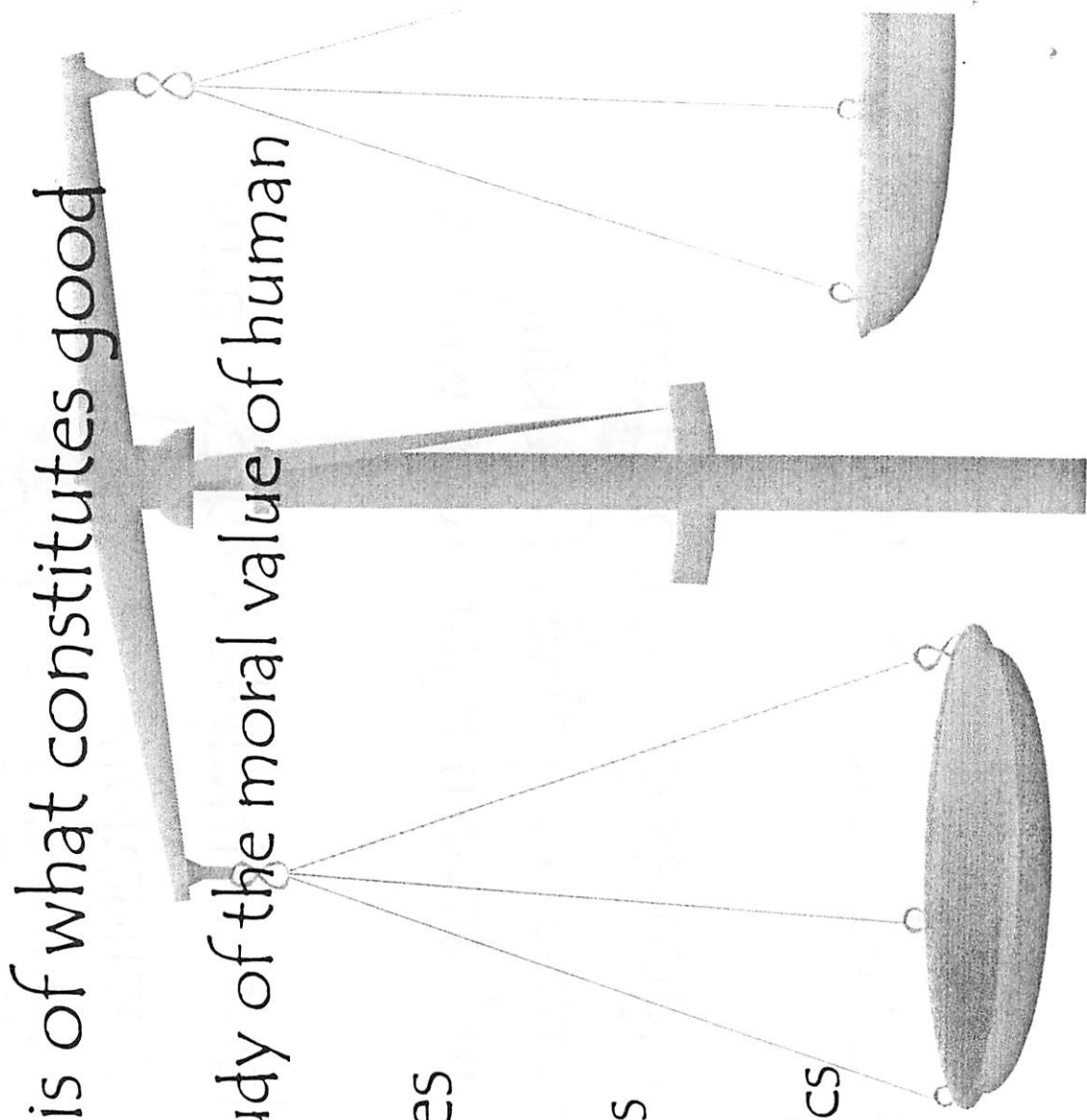
# Morals and morality

- Refer to what is judged as good conduct
  - Describe someone who is capable of making value judgments and discern right from wrong
- Entire system of laws, principles, rules, values
  - Specify our duties/obligations
  - Reflects society's understanding of good/evil



# Definitions of Ethics

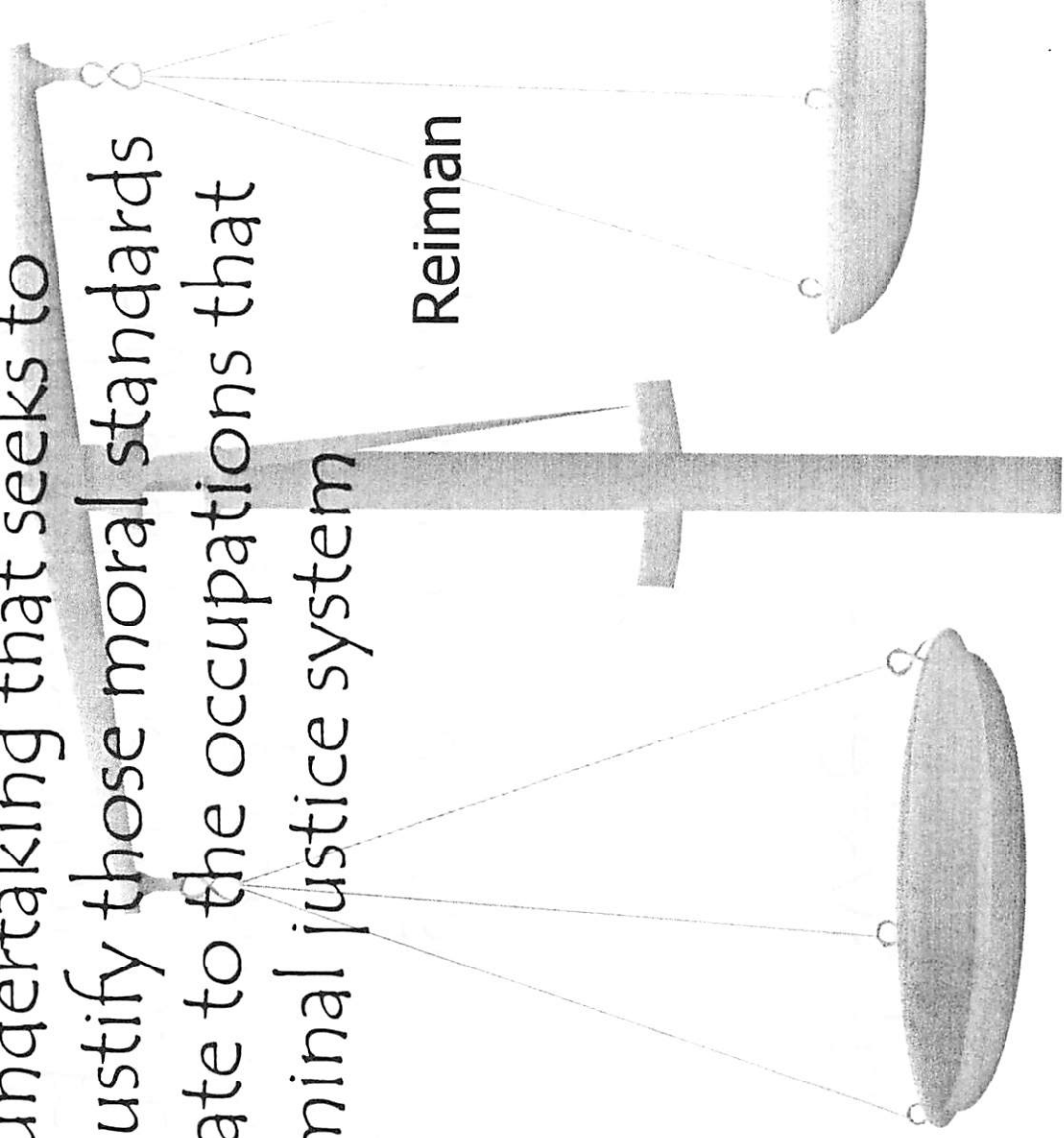
- Study and analysis of what constitutes good or bad conduct
  - Philosophical study of the moral value of human behavior
- Different branches
  - Metaethics
  - Normative ethics
  - Applied ethics
  - Professional ethics



# Criminal Justice Ethics

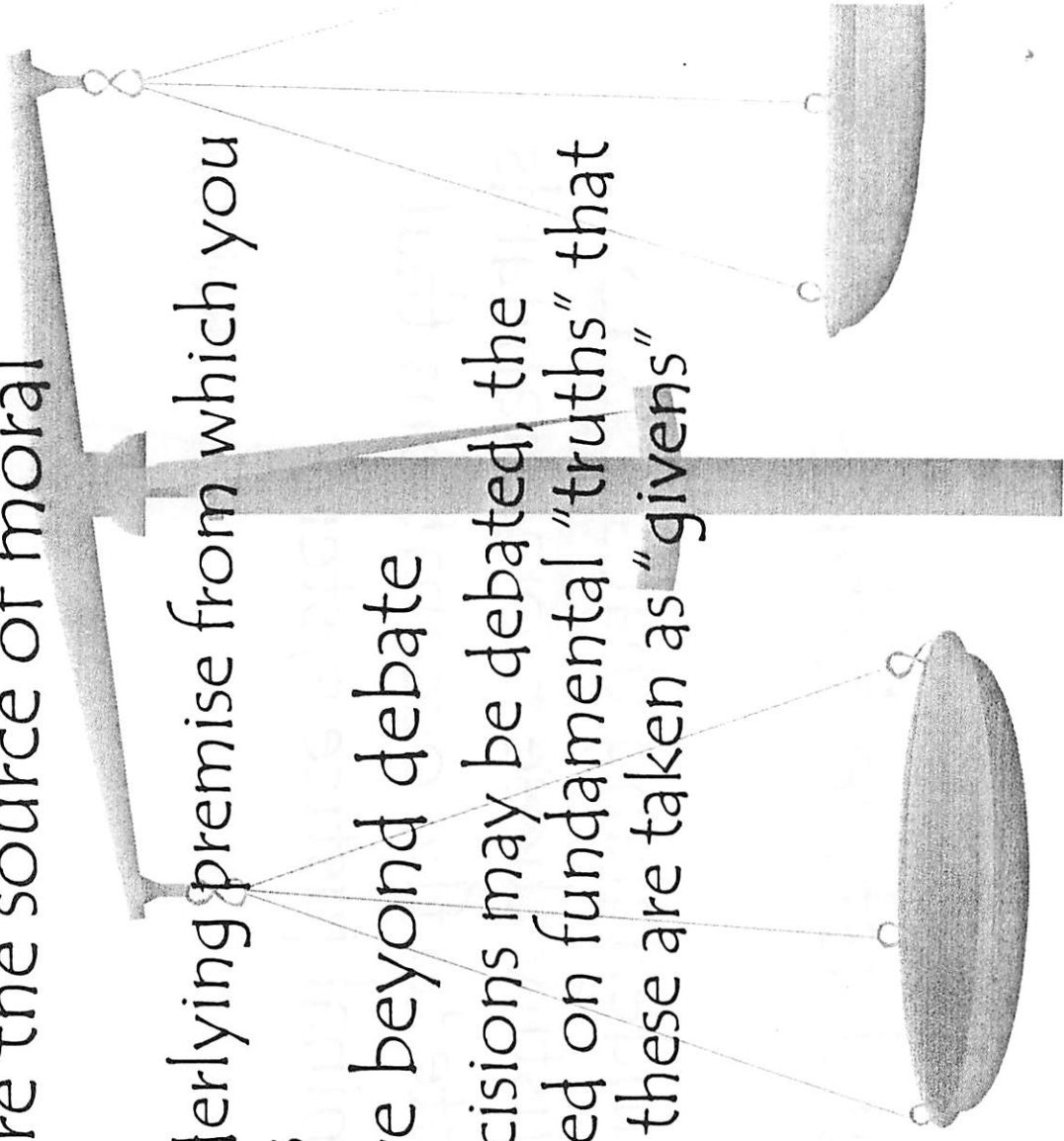
- A philosophical undertaking that seeks to understand and justify those moral standards that are appropriate to the occupations that comprise the criminal justice system

Reiman



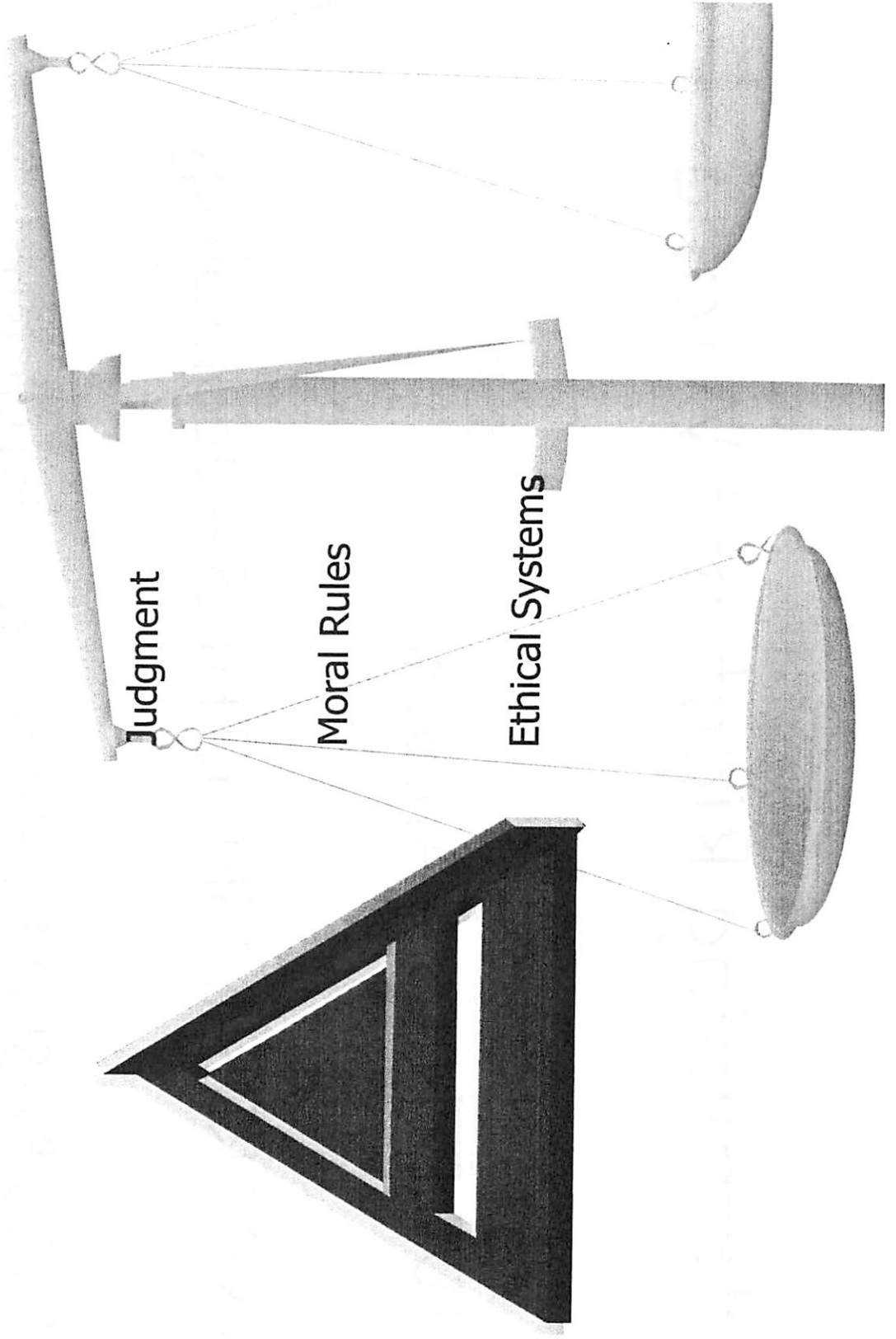
# Ethical Systems

- Ethical systems are the source of moral beliefs
  - They are the underlying premise from which you make judgments
- These "beliefs" are beyond debate
  - While ethical decisions may be debated, the decisions are based on fundamental "truths" that one holds – and these are taken as "givens"



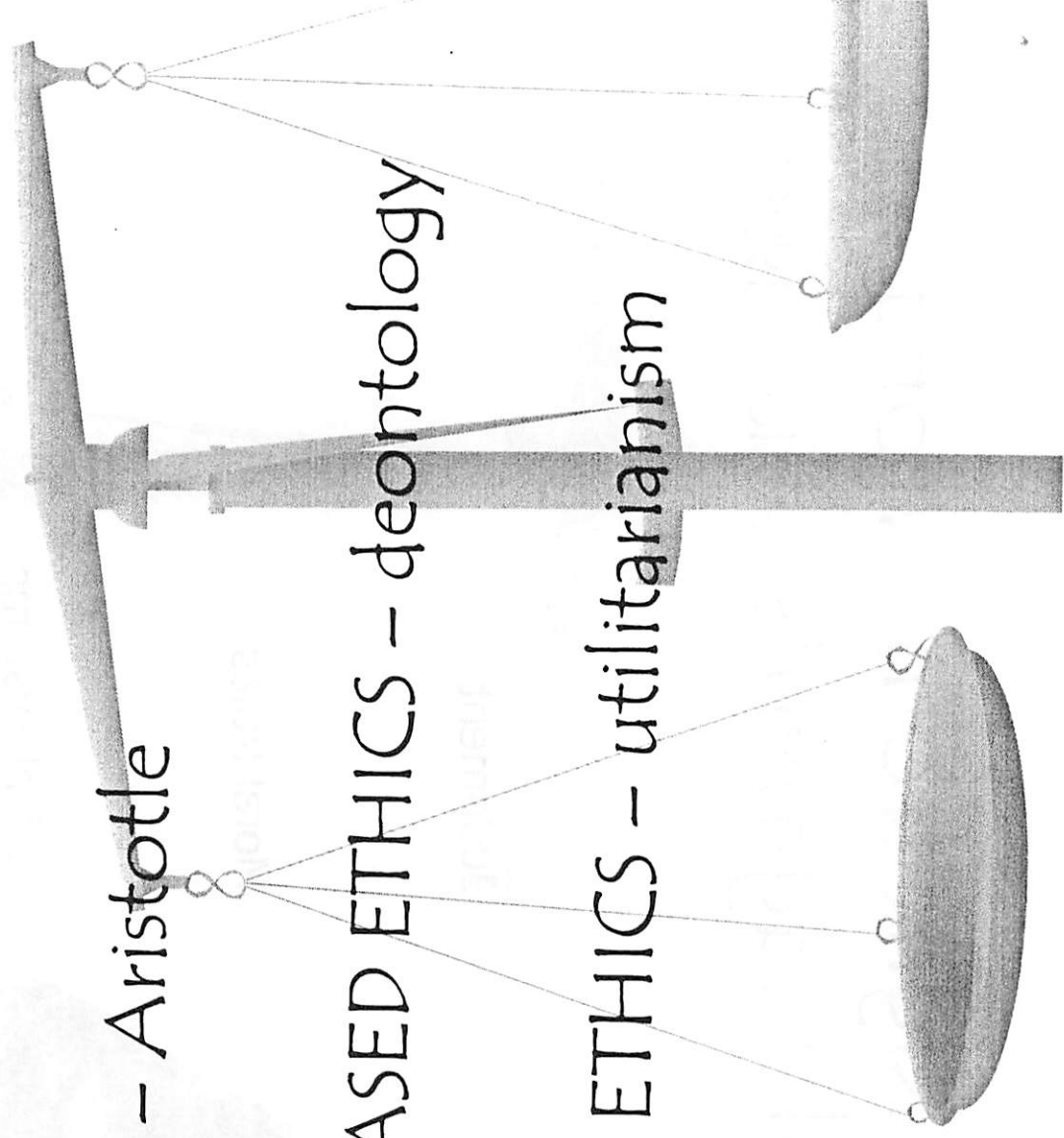


# Determining Right from Wrong - Making Ethical Judgments (Pollock, 1998)



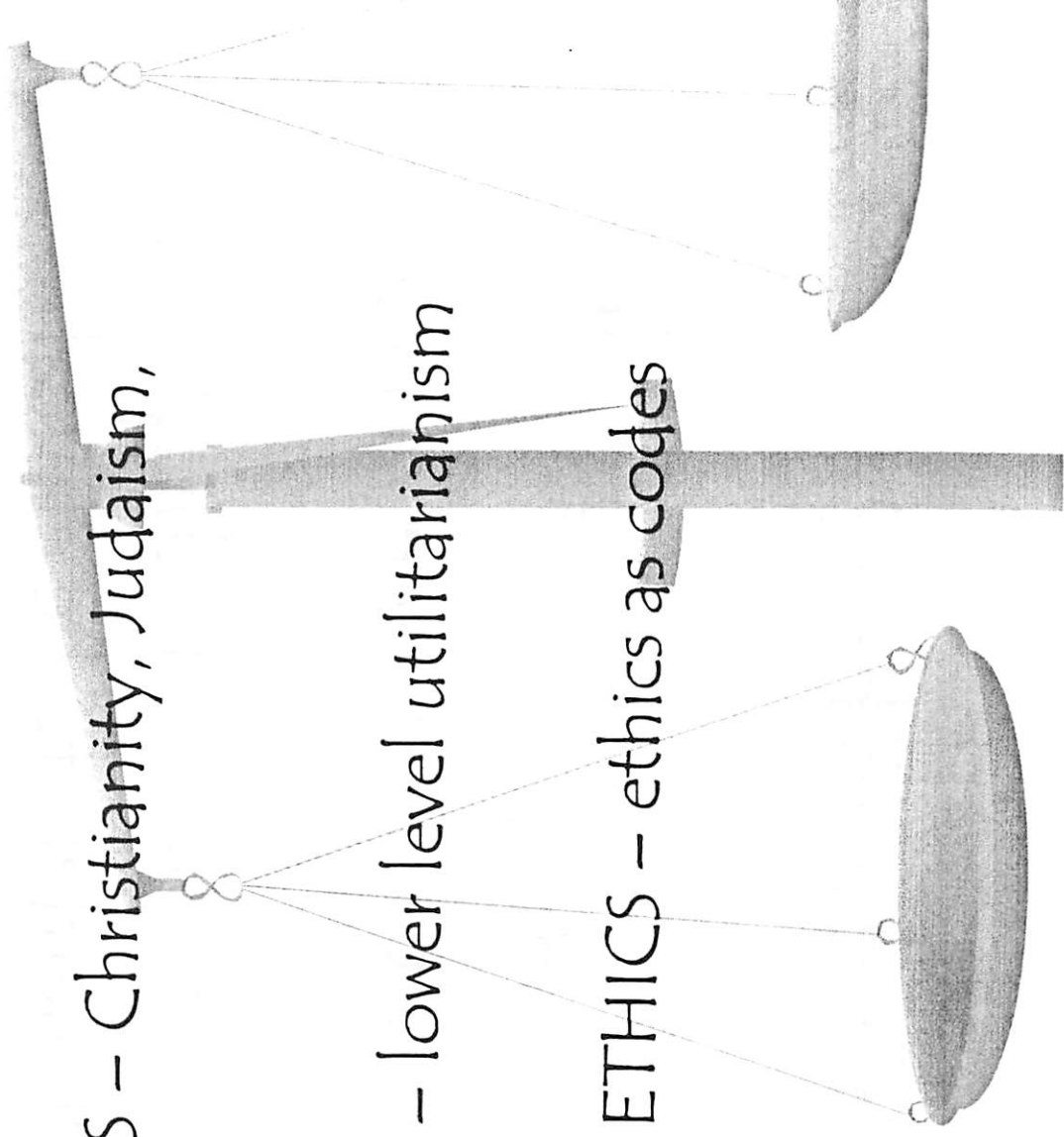
# Determining Right and Wrong

- VIRTUE ETHICS – Aristotle
- STANDARDS-BASED ETHICS – deontology
- RESULTS BASED ETHICS – utilitarianism



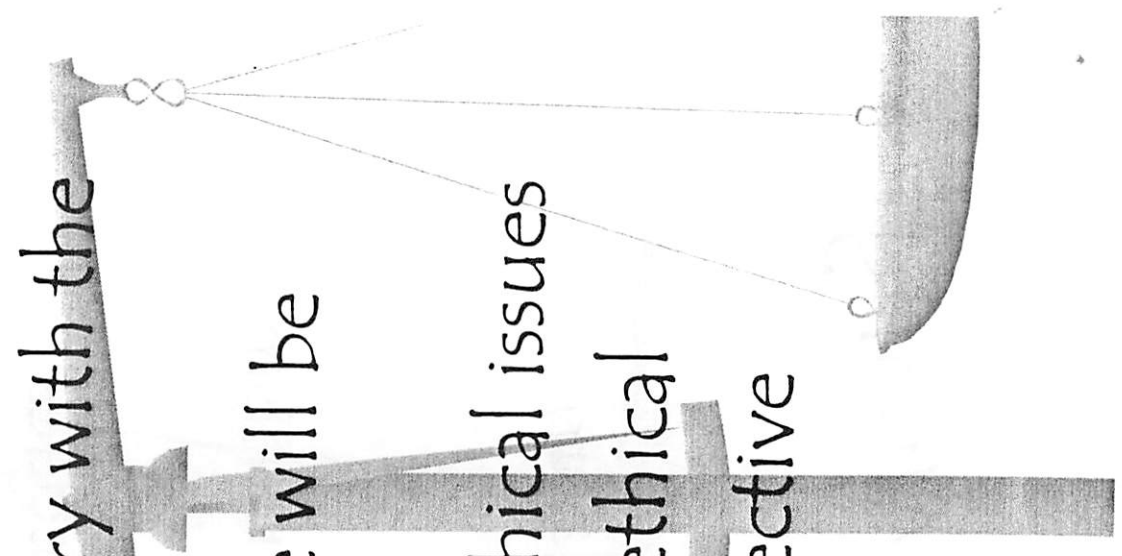
# Determining Right and Wrong

- RELIGIOUS ETHICS – Christianity, Judaism, Buddhism, Islam
- ETHICAL EGOISM – lower level utilitarianism
- SUBDIVISIONS OF ETHICS – ethics as codes



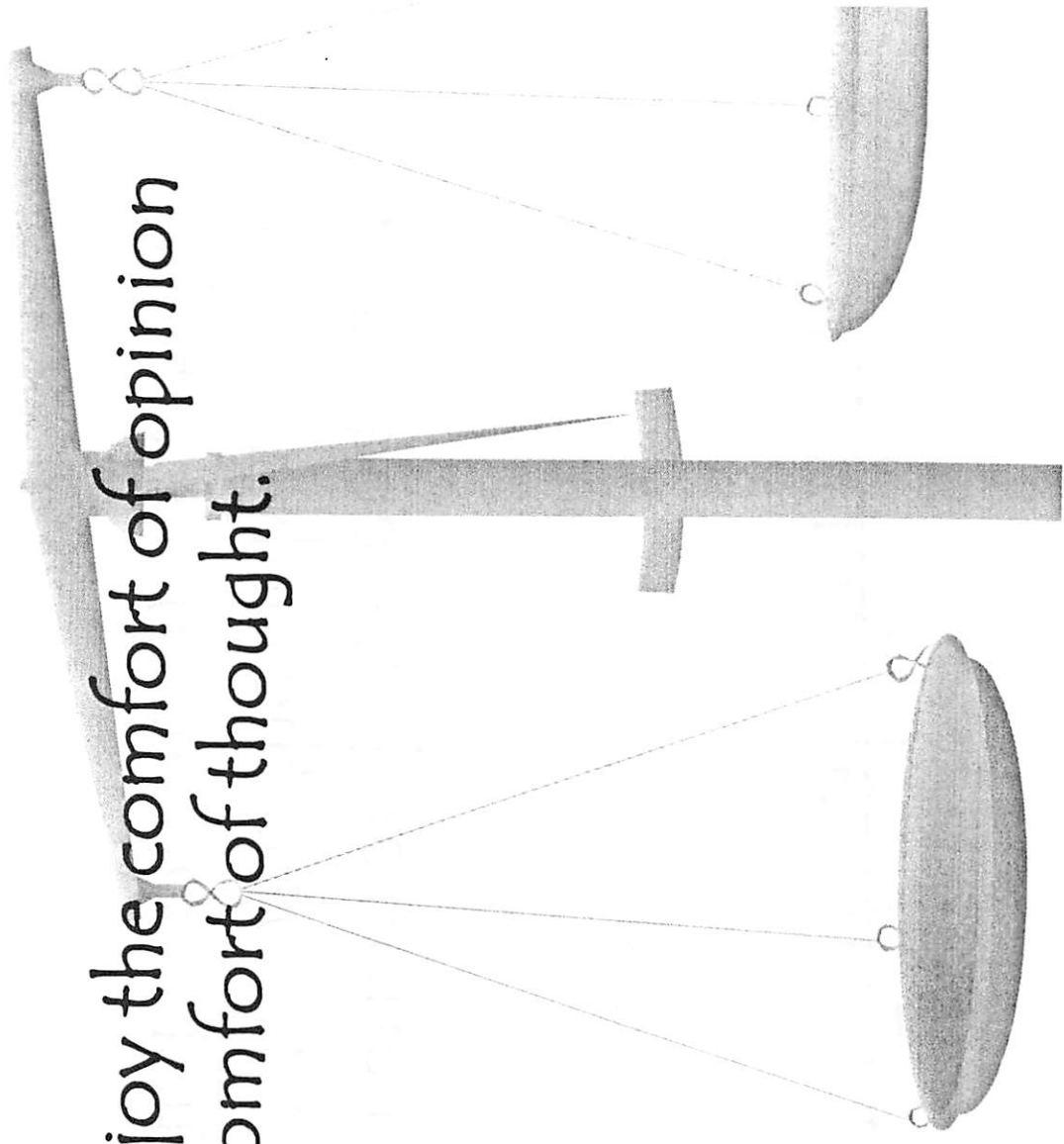
# Why Study Ethics?

- We cannot survive the 21st century with the ethics of the 20th century"
- In a global economy the key issue will be ethical
- Ecological issues are moral and ethical issues
- It is getting "much harder" to be ethical
- How can we accomplish more effective moral and ethical education?



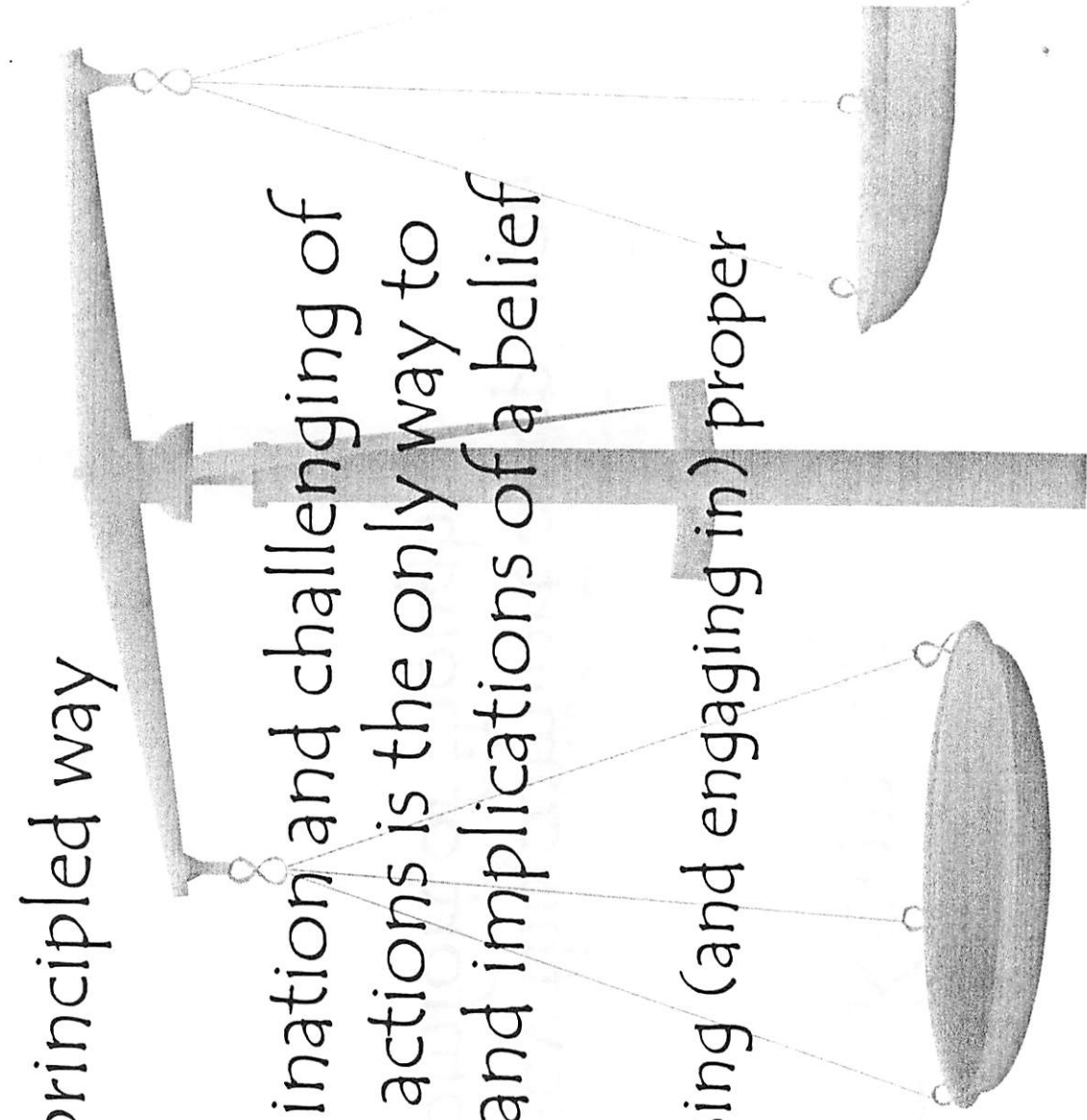
John F. Kennedy...

- Too often we enjoy the comfort of opinion without the discomfort of thought.

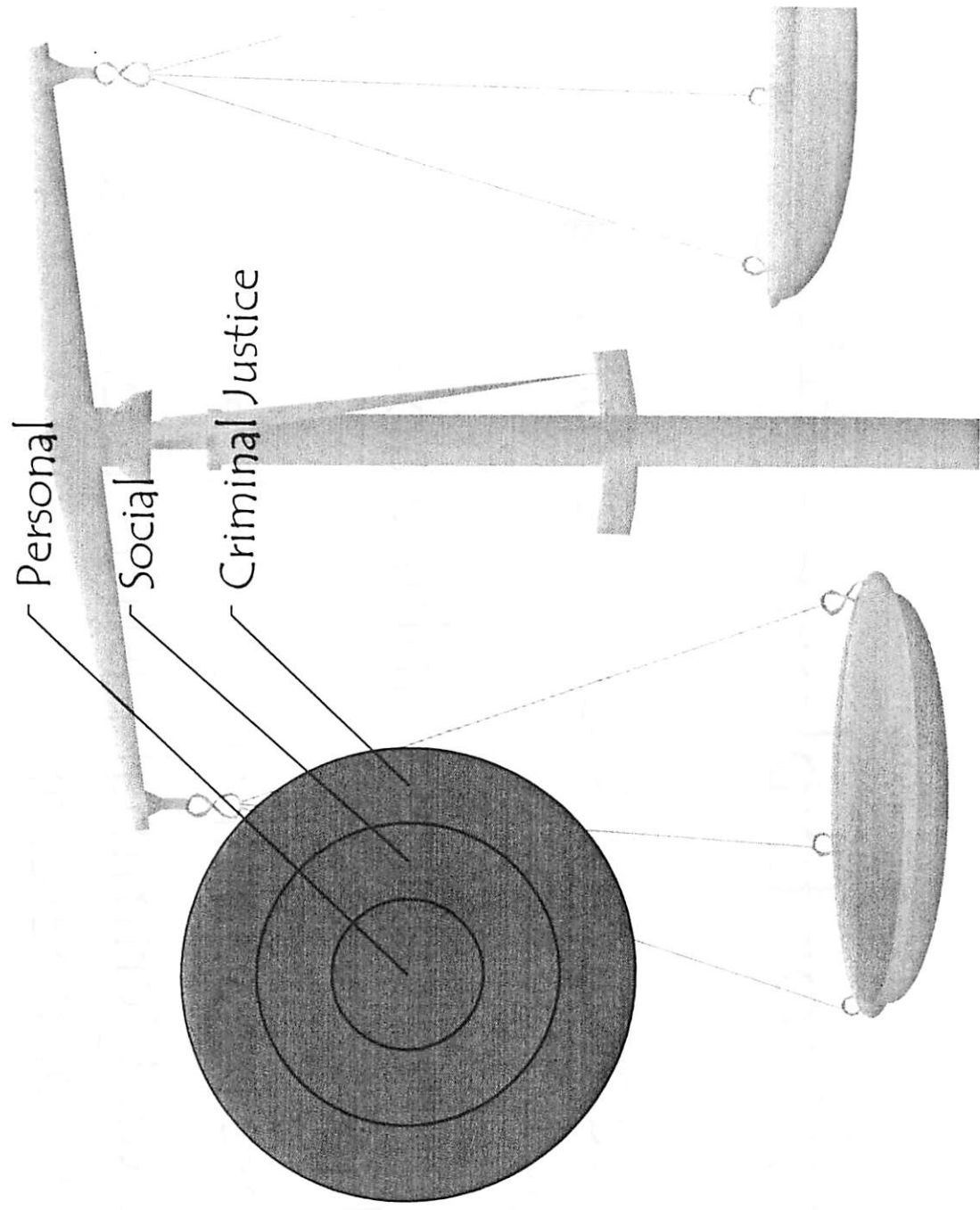


# The Role of Critical Thinking

- Using *facts* in a principled way
- Continued examination and challenging of one's beliefs and actions is the only way to know all aspects and implications of a belief or action
- Crucial for assessing (and engaging in) proper behavior



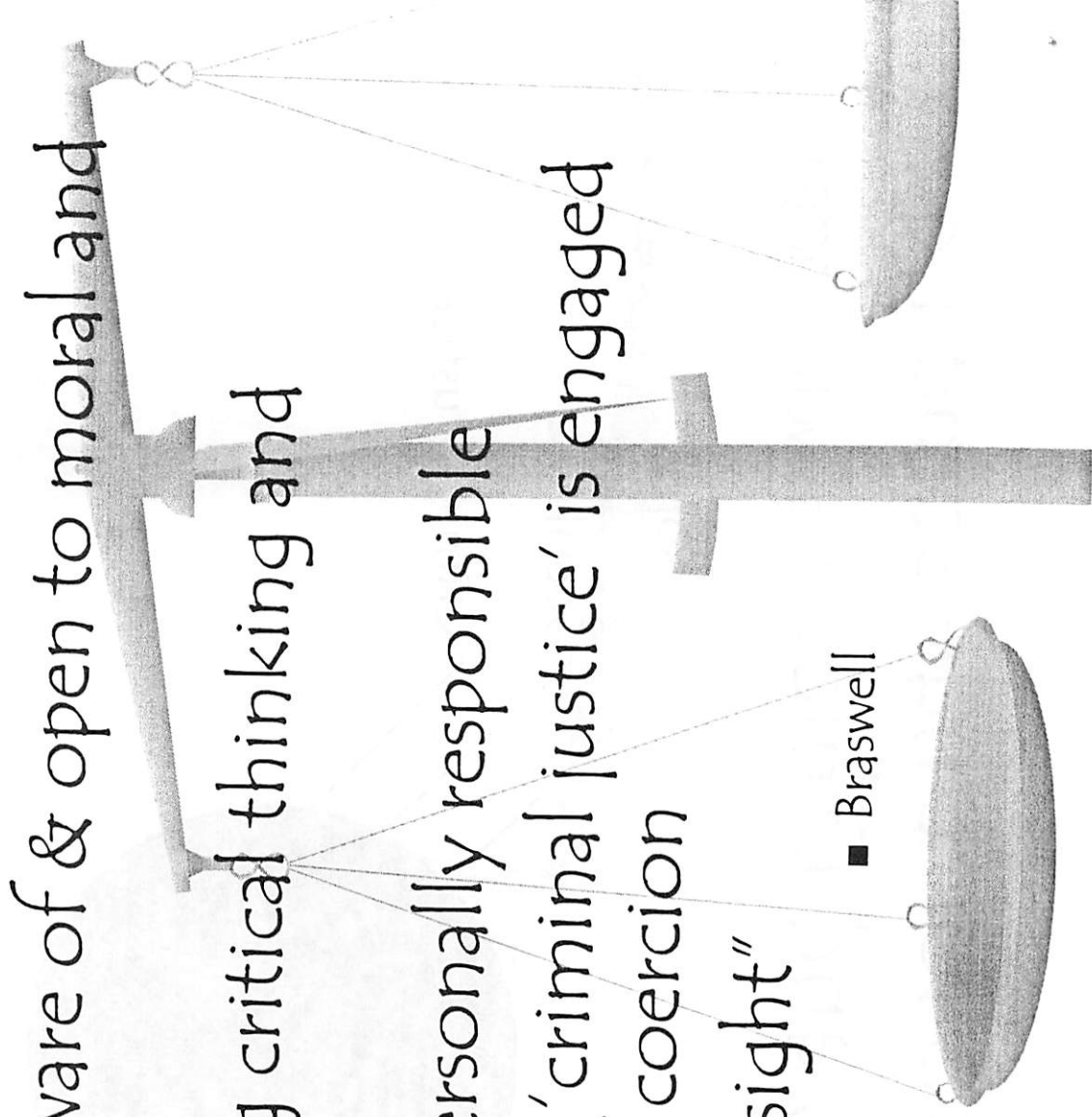
# Three contexts for Understanding Justice, Crime, and Ethics (Braswell, 2008)



# Five Goals for Exploring Ethics

- Become more aware of & open to moral and ethical issues
- Begin developing critical thinking and analytical skills
- Become more personally responsible
- Understand that 'criminal justice' is engaged in the process of coercion
- Develop "Wholesight"

■ Braswell





**Sample Unit – This unit aligns with Objective #1 on the syllabus**

**UNIT 1 LECTURE (To Accompany Power Points)**

*Please Note – this will either be provided to students OR uploaded into the course using the Wimba Function. If the technology is available, it is possible for the instructor to do an oral presentation of the lecture and “attach” that to the accompanying Power Points.*

**CRIM 403**

***Why study Ethics/Morality?***

**PP-2 & 3 Why is it important to consider morality/ethics?**

Socrates stated, “A life unexamined is not worth living.” We must intellectually scrutinize our beliefs, perceptions, our values. Likewise, we should consider “a policy unexamined is not worth executing”, or “a practice unexamined is not worth adhering to.”

As criminology students you should be encouraged (perhaps obligated) to examine every policy, practice or controversy in the criminal justice system without shyness or guilt. For example, questions about crime and justice, the purpose and limits of punishment, the authority of the state, the role/purpose of correctional facilities should all be examined. Why?

- (1) As citizens of a nation committed to ‘liberty and justice for all’ it is our obligation to enable everyone to experience the full measure of ‘liberty’ and ‘justice’; and (2) as future criminal justice professionals, it is one’s obligation to call attention to system failures and shortcomings in order to correct them. Failure to do so may result in a failure to achieve ‘liberty’ and ‘justice’.

- I. For these and other reasons, it is critically important to consider:
- A. What is morality and ethics?
  - B. How do we develop our sense of morals and ethics?
  - C. How do these influence our beliefs (and how do our beliefs impact our professional careers?)

**PP-4** One of the central questions that we as students, practitioners, and academicians face as we talk about criminal justice ethics is this

- A. **Is it appropriate and proper to use *harm to prevent harm*?**
- B. The use of force (and the use of discretion) are central to the criminal justice system (legislators, police, juries, prison officials, probation and parole officers, etc) and this fact distinguishes it from other professions
- C. According to Sherman, there are two other factors that distinguish the moral decisions of criminal justice agents from other professionals

- 1) The criminal justice decisions are made by individuals on behalf of society as a whole – one person is responsible for reflecting the collective morals
- 2) The decisions of criminal justice agents are not just incidentally, but are *primarily, moral decisions*

**PP -5 .**

Legislators have the power to define activities as illegal and punishable. While this may be based on some rationale of public safety, they also employ moral definitions for deciding which behaviors should be legal and which should be illegal.

- a. Same sex marriages do not pose a public safety threat – purely moral; abortion, drug laws, gambling, prostitution, liquor sales
  - b. When there is disagreement – legislators have the power to define, and that definition leads to deprivation of rights
2. Police officers have the power to deprive people of their liberty (and even their lives); they have the power to decide who to investigate or target in undercover operations, they have the power to issue a ticket or give a warning.
    - a. They are the interface between the awesome power of the state and the citizenry
  3. Prosecutors may face the least public scrutiny, which is ironic because they yield the most power in their discretion – they decide who to prosecute and what charges to bring
    - a. they have ethical duties to pursue ‘justice’ rather than conviction, but at times their decision making seems to be more political than ‘just’
  4. Judges decide to accept (or not accept) plea bargain agreements, they make decisions regarding punishments (including incarceration).
  5. Probation officers make pre-sentence recommendations and may revoke probation and these can affect whether or not a person stays in the community or goes to prison. They decide who to ‘watch’ and who to give more leeway
  6. Correctional officers wield a lot of power – give or take away ‘good time’, decide on segregation, can decide (by way of yard decisions, or showering decisions) who to put in harm’s way.

**PP-6 .** Morals and morality refer to what is judged as good conduct.

- A. The term moral is also used to describe someone who has the capacity to make value judgments and discern right from wrong.

II. What is morality? – “has to do, most generally, with the totality of our relationships with others”

A. Entire system of laws, principles, rules and values by which we regulate our individual and social lives and conduct.

B. Specifies our duties or obligations to others and to society, establishes standards of right and wrong conduct, and reflects societal understandings of the nature of moral good and evil.

1. Some of these principles are laid out in moral codes (Ten Commandments, Common Law of Great Britain, Constitutional Law)
2. Some are very basic that young children recognize them (it’s not fair!)
3. All of us exist within this moral order – it is a social order
  - a. Its laws and values originate in a society
  - b. One of its principle functions is to promote social cohesion, stability & peace
  - c. The infraction of moral laws and values can bring into play sanctions enforced by public opinion and civil codes

**PP-7 Ethics** – refers to the study and analysis of what constitutes good or bad conduct.

III. What is ethics?

A. “ethics” means the philosophical study of morality, the search for principles that justify the moral standards that we seek to apply.

IV. There are different branches of ethics:

1. *Metaethics* – discipline that investigates the meaning of ethical terms including a critical analysis of how ethical statements can be verified (we won’t focus on this in this class)
2. *Normative ethics* – tries to determine if there are any basic, fundamental principles of right and wrong
  - a) If we say that killing, cheating, stealing are wrong – do these actions have some commonality that makes them wrong?
  - b) Do all morally right actions have something in common?
3. *Applied ethics* – the application of ethical principles to specific issues (i.e. plea bargaining, the death penalty)
- 4) *Professional ethics* – application of ethical principles to the behavior of certain groups or professions (medical, legal, etc.)

**PP-8. Criminal Justice Ethics - It is a philosophical undertaking, and it seeks to understand and justify those moral standards that are appropriate to the occupations that comprise the criminal justice system (Jeffery Reiman).**

1. **IMPORTANT POINT - Criminal justice can only be distinguished from crime, if criminal justice is moral while crime is immoral.**
2. In short, only morality can distinguish the state's force as right from the criminal's force as wrong. Only by being moral can criminal justice be distinguished from the very immorality (crime) that it condemns!

**PP-9 – Definitions/descriptions of Ethical Systems**

**PP-10. Determining Right and Wrong (making ethical decisions) how do we decide the ethicality/morality of conduct, rules, etc?**

- A. Making Ethical Judgments – Our principles of right and wrong form a framework for the way we live our lives – Is it wrong to steal?
  1. *Ethical system – source of moral beliefs; the underlying premise from which you make judgments.*
- B. Ethical Theories – reduce morality to a basic minimum of the most general principles.
  1. This ethical system lay out a basic set of principles of right and wrong (moral rules)
    - a. It is wrong to kill. It is wrong to steal. It is wrong to lie.
  2. While we may not consciously think of ethical systems, we use them to justify our moral judgments.
    - a. When we say – “that is wrong/immoral” we are applying these principles
  3. However, we recognize that it is not always that simple to determine right v. wrong behavior. Consider the principles above (wrong to kill, wrong to lie). Can you think of an example where a person may “break” this principle and still behave morally? [times of war; police officers; do you like my new haircut?]

**PP-11&12 Determining Right from Wrong – Making Ethical Judgments:**

1. don't worry too much about these, just to give some initial framework/structure to begin with

A. Virtue ethics – How ought people live their lives?

1. moral virtue is excellence of character and is learned as a result of habit

2. kind of a socialization view of what creates ethics, but there is some intrinsic and identifiable good out there
  - a. The ultimate good is happiness
  - b. virtuous action is required to achieve ethical happiness
3. Plato and Aristotle are famous proponents; felt virtue ethics was way attain true happiness

**B. Standards-based ethics**

1. act or rule is morally right or wrong if it meets a moral standard
2. doing one's duty is crucial
2. deontology, legalistic moralism

**C. Results-based ethics**

1. moral goodness or badness is determined by the results or consequences of an act
2. Utilitarianism and consequentialism

**D. Religious Ethics – one's religion provides moral guidelines/directions**

1. In Christian ethics, authority of God's will is beyond question (and this is true in many other religions).
2. Assumes a willful and rational "God"
3. Major issue/problem – human interpretation of God's commands – WE MUST RELY ON FAITH
4. Consider the abortion issue or capital punishment
5. Has been the basis of much human suffering throughout history

**E. Ethical egoism**

1. what is good for one's survival and personal happiness is moral.
2. extreme version is that all people should do whatever benefits themselves.
2. lower level version of utilitarianism/consequentialism

**F H. Sub-divisions of ethics**

1. gets into ethics as standards/codes of professional conduct
2. research ethics, medical ethics, police ethics, etc.

**PP – 13 Why study ethics?**

**A. many general reasons should be obvious, and of course you have and will develop some of own more personal reasons**

**B. do want to highlight a few things now however that may not have yet considered and that will help guide us in here**

**C. the Huddleston report concluded "we cannot survive the 21<sup>st</sup> century with the ethics of the 20<sup>th</sup> century"**

1. one major implication from this conclusion is that we need a new global ethic, one that entails a sincere science-religion dialog

2. this is a very astute and important observation

3. highlights the need to consider development/evolution of ourselves, our systems, our culture, the world culture, etc.

D. Meyer (2003) points out that in a global economy the key issue will be ethical

1. Consider some of the recent events that have triggered the recession in our country and others. If ethical behavior had been a focus in many of the banking (and other) institutions, we may be in a very different place right now.

E. Miller (2003) notes that ecological issues are in fact moral and ethical issues

1. the world, every culture and society, is faced with a wide range of very pressing ecological issues/concerns now and will be into the future

2. to address these issues will require, as noted above, a new ethic

F. Ridder (1995) suggests it is getting “much harder” to be ethical because we are facing so many new and difficult issues and much tougher choices

1. e.g., protection from terrorism, amidst rising technology of surveillance, but considering erosion/protection of civil rights, in a shrinking world with a complex economy

2. Ridder claims that this heightened difficulty level has led to many people “dropping out” from making responsible decisions

b. or they make no decisions at all (shirking their existential responsibility)

G. all of this brings into very graphic focus another issue

1. one that educators, parents and a wide range of social and religious leaders wrestle with mightily

2. “how can we accomplish more effective moral and ethical education?”

#### **PP – 14 – John Kennedy Quote**

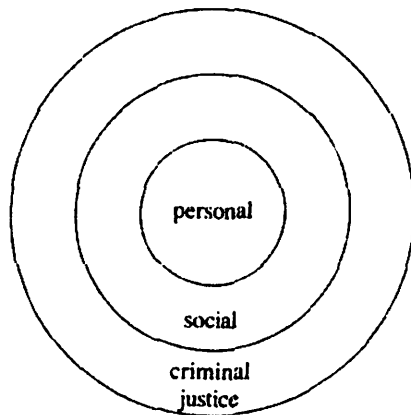
#### **PP-15 - The Role of Critical Thinking –**

1. Education has largely become the accumulation of facts – how to make moral decisions is not routinely taught (how to use facts in a principled way).
2. Critical thinking involves the development of abilities to sort through facts intelligently in order to determine the actual value of a statement, behavior, or position.

3. Continued examination of one's beliefs and actions is the only way to know all aspects and implications of a belief or action and whether it still worth holding or doing.

### PP-16. Three Contexts for Understanding Justice, Crime, and Ethics

1. The first context or the innermost circle is the "personal," which represents our individual sense of justice.
  - a) Our life experiences lead us to form a set of perceptions that make up my personal sense of justice – some are very rigid while others may be changed



2. The second circle represents the social context of justice. This circle includes all that is outside of us
  - a) the physical environment in which I live (urban, rural, suburban)
  - b) those with whom I interact through choice (friends) or necessity (family : -)
  - c) We **MUST** recognize that our own set of ethics (innermost circle) is heavily influenced by our social circle (thus where we live, with whom we interact, our religious beliefs, etc. will influence our perceptions of right and wrong
  - d) Likewise – we **MUST** recognize that persons do not commit crimes in isolation – these occur in social settings that require circumstances and victims
    - i) Consequently, the social context of ethics tells us that we cannot be concerned with individuals only **AFTER** they have committed crimes (which our cjs currently does), but must better understand the conditions and environments that encourage people to become criminals [be they violent crimes or white collar crimes].

3. The third circle (context) centers on the *criminal justice process*. Too often we consider cj issues without remembering the other 2 contexts.
  - a) Due process, police corruption, and punishment all require us to consider our personal beliefs, social factors, and criminal justice consequences simultaneously
  - b) The criminal justice context sets legal limits for what we can (and cannot) do to each other
  - c) Sometimes, what is legal is also what is right (good), but that is not the primary function of criminal justice
    - 1) some laws and community attitudes may support various forms of injustice and corruption on occasion, leading to suffering and oppression (can you think of any? – war on drugs; police corruption scandals; lack of adequate counsel)

I. Our personal & social values shape and color the ways in which we perceive the world in which we live

- A. We all have our own sense of right and wrong, good and bad, evil
- B. Is killing someone right or wrong?
  1. what if it the state killing a felon? what if it is a business owner ignoring safety standards that leads to death?

II. As potential criminal justice practitioners, policy makers, etc. – the professional choices that we make and policies that we implement flow from our personal beliefs and values – from our personal philosophies

A. would you be willing to quit or leave a position in an agency if you felt that the direction/policies/etc conflicted with your beliefs of right and wrong?

1. What if you have a family to consider?

**PP-17. Five Goals for Exploring Ethics**

A. ***Become more aware and open to moral and ethical issues*** – includes learning to be more aware of the full range of moral and ethical issues – from telling a small lie to committing perjury, from cheating on an exam to engaging in major fraud, from stealing a case of soda to a major bank robbery (or Enron scandal).

B. ***Begin developing critical thinking and analytical skills*** – I want you to stop (at least for this class) being “obedient” (this is not the same as being uncivil).

1. all of us need to ask, “why?” questions and we need to expect that we may not be able to answer all of them. But we must begin to examine and challenge what we believe and why we believe it.
2. Your mind is like an umbrella – in order to work it must be open.



C. ***Become more personally responsible*** – The first two goals aid us in achieving this – we can begin to understand that we can make a difference

D. ***Understand how criminal justice is engaged in a process of coercion*** – Criminal justice is about forcing people to do things that they do not want to do.

1. Having this type of authority and power can easily lead to abuse and corruption.

E. ***Develop “Wholesight”*** – We need to explore these issues not only with our minds (cognitively) but with our hearts (emotions/compassion) as well.

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## **POWER POINT SLIDES**

***DISCUSSION QUESTIONS FOR READINGS IN UNIT I***

**CRIM 403  
Discussion Questions – Unit #1  
Introduction & Basic Issues**

**Online Course**

## Discussion Questions Unit I

### Chapter 1 – Braswell - *Ethics, Crime, and Justice: An Introductory Note to Students*

1. What does Braswell mean when he says that it is "important that we do not approach the study of justice, crime, and ethics with a cold analytical eye?"
2. Think about choices you have made. Look at the options/alternatives you selected and those that you did not select. Are we judged as much by the roads we have not taken as those we have?
3. What are your thought/reaction to Braswell's discussion of "developing wholesight"? Do you believe it is possible and/or desirable to incorporate this approach into the Criminal Justice System?

### Chapter 2 – Gold – *Utilitarian and Deontological Approaches to Criminal Justice Ethics*

1. Is Gold's portrayal of decisions in CJ as primarily moral decisions reasonable? Why/why not? Provide examples.
2. Do all humans have intrinsic value? Is anyone inherently evil? Why/why not?

### Chapter 3 – Braswell & Gold – *Peacemaking, Justice and Ethics*

1. Braswell and Gold pose what may be the most fundamental question of all as we look at ourselves, our community, and our system of justice; "can we have it both ways?" What does this mean? Can we? Why/why not?
2. Be prepared to share your reactions to the discussion of the "Connectedness" approach.
  - a. How is it fundamentally different from Utilitarianism, Deontology, and other theories?
  - b. Does violence beget violence? If so, how can the cycle be broken; or can it?
3. What are the fundamental differences between the masculine and feminine approaches, according to Noddings?

4. Think of a contemporary example of an ethical issue in the criminal justice system that is dominated by what Noddings calls the "masculine approach;" how would policy/practice change if the "feminine approach" were applied?
5. It sometimes seems that the more rules, laws, and enforcement thereof that we have the more chaotic and disordered our society becomes. How does this notion fit with Taoist perspective? (What are your reactions to the Taoist view?)

**Banks – Chapter 9 – *Duty and Principle***

- 1) Do you agree that formulating absolute rules for behavior helps us to live a moral life? Explain with reference to Kant's principles.
  - a) Do you agree that formulating absolute rules for behavior helps those in the criminal justice system perform their duties in a moral fashion?
- 2) Explain how acting according to absolute moral rules might present moral conflicts for practitioners in the criminal justice system and provide a few examples.
- 3) Does emotion and intuition have a place in Kant's thinking?

*Respect for other people is a crucial aspect of deontological theories – bear this in mind as we begin to discuss specific components of the criminal justice system*

**Banks – Chapter 10 – *Considering the Consequences***

- 1) What are the main principles advocated by consequentialists? How do these principles help us to make the right moral choices?
- 2) What criticisms can be made of a consequentialist approach toward resolving ethical dilemmas in the criminal justice system?
- 3) How does consequentialism deal with the rights of individuals in ethical decision making?

*The greatest good for the greatest number is a crucial aspect of consequentialism – bear this in mind as we discuss policy making in punishment in the criminal justice system.*

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### Essay Exam

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**CRIM 403 (801) - Online**  
**Essay Exam**  
**(75 points)**

By now you should have read the material on reserve (*Crime and Punishment*), and Chapters 2 & 3 of the Braswell, McCarthy and McCarthy book. Answer each of the following questions. Your response(s) should be typed and double-spaced, and should be grammatically sound (e.g. use paragraphs, spell check, proofread, etc.). Please number each response in your answer. This essay is not to be an “opinion” piece. This is not to say that I am not interested in your *informed interpretations*. Your responses should demonstrate an understanding of the material and careful thought in the application of the material. Be certain to provide support for your position. You must properly cite and reference your responses (using APA). The elements that you will be graded on are content, critical thought, writing (including appropriate citation), and organization,

- 1) In the article, *The causes and consequences of prison growth in the United States*, the author (Marc Mauer) discusses the U.S. prison buildup since the 1970's and the consequences of this growth.
  - (a) Discuss the factors that led to the prison boom.
  - (b) During the 1970's the U.S. began a “War on Crime”. How did this influence our “Get Tough” policies?
  
- 2) The author discusses the prison reform movement which includes alternatives to prison such as, community corrections, community service, day reporting centers, etc.
  - (a) Summarize and discuss the reasons why this reform effort has not been successful
  
- 3) Provide a brief overview of both the Deontological ethical perspective and the Utilitarian ethical perspective.
  
- 4) Use both ethical perspectives to analyze the information in the Mauer article. In other words, how would a Utilitarian view the continued use of incarceration versus the use of prison reforms outlined in this article. How would a Deontologist view this issue?
  
- 5) Now that you have considered this issue from both perspectives, which provides the more compelling conclusion? Provide support for your answer.

Cite for Mauer Article:

Mauer, M. (2001). *The causes and consequences of prison growth in the United States*. *Punishment and Society*, 3, 9, (pp. 9-20).

Lesson Module

Essay Exam  
&  
Accompanying Reading



**CRIM 403 (801) - Online**  
**Essay Exam**  
**(75 points)**

By now you should have read the material on reserve (*Crime and Punishment*), and Chapters 2 & 3 of the Braswell, McCarthy and McCarthy book. Answer each of the following questions. Your response(s) should be typed and double-spaced, and should be grammatically sound (e.g. use paragraphs, spell check, proofread, etc.). Please number each response in your answer. This essay is not to be an “opinion” piece. This is not to say that I am not interested in your *informed interpretations*. Your responses should demonstrate an understanding of the material and careful thought in the application of the material. Be certain to provide support for your position. You must properly cite and reference your responses (using APA). The elements that you will be graded on are content, critical thought, writing (including appropriate citation), and organization,

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## **The Causes and Consequences of Prison Growth in the United States**

MARC MAUER

*Punishment & Society* 2001 3: 9

DOI: 10.1177/14624740122228212

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# The causes and consequences of prison growth in the United States

MARC MAUER

*The Sentencing Project, USA*

## Abstract

The unprecedented growth in the prison and jail population in the United States can be traced to a complex set of political developments and changes in sentencing practice. The rise in crime in the 1960s came at a time of increasing social divisions and the politicization of crime at the national level. This influenced and coincided with a debate on sentencing practice, which led to a dramatic shift away from the indeterminate sentencing model that had prevailed for much of the 20th century. As a result sentencing practice today is characterized by severe constraints on judges and parole officials in many jurisdictions and decreased emphasis on examining the unique circumstances of offender and offense. These changes in sentencing and the impact of the 'war on drugs' have been the most substantial features contributing to the rise in the use of incarceration since 1980. Any movement for reduced incarceration will need to develop a clear analysis of the role of politics, race, media and coalition building in order to succeed.

## Key Words

crime and incarceration • prison growth • reform strategies • sentencing policy

Imagine that we are back in 1972 and Richard Nixon is President. In recent years rising rates of crime and urban unrest have become significant sources of concern for the nation. The President makes a televised address to the nation to announce an initiative to respond to the crime problem. He declares a bold program – he will lead the nation in building enough prison cells to house an additional 1 million inmates over the current population of 200,000. Further, since street crime is disproportionately concentrated in black and Hispanic communities, two-thirds of the new prison cells will be reserved for minorities. And, with the death penalty having just been declared unconstitutional, he will spearhead a drive to enact new laws and fill the nation's Death Rows with more than 3000 inmates.

What would have been the reaction to such a proposal? One can certainly imagine massive protests led by civil rights organizations and their allies. Editorial boards at leading newspapers – many of which already viewed Nixon with distrust – would have written scathing editorials decrying the abandonment of more positive solutions to inner-city problems. And, leading criminologists would have bemoaned the failure to address the underlying societal factors leading to crime.

Nixon never proposed such an audacious plan, of course, yet these are precisely the outcomes that national policy has produced in the ensuing quarter century. Seemingly oblivious to fluctuations in crime rates, the scale of incarceration has risen inexorably to the point where an inmate population of 2 million Americans seems likely by year-end 2001.

Political analysts in 1972 would have had to be particularly prescient to have anticipated such developments. Indeed, one could have argued at the time that a *reduction* in the use of incarceration was a more likely development. In 1971, the Attica prison rebellion had led to the tragic loss of lives of 43 inmates and guards, while symbolizing for the nation a politically conscious prisoner population raising a fundamental critique of the penal system. That same year, David Rothman published his highly acclaimed, *The discovery of the asylum*, closing with these words: '... we have been gradually escaping from institutional responses and one can foresee the period when incarceration will be used *still more rarely* than it is today' (Rothman, 1971: 295, emphasis added). By 1973, the final report of the National Advisory Commission on Criminal Justice Standards and Goals recommended that 'no new institutions for adults should be built and existing institutions for juveniles should be closed' and concluded that 'the prison, the reformatory, and the jail have achieved only a shocking record of failure' (National Advisory Commission on Criminal Justice Standards and Goals, 1973: 358, 597).

What is most striking about these calls for a reduction in the use of incarceration is that they were voiced at a time when the inmate population in prisons and jails totaled just over 300,000, a rate of incarceration about one-fifth of that today. Not only is that level of incarceration unimaginable in the current political climate, but even a moratorium on the construction of new institutions hardly seems possible.

This article will explore the criminal justice policy changes that have substantially contributed to this unprecedented prison-building frenzy, as well as the political climate underlying these developments. It will also assess the efforts of reformers and suggest that many of their cherished arguments in support of reduced incarceration may be unpersuasive.

### **POLICY CHANGES AND INCARCERATION**

In tracing the landscape of change in criminal justice policy that has contributed to the growing use of imprisonment the most significant area of examination is sentencing policy. Beginning in the 1970s we see a shift toward the use of determinate sentencing in a variety of forms and its attendant consequences on power relationships within the court system and, perhaps more significantly, on public perceptions of issues of crime and punishment.

Prior to this, American sentencing policy had been characterized by indeterminate sentencing, accompanied by an emphasis on rehabilitation as a major objective (whether

reasonably implemented or not). That model came under attack in the 1960s from both the political left and right. Liberals came to view the broad range of discretion available to sentencing judges and parole boards as too fraught with potential for discrimination based on race, gender, and other factors, while conservatives felt that criminals were not being treated harshly enough. Both camps came to embrace sentencing structures that were far more fixed, or determinate, than the prevailing models.

Early proposals designed to implement these changes are illustrative of the sometimes competing goals offered by proponents. New York's 'Rockefeller Drug Laws,' adopted in 1973 and still among the nation's harshest drug policies, called for a 15-year prison term for anyone convicted of selling 2 ounces or possessing 4 ounces of narcotics, regardless of the offender's criminal history. Sentencing guidelines systems, advocated prominently by Marvin Frankel in his 1972 book, *Criminal sentences: law without order*, envisioned a more rational sentencing structure in which judicial discretion was constrained to varying degrees and sentences were largely determined by a grid system emphasizing the severity of the offense and the offender's prior record (Frankel, 1972). Of the structured sentencing systems in place today in the federal courts and one-third of the states, the federal guidelines stand at one extreme in placing severe constraints on the consideration of individual offender characteristics, while systems such as those in Minnesota and North Carolina grant judges greater latitude in considering relevant variables (see generally Tonry, 1996).

The movement toward determinate sentencing quickened in the 1980s and continues through the present, with much of it intimately intertwined with the 'war on drugs.' Political leaders and law enforcement officials at the state and local level quickly embraced the launching of this new 'war' by the Reagan Administration in the early 1980s. In Washington, both budget allocations and political attention gave prominence to drug issues throughout the decade. Federal funding for the drug war soared from \$1.5 billion in 1981 to \$6.6 billion by 1989 (The White House, 1992) (and continued to rise to \$17 billion by 1999). As a public policy concern, political attention heightened regarding the drug 'scourge' by the Bush Administration and its drug 'czar' William Bennett. As Katherine Beckett has documented, public concern about the drug problem followed, rather than instigated, policymaker initiatives in this area (Beckett, 1997).

Law enforcement attention to drug offenses increased dramatically, with a doubling of drug arrests in the 1980s and a record 1.6 million arrests by 1998. Those offenders convicted on drug charges often were faced with the new generation of mandatory sentencing penalties enacted throughout the country. The federal drug penalties enacted in the Anti-Drug Abuse Act of 1986 and the Anti-Drug Abuse Act of 1988 impose five-year mandatory prison terms for possession of as little as 5 grams of crack cocaine. Harsh penalties, most often imposed for drug offenses, were adopted at the state level as well. In Michigan, for example, a 1978 law ('Public Act 368 of 1978' – sometimes referred to as the '650 Lifer Law') required that the sale of 650 grams of heroin or cocaine, even for a first offender, be punished by a mandatory sentence of life without parole, the same penalty as for first degree murder. (The legislation was eventually scaled back in 1998.) A 1996 survey published by the Bureau of Justice Assistance indicated that every state had adopted some form of mandatory sentencing (Bureau of Justice Assistance, 1996).

The impact of these sentencing changes on prison populations has been dramatic, and far outweighs any change in crime rates as a contributing factor. Criminologists

Alfred Blumstein and Allen Beck have documented that 88 percent of the tripling of the national prison population from 1980 to 1996 is explained by changes in the imposition of punishment (51 percent a greater likelihood of incarceration upon conviction and 37 percent longer prison terms), while changes in crime rates explain only 12 percent of the rise (Blumstein and Beck, 1999).

By the year 2000, not only are mandatory prison terms employed across the nation, but 'three strikes and you're out' policies exist in half the states (Clark et al., 1997) (although only used extensively in California and Georgia), as do 'truth in sentencing' statutes, which generally lengthen time served in prison by offenders. Despite the fact that crime rates have declined for much of the 1990s, prison populations have continued their seemingly inexorable climb. While harsh sentencing policies are clearly a key factor in this regard, in recent years higher rates of probation and parole revocation have played an increasing role in prison admissions (Caplow and Simon, 1999). This trend is most likely a result of a combination of factors: high caseloads that result in limited services to offenders; untreated substance abuse leading to new crimes or violations; and the failure to develop a broader range of non-incarcerative options for responding to violations.

### **INCARCERATION AND CRIME**

Public policy discourse has all too often assumed an overly simplistic relationship between incarceration and crime, ignoring the complex set of factors that influence individual behavior. While it is not inappropriate to examine the impact of incarceration on crime, in doing so one would also want to explore two additional key questions: (1) to the extent that incarceration has an impact on crime, how does this compare with other potential investments in crime control? And (2) what are the social costs of the investment in incarceration and how are they borne in society? The advent of mass imprisonment is now creating some discussion of these questions. This section will focus only on providing an overview of what we know about incarceration and crime control.

From the vantage point of the late 1990s one might (and many politicians have) become rather smug about the results achieved by the rising levels of imprisonment. While the number of inmates rose by 58 percent from 1991 to 1998, crime rates declined by 22 percent and rates of violent crime by 25 percent. Murder rates in 1998 were at a 30-year low. For some observers, this confirmed the 'prison works' theory of crime control.

But examining complex relationships such as these over a short time span is not terribly helpful. In fact, the prison-crime correlation for the 1990s is precisely the opposite of that which prevailed in the late 1980s. From 1984 to 1991, the number of inmates nationally rose by 79 percent, while crime rates also increased, by 17 percent, and violent crime by 41 percent. Further, the low homicide rate of the late 1990s, while quite welcome, is all the result of substantial declines in just the past several years. Over a 20-year period of steadily rising incarceration, homicide rates fluctuated within the range of 8–10 per 100,000, not falling below this level until 1996.

Yet homicide is down, and quite substantially. Why is this so? Several factors seem most relevant here. First, the national declines are influenced disproportionately by the dramatic changes in New York City, accounting for 32 percent of the total decline for

1993–4 and 22 percent for 1994–5 (Blumstein and Rosenfeld, 1998). Whether one believes that homicide is down in New York because of aggressive policing or other factors, the one certainty is that the decline is *not* a result of more offenders being incarcerated than in other cities. In fact, the 47 percent drop in homicide in New York from 1990 to 1995 occurred during a time when the state prison population (a majority of whose inmates are from New York City) rose at a significantly lower rate than the national average and the city's jail population actually declined.

Second, changes in homicide (both the rise of the late 1980s and the decline of the 1990s) have disproportionately occurred among juveniles, who are generally not subject to adult incarceration (although this is changing in recent years as states permit more juveniles to be tried as adults). To the extent that general deterrence is a factor in crime control, juveniles have historically been viewed as being less influenced by this than adults.

A more compelling assessment of the decline in homicides (and violence overall) is provided by the mix of factors addressed by Blumstein and Beck (1999), who point to the youth-drugs-guns nexus of causation. As crack cocaine entered urban areas in the mid-1980s new drug markets emerged. These markets primarily employed young men who increasingly resorted to protecting their 'turf' with illegal guns. A surge of violence then ensued, often engulfing neighborhood residents who were not themselves involved in the drug trade.

By the 1990s this picture had changed substantially. Law enforcement strategies in cities such as Boston aimed to stem the supply of guns into communities. As young people witnessed the devastation caused by crack, fewer of them began using the drug themselves. Research by Richard Curtis (1998) also indicates that individuals and communities changed their behavior in ways that provided more protection. Teenagers stopped 'hanging out' in dangerous neighborhoods and drug dealers moved their operations off the streets.

A key issue in the change in crime rates is that the bulk of the recent decline has been in property offenses, and burglary in particular, with a 27 percent decline from 1980 to 1990. But two factors should give us pause in regard to the efficacy of prison in this regard. First, it is quite possible that much of the burglary decline of the 1980s may have been displaced to drug offenses. As a means of making money drug selling is hardly without its risks, but these may be viewed as preferable compared to the risk involved in breaking into a home or business and the often cumbersome process of 'fencing' stolen goods. Second, to the extent that incarceration may have had an impact on burglary rates, imprisoning convicted burglars at a cost of \$20,000 a year is a substantial investment that might be more effectively used to address the problems of substance abuse and low-wage jobs that lead to many of these offenses.

To question the value of incarceration in achieving crime control is not to suggest that prison has no impact on these matters. But in the year 2000 we are not discussing whether or not the United States should maintain a prison system at all. Rather, the public policy question is whether, with an already world record-sized prison population, we should continue to expand prison capacity indefinitely. From a crime control perspective, continued expansion is likely to lead to diminishing returns, as successively less serious offenders are incarcerated on average. From a societal standpoint, mass imprisonment results in fundamental concerns of human rights and racial polarization becoming more prominent each day (see Wacquant, this issue).

### UNDERSTANDING THE 'TOUGH ON CRIME' MOVEMENT

While the contours of change in criminal justice policy are not difficult to discern, the more intriguing issue regards how and why this particular policy direction was selected. In the early 1970s the nation was confronted with a rising rate of crime. To what extent crime was actually increasing is a matter of some dispute since rates of reporting became more inclusive in the 1970s as a result of funding through the Law Enforcement Assistance Administration and the upgrading of police technology. But the coming of age of the 'baby boom' generation, increasing urbanization and other factors clearly contributed to a certain rise, and clearly a strong *perception*, that crime was increasing.

Given this situation, it was hardly preordained that mass incarceration was the only, or the most effective, approach possible to respond to the problem. Certainly a national commitment to address the 'root causes' of crime would have been an alternative policy approach. Indeed, efforts in this direction were already underway, albeit modestly funded. The 'War on Poverty' of the 1960s, the development of the Head Start program, and the orientation toward drug treatment encouraged by the Nixon administration all contained elements of an approach with a greater social welfare orientation. Further, other industrialized nations were experiencing similar demographic trends, yet chose not to pursue the 'get tough' policies of the USA (although aspects of these trends as well as rising rates of incarceration can be seen in a number of these nations in the 1990s).

Several factors contributed to the 'get tough' climate that began in the 1970s and then was exacerbated in the following decades. These include the following:

- *Politicization of crime.* Prior to the 1960s crime had primarily been addressed as a local issue, rarely surfacing in national political discussions. In 1964, though, Barry Goldwater's presidential campaign clearly proclaimed the problem of 'crime in the streets,' followed by Richard Nixon's 1968 appeal for 'law and order.' These messages resonated with a substantial portion of the population concerned with crime and the social unrest of the period.
- *American culture of individualism.* In comparison to other industrialized nations, the much greater American emphasis on individual as opposed to collective approaches to social welfare created a receptive climate for harsh prison policies. As exemplified by being the only industrialized nation without universal health care, the promotion of more collective approaches to social problems is far less ingrained in the American political culture. This makes it simpler to conceptualize 'solutions' that punish individual behavior rather than addressing underlying contributors to crime. On a broad scale, the consequences of such approaches can be seen in the much-vaunted low unemployment rates of the USA in comparison with western Europe. As the work of Bruce Western and Katherine Beckett (1999) has demonstrated, though, the US rates are substantially tempered by the massive American prison system. If one factors in the prison population as part of the unemployed group, the labor force participation rate in the US declines substantially (Western and Beckett, 1999).
- *Growing conservative political climate.* Changes in criminal justice policy can hardly be divorced from the growing conservative tide that was particularly evidenced with the election of Ronald Reagan in 1980. 'Getting tough' on criminals is consistent with increasingly harsh attitudes and policies toward welfare recipients, immigrants, and other politically unpopular and marginalized groups. In recent years the 'get



tough' approach is increasingly being expanded to school expulsion policies, homeless 'removal,' and other areas as well.

Once the tough on crime movement was underway, social and economic developments contributed to its strengthened hold on political and popular discourse. As the manufacturing economies of the Rust Belt cities in the Midwest began to be eclipsed in the 1970s by the emerging high-tech economies, the disparity of wealth between the rich and the poor created an increasingly polarized society, often overlapping with racial divisions (see Wilson, 1997). As the work of Leslie Wilkins (quoted in Young and Brown, 1993) demonstrates, a correlation can be found between national income disparity and rates of incarceration. Wilkins theorizes this relationship as a type of 'negative reward' for those who are not successful in a competitive social structure. But one can also discern the practical aspects of how these developments would emerge under such conditions.

The key variable in this area is the ease with which a society imposes punishment. As Nils Christie (1981) views the relationship, it is easier to impose pain (or punishment) on those with whom we have little in common or do not know in any personal sense (Cayley, 1998). Thus, the more stratified a society, the easier it becomes for the well-off to advocate greater pain for those less fortunate. Two extreme divisions within the USA exacerbate this dynamic. First, due to patterns of racial segregation in housing and employment, low-income African-American communities, which are disproportionately the recipients of criminal punishments, are in many ways spatially and otherwise isolated from the larger society. Second, over the past two decades, American society has become more stratified, and not only by income levels. The rise of gated housing communities, the increasing flight of the middle class from the public school system, and the technological divide in regard to computers and high technology all serve to heighten class and race differences and to reduce interaction. The cumulative impact of these trends can be seen in the mix of social and criminal justice policies that have resulted in a situation whereby 29 percent of black males born today can expect to serve time in prison in their lifetimes (Bonczar and Beck, 1997). These are the very same policies described by political leaders as 'successes' in the war against crime.

### **Problems with the reform strategy**

Criminal justice reform efforts of the past 20 years have achieved greater success than is often acknowledged. In the realm of sentencing alternatives and community corrections, concepts that were once viewed as intriguing but untested are now standard practice in most jurisdictions. Community service and restitution as sanctions are common throughout the country, as are the more complex programmatic responses such as day reporting centers, drug courts, and the use of graduated sanctions for probation and parole violators. And, while political rhetoric on crime policy remains woefully constrained, political leaders ranging from President Clinton to local officials have joined in the growing chorus that recognizes that 'we can't jail our way out of the problem.'

Despite these successes, the prison system continues its relentless rise, seemingly unrelated to crime rates or any rational calculation of its benefits to society. It would be uncharitable to blame this situation on the failings of the relative handful of reformers,

but an assessment of reform tactics and strategies over this period may shed some light on the prospects for change in the new century.

#### **Misplaced emphasis on rational analysis and fiscal arguments**

Much of the work that has been done to advance the reform agenda has focused on the development of factual analyses that argue that the cost-benefits of mass imprisonment are quite modest, particularly in comparison with other policy options. Without belittling these efforts (I have authored many such analyses myself) their limitations in the policy arena stem from the fact that instrumental considerations such as cost-benefit are but one component in the development of criminal justice policy.

We can see this most clearly on the issue of the death penalty. Where once the question of deterrence was hotly debated, the vast literature demonstrating the absence of any deterrent effect has effectively eliminated this argument from the proponents of capital punishment. Vengeance and retribution – the misunderstanding of the Biblical limitation of ‘an eye for an eye’ – have since emerged as the primary rationale for continuation of this barbaric policy. Any type of rationality-based cost-effectiveness argument is therefore of little consequence.

Outside the criminal justice arena, one can see parallels with military spending. Arms control analysts spent many frustrating years during the Cold War churning out well-researched arguments decrying the wasteful and unnecessary spending on a bloated military system. These arguments were of little consequence, though, when competing with the popular resonance and emotional force of policies directed at the ‘Soviet menace’ and the ‘threat’ of communism.

#### **Misunderstanding of public opinion dynamics**

Reformers have also placed their faith in a series of public opinion studies of the past decade showing substantial public support for alternatives to incarceration. Typically, these studies (Doble and Klein, 1989) engage in a two-step polling process. First, respondents are asked to choose a sentence of either prison or probation for a series of hypothetical offenders. Respondents are then offered an additional non-incarcerative sentencing option that incorporates some elements of community service, restitution, and/or treatment. Support for imprisonment generally declines substantially when a broader range of sentencing options are considered. Reformers have taken great comfort in these results and have interpreted them as demonstrating that the public is receptive to reasonable sentencing alternatives when a more robust discussion takes place.

The limitation of this approach, though, is that there is little room in the political arena for such a wide-ranging presentation of alternatives. While alternative options may be significant in a local courtroom looking at real offenders and real sentencing options, they are generally too complex to fit into the political ‘sound bite’ debate, which rarely allows for more than competing ‘get tough’ proposals.

#### **Misunderstanding media dynamics**

A third, and related, problem regards the media. In this area as well, the problem is more complex than is often presented in the more simplistic versions of blaming ‘the media’ for all our problems. Despite the failings one can find with all media, there is, after all, a significant difference between the *New York Times* and *America’s Most Wanted*. The

former, like many other print media, has published many useful analyses of crime trends and the impact of mandatory sentencing policies, as well as editorializing against the death penalty and in favor of expanded treatment as an alternative to current drug policies. Yet while these pronouncements have helped to broaden discussion of criminal justice policy, they have had relatively little impact on actual legislative action.

The primary cause of this failure relates to the powerful imagery of television. With local news broadcasts throughout the nation still composed substantially of crime stories with little context, the nation continues to be flooded with a relentless assault of nightly crime stories, regardless of whether crime is rising or falling. The visual and emotional impact of television is on a different order than the more contained messages of the print media (although many of the print tabloids have clearly emulated TV's style). Further, many of television's drama shows contribute to the portrayal of violence that reinforces these images. Consider the much-acclaimed *NYPD Blue*, winner of many awards for its high-quality scripts and acting. Of the several crimes portrayed in each episode, one or more almost invariably feature a murder or armed robbery. These clearly make for more drama than would a stolen car vignette, but since car theft accounts for 70 times more crime than homicide, their inclusion also distorts our perception of the relative mix of offenses in real life. These images, rather than the more sober editorial one might read in the morning paper, are what linger in the mind as policymakers enact legislation and citizens consider which candidate will have the most impact on crime.

While each of these factors have been critical in thwarting the reform agenda, the more overriding problem is that our societal framework for considering issues of crime and justice has been changed in very profound ways. It will be exceedingly difficult to reverse course unless this paradigm is addressed.

The most significant change within the criminal justice system is the loss of the individual in the sentencing process, as determinate sentencing and other 'reforms' have taken us from an offender-based to an offense-based system. Without overlooking the abuses that arose in the past within the indeterminate sentencing structure, the primary virtue of that system was its ability to incorporate the individual characteristics and circumstances of the offender into the sentencing process. The movement toward determinate sentencing, particularly in its most extreme forms of mandatory sentencing, 'three strikes' laws, and the federal sentencing guidelines, has largely eliminated any consideration of these unique factors from the court process.

This dehumanization contributes to a vicious cycle in which power is increasingly concentrated in legislative hands at the expense of judges and corrections officials who once had greater input into individual decisionmaking. This is also an area to which reformers have often unwittingly contributed. For example, many advocates (correctly) argue that incarceration at \$20,000 per inmate is not terribly cost-effective for non-violent offenders. But the practical corollary of this in the policy arena has been that virtually *no* amount of imprisonment for violent offenders is considered to be too long. 'Three strikes' laws and 'truth in sentencing' statutes exemplify this practice. Public policy has now all but obliterated the distinction between a violent *offender* and a violent *offense*, with Charles Manson emblematic of the former and a battered wife who attacks her abuser the latter. For purposes of incarceration policy, many persons who commit a violent offense do *not* in fact need to be incarcerated for long periods of time for public safety reasons, but the terms of political debate increasingly make this an irrelevant issue.

It is difficult to quantify to what extent this process of dehumanization is tied in with perceptions of race and ethnicity, but the data on prison populations and the political imagery of recent years strongly suggest that these issues are intimately connected. The notion of offenders as 'predators,' not to mention the 'superpredator' mythology with its pernicious political impact, is hard to imagine were we not speaking of a prison system comprised of two-thirds racial and ethnic minorities. The same is true when policy-makers talk of the need to remove 'weeds' from our neighborhoods through federally funded Weed and Seed programs. These images certainly do not portray the life history of anyone that we might know or care about, at least enough to investigate whether a prison cell is the most effective response to their offending behavior.

#### **Implications for policy change**

The foregoing assessment may be a bit harsh in that, despite being woefully underfunded, reformers have in fact made considerable progress in recent years. This is evidenced both in the proliferation of new programmatic approaches within the criminal justice system as well as increasing recognition of the need for drug treatment and other services. Clearly, these research and advocacy efforts need to continue and be expanded. But if we are to see more overarching change in the landscape, two types of strategic approaches need to be considered. First, reform efforts need to include broader constituencies. These might include education leaders concerned about the diversion of funding to prisons, religious leaders raising moral concerns, and family members in communities heavily impacted by incarceration.

Second, it will be necessary to convey an overarching vision of how to move from a punitive response to crime to a problem-solving orientation. In this regard, consider the strategy of the early civil rights movement. African-Americans were demanding a practical reform – a seat at the front of the bus – but also presented a broad call for freedom in all its manifestations. Some observers would argue that in a time of political conservatism such an approach is foolhardy. But unless such a vision is created, reformers run the risk of continuing to be identified as not tough enough on crime.

How, then, can a more effective public policy picture be presented? The first step involves expanding the discussion of crime policy beyond the day-to-day debates on the relationship between prison and crime to more fundamental concerns about the type of society we wish to create. Is it one where three of every 10 African-American males born today can expect to spend time in prison in their lifetime, most of whom will lose the right to vote for at least part of their adult lives? One in which one-quarter million mentally ill persons are behind bars? Or one in which 11-year-olds can be sentenced to terms of life without parole? These questions are not just idle speculation, but rather the concrete outcomes of the 'get tough' policies that have been promoted over the past quarter century.

The second component of a strategy involves the articulation of a more positive vision of public safety. Contrary to popular wisdom, this is one that is actually intuitively understood by most people. A 'safe' neighborhood is not one with the most police or most frequent use of the death penalty, but rather one with adequate resources to build strong families and communities. Policies of the past 25 years that have invested in prisons at the expense of low-income communities have in effect created less safe neighborhoods.

Within the field of criminal justice, the concept of restorative justice has made substantial headway in recent years. Once the province of religious-based reformers the idea is now the subject of conferences and publications produced by the Department of Justice and other official bodies. It is too early to assess the actual impact of restorative justice on common perceptions of crime and justice, but much of its potential rests on the non-adversarial approach to conflict that it promotes. One does not need to 'favor' victims or offenders to endorse its precepts, and therefore it holds the possibility of moving us away from a zero-sum game that pits the supposed interests of one against the interests of the other.

We should not underestimate the difficulty of enacting such a dual-pronged strategy. But unless we are able to do so it is unlikely that we will see any significant change in our national commitment to mass incarceration.

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PUNISHMENT AND SOCIETY 3(1)

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**Step Two: Departmental/Dean Approval**

Recommendation:  Positive (The objectives of this course can be met via distance education)

Negative

Kathleen J. Hancock      9-30-2010  
Signature of Department Designee      Date

Endorsed: Mary J. Swisher      9/30/10  
Signature of College Dean      Date

Forward form and supporting materials to Liberal Studies Office for consideration by the University-wide Undergraduate Curriculum Committee. Dual-level courses also require review by the University-wide Graduate Committee for graduate-level section.

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**Step Three: University-wide Undergraduate Curriculum Committee Approval**

Recommendation:  Positive (The objectives of this course can be met via distance education)

Negative

Gail Sedquist      10/19/10  
Signature of Committee Co-Chair      Date

Forward form and supporting materials to the Provost within 30 calendar days after received by committee.

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**Step Four: Provost Approval**

Approved as distance education course

Rejected as distance education course

T. J. ...      10/26/10  
Signature of Provost      Date

Forward form and supporting materials to Associate Provost.