

Sociology 3395: Criminal Justice & Corrections
Overheads Class 27: Contemporary & Future Challenges

* Today we consider some of the major emerging developments in the Canadian CJS (excluding restorative justice, which we've dealt with)

(1) Enhanced Hate Crimes Sentencing:

* Introduced in 1995: allows for increased penalties for crimes motivated by bias, prejudice, or hate based upon:

race	age	national/ethnic origin
language	color	mental/physical disability
sex	sexual orientation	similar factors

* History:

- 1948: UN Convention on the Prevention/Punishment of Genocide
- 1966: UN Convention on the Elimination of Racial Discrimination
- 1960's: Canada established special parliamentary committee on hate propaganada

* What is a hate crime?

- Any crime motivated by characteristics of the victim that identify him/her as a member of a particular group. Key question: to what extent is hate the motivator?
- Additional offences: advocating genocide, public incitement of hatred, wilful promotion of hatred, possession of hate propaganda for the purposes of distribution

* Criticism of hate laws:

- lack of consensus on definition of hate crime
- no national mechanism for collecting statistics
- do hate laws conflict with freedom of association/ speech?
- how to use the CJS to combat hate on the internet?

(2) Specialized Courts:

* Meant to deal with specific types of offenders & offences (e.g. youth courts, domestic violence courts, mental health courts). Develop special expertise in processing & treatment

* Drug treatment court: introduced as traditional enforcement of drug laws are relatively ineffective in preventing crime (e.g. “War on drugs,” supply side enforcement, emphasis on trafficking/importing, & proceeds of crime legislation).

* Drug treatment courts in Toronto & Vancouver focus on treatment rather than incarceration. Successful completion of program leads to dismissal of charges

* Key components:

- integration of drug treatment with the CJS
- non-adversarial
- access to treatment & rehabilitation
- frequent drug testing
- ongoing judicial interaction
- partnerships between courts, public & community agencies

* Toronto Drug Treatment Court (est. December 1998):

- involves non-violent offenders addicted to hard drugs (no traffickers)
- 2 approaches:
 - *minor* offenders: no guilty plea involved, charges withdrawn
 - *serious* offenders: plead guilty, charges withdrawn or stayed

* Benefits:

- participants receive rehabilitation & no criminal record
- society saves money on incarceration (\$3,500 vs \$25,000 U.S./yr)
- lower recidivism rates (10% vs 30%)

(3) Cyber Crime:

* Identity theft:

- the fastest growing crime in North America
- involves credit cards, health care cards, etc.
- 2001: 1.4 million “extra” social insurance numbers out there
- difficult to control under existing theft laws
- may require new identity cards

* Online pornography:

- more than \$100 million industry in Canada (i.e. fast, secure, anonymous)
- U.S. research: 1 in 5 children solicited online/ fewer than 10% reported

* Bill C-15A (June 2002): Addresses:

- internet luring (e.g. chat rooms)
- child pornography (e.g. transmitting, making available, exporting or access)
- child sex tourism (simplifies prosecution of sexually exploiting children in other countries)
- enhanced judicial powers (forfeiture of computer files, prohibition orders, long-term offender status, peace bonds)

(4) Community Justice:

Goals

- Preventing/reducing disorder & crime
- Restoring victims/communities to effective & healthy functioning
- Empowering local citizens

Tactics

- Prosecute violent/repeat offenders
- Criteria for prosecution priorities
- Use civil & criminal laws
- Diversion & alternative measures

* Community-oriented lawyering:

- focus on the problems of people & places, not crimes & cases
- success= improving quality of life, not just winning case
- sharing information with other agencies
- using non-adversarial methods like negotiation

* Community courts: (e.g. Navajo peacemaking, “branch” courts & community justice centres):

- based on restorative justice
- clients are persons, not cases”
- use community resources

(5) Privatizing Criminal Justice:

* Private security sector much larger than traditional public police, & rapidly expanding (e.g. security guards, private investigators)

* Characteristics:

- more women
- more young (under 25) & older (over 55)
- lower education
- more visible minorities
- income about half that of public police

* Employment:

- security for malls, banks, businesses (uniformed or undercover)
- may work alongside other employees to detect employee crime
- monitor surveillance cameras

* Concerns:

- security determined by ability to pay
- respect for civil rights?
- professional competence?
- crimes may not be referred to the public system
- double standard of justice?

* Private prisons (U.S. companies):

- 1995: N.B. opened privately built/operated youth facility
- 2001: Ontario opened privately built adult prison

* U.S. Prisons:

- over 50 private correctional facilities (mostly CA, FL & Texas)
- claims that cheaper & more effective, yet U.S. General Accounting Office reports some more expensive with poorer service

Upside

- More productive/less red tape
- More efficient/explore cost-cutting
- Discount purchases reduce costs

Downside

- Cost savings at expense of well-trained staff
- Cuts in programming
- Poorer living conditions

(6) Aging Prison Populations:

* Prison population is younger than general population (e.g. 84% & 68% of provincial/federal male inmates under 40 in 1996)

* Yet prison population is aging (average age went from 28 to 33 between 1991-1998)

* Older inmates (50 years & up):generally incarcerated for sexual offences, homicide & robbery. Increased number of “lifers”

* Types of older inmates:

- “lifers” (10%): incarcerated when young & stayed
- “chronic offenders” (17%): many previous incarcerations
- “late bloomers” (73%): serving first term

* Special needs of older inmates:

- medical attention: 80% have chronic health problems
- adjustment: depends on past situation
- programming: preparation for leaving prison
- prison environment: need for geriatric wards?
- interaction with peers: may have stabilizing influence
- family/friends: loss by death, etc.

Conclusion:

* Today we have reviewed key issues facing the Canadian CJS in the future, including:

- enhanced hate crimes legislation
- specialized courts
- cyber crime
- community justice
- privatizing criminal justice
- aging prison populations

* These, along with restorative justice, will challenge our existing CJS, resulting in multidimensional evolving changes over time