o Under certain historical period, assault on women wasn’t considered as a crime
o Punishment of children could be normal in some countries whereas it’s illegal in the rest
o The development of cyber bullying – never happened before the invention of the internet
o The 4 contexts could definitely overlap each other
o Cyber bullying could be treated different ways depending on different circumstances
o Are certain assaults more tolerated in a sports arena than others?

September 12, 2012

Week 2: How are behaviours criminalized?

- Law…
  - Defines what behaviour is acceptable and what is not
  - Regulates relationships between people, groups and institution
    - Animal laws
    - Aboriginal law
  - Is intended to create more predictable interactions (Max Weber)
    - Allows us to go on with our daily lives without worrying about how other people behave
- The types of law
  - Criminal law: offences against society, its members, and the social order
    - An offence is thought to be criminal if it is serious enough to warn the society (the state acts on the interest of the society)
    - Public offences
  - Civil law: violations of contracts and other obligations involving private interests
    - Private offences
    - Less serious than with criminal law
  - Statutory law: written or codified law
    - Law that has been entrenched into written legislation
  - Common law: body of judicial precedent
- The Criminal Code of Canada
  - Codified in 1892
  - Originated in
    - International legal practices
- English statutory and common law
  - Constitutional division of powers
    - Federally enacted
      - Only federal government can define what a crime is
      - Unlike the US, where states have different law enactments
    - Provincially administered
      - Provinces are responsible for publishing and processing people who have committed crime
- Anti-stalking legislation
  - Late 80’s: high profile celebrity stalking cases
  - 1993: Federal government tabled Bill C-126: “No person shall, without lawful authority and knowing that another person is harassed, repeatedly follows the other person from place to place.”
    - New type of criminal behaviour that is now preventable by law
  - *The internet*
- Opium laws
  - Moral panic: episode of escalated fear and unease about a threat to societal values
    - Folk devil – a person or group that is identified as a source of this threat
    - The actions against Muslims after 911
    - Similar to a scapegoat
  - Moral entrepreneur: a person or group that persuades society to develop or enforce laws regarding a particular
    - Eg. Death penalty abolition movement
  - 1908, anti-Asians riot that prevailed the implement of opium laws

September 17-19, 2012

**Week 3: Measuring Crime (Includes notes from Tutorial)**
- The role of criminal statistics
  - Explain criminal activity
    - People want to look for factors that led to the criminal act happening
    - “Whether the creation or ban of capital punishment affect the crime rate in certain American states”
  - Make funding decision
  - Identify systemic discrimination
    - Collecting statistics can help us see if particular groups of minority are over-represented in the justice system
  - Further the criminal industry
    - Advertisements for personal security products
Art often has something to say about culture and politics (detective and police fiction is no different)
Noir is influenced by German political theory – contemplation of German philosophy
Connection between law, order, power, justice and morality
Some forms of pop culture are critiques of society

Genres of Police and Detective Fiction
Detective Fiction
- Agatha Christie, Sherlock Holmes, Poe
- Late 1800s, early 1900s

Film Noir
- 40s and 50s
- Big difference with detective fiction: the law and criminal justice system is never directly criticized in detective fiction.

‘COPS’
- Action-orientated, vigilante police officer. Enforcing law through violence
- Emerges in 70s

Knowledge and the New Detective
- Detective fiction: detective represents new mode of legal authority. A new way of policing and enforcing the law
- Utility of knowledge and science
- Only with this base of knowledge that this new detective is able to solve crime
- This is represented as criminology and forensics are emerging as new disciplines
- Contemporary Detective Fiction: Bones, The Mentalist, Lie to Me, Monk, Elementary
- Able to solve crime by calling on their bases of knowledge, ability to see the crime scene differently
- Detective represented similarly across genre. Characteristics: single, divorced, often alcoholic, leading irregular lives.
- Isolation and singularity, which enables them to have a special relationship with the city
- The detective is a prototypical urban figure
- Original detective born in bourgeois Victorian city
- Always a loner and an outsider, permanent state of alienation
- Implications for how we think law should function: law should be scientific and objective (removed from obligations to other people)
- Detective is an iteration of the desire for law’s objectivity

The Underworld of London
Subsection 2:

This is a legal definition, this does not name the psychiatric categories. LAWYERS have to make the psychiatric category fit these criminal code provisions. This has to be proven in each case by the DEFENSE “beyond the balance of probabilities”

- Some argue that this is an inversion of the principle of “innocent until proven guilty”
- There is a lessened burden of proof to prove a person suffers from mental disorder
- It is a select few that can successfully advance this defense.

Mental Disorder as a Criminal Defense

Sentences available to the courts:

1. absolute discharge
2. conditional discharge – released with probationary stipulations
   *these first two are most common
3. custody in psychiatric facility
   - this is the sentence we often associate with this defense
   - it is usually for an indefinite period of time, release decided by supervisors and psychiatrists

Some people think the defendant should be made to take medications to treat illness (but under the charter, each has the right to choose whether to take meds. Only in very specific cases can courts order the use of medication)

There have been challenges to the validity of this defense given that people expect retribution from the law

Penal Welfarism

- rise of welfare state: government bodies should play a primary in promoting economic and social well being
- punishment addressed social and psychological factors that lead people to commit crime
- psychiatrist played a crucial role in criminal justice system of welfare state
  (their expertise provided greater power to diagnose and treat criminality)
- with this change in the style of government, the state adopted a new philosophy of punishment that allowed the state to take on a more rehabilitative role
- this is controversial because it gives criminal justice professional arbitrary power in dealing with offenders (based on individual circumstances)
  Psychologists, psychiatrists, social workers are given discretion to treat people on basis of their personal circumstances
Example: In Psycho you see the psychiatrist play a critical role in understanding why he did what he did

This is paradigmatic of the role of psychiatry in the welfare state.
Deinstitutionalization

- Mass depopulation of psychiatric facilities (releasing into community, many now live on the street, homeless)
- Starts in the 1970s with neoliberalism
  - Not the state’s responsibility to treat people against their will or unless they absolutely need to
- Riverview psychiatric hospital
  - 1950: 4630 patients
  - 2009: 256 patients
- Neoliberal state

Silence of the Lambs (neoliberal example of the new role of psychiatry)

- The FBI has the knowledge necessary to deal with criminals (profiling is the best way to deal with crime)
- This is specific to the threat we encounter in the movie
- Hannibal Lecter knows what’s right and wrong but he’s a psychopath (this is different from straight psychosis)

Psychopathy and the New Cultures of Punishment

Psychopath as a ‘type’ of person (biological understanding of crime)

The Clinical History of Psychopathy

DSM II (1968)
- Psychopathy listed as DSM category
- No explicit criteria for disorder

DSM III (1980)
- Inclusion of diagnostic criteria, but focused too much on violation of social norms (this is a persistent problem for diagnosing psychopathy - it blurs the lines between social deviance and psychological disorder)

DSM III-R (1987) and DSM IV (1994)
- Psychopathy not included as diagnostic category itself
- Mentioned under ‘anti-social personality disorders’
- Most psychopaths meet the criteria for anti-social personality disorder, but most people with antisocial personality disorder are not psychopaths

Robert Hare: Forensic Psychologist
- Created psychopathy checklist PCL and Psychopathy Checklist Revised PCL-R
- Two factor Structure
  - Affective, interpersonal features (egocentricity, manipulativeness, callousness, lack of remorse) The brain patterns of psychopaths are different
  - Impulsive, antisocial features
- Canadian prison population reached historic high in August 2012
  (Conservative government elected): 15097 inmates in federal prisons
  - This puts more institutional pressures on federal prisons. New
    prisons have not been built to house these inmates...
  - There have been calls to privatize the prison system
    - There are problems with this (harder to regulate, makes more
      prisoners an incentive, because the business are making profit,
      where businesses are cutting costs the inmates live in sub-
      standard conditions)
    - Companies who contract out are not accountable to the public

- Double bunking: increased by more than 27% in federal prisons between
  2011 and 2012
  - Placing 2 or more inmates in cells designed for only one inmate
  - Housing more people in a cell than it was intended for originally

- Canada’s prison population has grown 7% between March 2011 and May
  2012

US has the highest level of incarceration in the world. In US, the rate of incarceration
is 700 per 100 000 people. In Canada the rate of incarceration is 110 per 100 000
people

In Canada there are higher rates of incarceration while the crime rate is dropping

Prison staff unions have a lot of political power in the USA. They have a lot of private
interest money that they can use to lobby the government

Aboriginal Peoples in Prison
Royal Commission on Aboriginal People: “The Canadian justice system has failed
Aboriginal Peoples.”
- Manitoba Government sponsored inquiry. This response is really significant

In 2006, Aboriginal people comprise 2.7% of adult Canadian population but
represents 18.5% of offenders serving federal sentences
- This overrepresentation is all across Canada, but this is even more significant
  in Prairie provinces (Aboriginals constitute 60% of offenders there)
- We should understand this overrepresentation as a symptom of larger
  instances of inequality (historical legacy of colonialism and racialization)
- Aboriginal people segregated in poor marginalized areas in the city-
  especially in the prairies
- The reserve system in Canada was created to systematically dispossess
  Aboriginals from their land and serve as an institution of segregation
These colonial institutions have had an effect on contemporary systems of inequality

Aboriginal women are more over-represented than Aboriginal men in prisons

Women in Prison

5% of total prison population are women
- Provincial and federally

Chivalry Thesis
- These lower rates of incarceration are evidence of chivalry playing a part in correctional sentencing
- This is the stereotype of women as helpless or childlike and in need of assistance
- This works to lessen the responsibility of women for crimes, less likely to be sent to prison
- Recent test of this thesis- this is only true for women who exhibit stereotypical qualities of femininity. This works against women who violate gender norms, these women are punished even more drastically.
- Most correctional programming is based on the needs of men (Andocentric orientation to correctional programming in Canada that fails to recognize women’s needs)

1994 Arbour Inquiry
- Conducted by Louise Arbour who sat on International Criminal Court as a judge. She found that women’s correctional facilities are systematically neglecting the needs of women in prisons
- This was mounted after a very public riot at the prison for women in Kingston
- Riot between prisoners and staff, was inflamed when prison supervisors called in emergency response team from Kingston penitentiary and conducted a cell extraction and strip search of female inmates.
- Male officers did the strip searches
- When footage of the strip searches were made public, it outraged the public, and the inquiry was called for

November 28, 2012

Restorative Justice: a variety of sentencing techniques (sentencing circles, healing circles, victim-offender mediation) to restore the balance to society after a crime is committed. This is a different approach than the retributive mode of sentencing that are more popular.