Part One: Encountering Sex and Crime

Chapter One: Introduction

The issues and controversies of sex and crime are intimately intertwined. In this book, we will explore the ways that **sexuality**^{*} and **sexual practice** interact with crime and **deviance**, and the ways that understanding this interaction enriches our understanding of criminology and **social justice** more broadly.

In many ways, the regulation of sexuality through the law is something that we all experience, every day of our lives. As we will see in Chapters Three and Five, sexuality and sexual practice have been controlled by law for centuries. Certain sexual practices are legislated against (such as, sex with children), others have had changing legal status (for example, anal sex). Other expressions of sexual desire or of sexual preference maybe be legal, but can bring with them shame and stigma (such as, Bondage, Domination, and Sadomasochism (BDSM), pornography addiction, cybersex); thus, they are also regulated by social mores and accepted sexual etiquette.

In this book we examine a range of ways that **institutions** of control interact with sex and sexuality. The book is broken down in to four sections: the first part 'Encountering Sex and Crime', helps you to get on board with the key concepts and

^{*} The definitions of words in bold can be checked in the glossary.

ideas crucial to understanding sex, crime, and control; the second, 'State, sex, and crime' explores how the nation state both controls facilitates crime related to sex. The third, 'Sex, cultures, and crime' outlines how 'cultures' of sexuality and sexual practice interact with the State and outlines how and why sex is controlled and regulated; and finally, 'Future Sex', is where we reflect on how laws, controls, cultures, and society in relation to sexual practice may develop. In our final Chapter we suggest ways to put your learning into practice.

By the end of this chapter you will understand more about:

- Key and fundamental ideas that will help you engage with this topic.
- How you might read this book.
- The type of learning you are going to do as you engage with this material.

Why is sex such a big deal?

Part of the reasons why sexuality, sexual practice, crime, and law are so heavily intertwined is because controlling sexuality is a way of controlling the population and creating a **nation**; nation-building is something that preoccupies nations all over the world. We see more of this in Chapter Three. As Michel Foucault (1998[1976]) has argued, when everyone follows the rules – is an obedient citizen - society functions as desired by those with **power** and control. The regulation of populations and nations is a big project, so many different tools are used to do this; the criminal law - and the **state** in general - is but one of them. The family, the education system, multinational

corporations, **public health** messages, and religion are all examples of ways that sexuality is policed and controlled. The implications of this for criminology will become apparent in this book. As such, we will be talking about power and control a great deal throughout the book, thinking about who holds it and how it shapes behaviour and practice.

A content note

Before we embark on this project, we would like to offer a note about the content of some of the chapters. One of the implications of reading a book about sex and crime is that you will inevitably come across discussion of topics that are unpalatable, difficult, even traumatic. They may trigger something in you that upsets you. We have tried to present each issue in as sensitive a way as possible, but we know that we may not have anticipated all instances in which specific issues may be traumatic for a reader. As you read this material, pay attention to how it makes you feel. Take breaks from the book. Come back to it later if you want to. Stay in touch with your friends and family; do things that make you feel better; rest; speak to your lecturers and university support services if you want extra support. We have offered advice and support groups who might be able to help your further in Chapter Fifteen.

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As we begin these discussions, we ask you to think about the ways in which you are aware, in today's context, that sexuality and sexual practice is policed and controlled:

- What examples of illegal sexual practice and behaviour can you think of?
- What examples of **deviant** sexual practice and behaviour can you think of?
- Can you think of any other ways that sexuality or sexual practice is controlled? [END TEXTBOX]

What is clear is that attitudes towards crime, law, sexuality, and sexual practice emerge in social and cultural contexts that are specific to the time and place in which they occur. As far as possible in this book, we have tried to situate the examples that we use to tell the stories of sex and crime in the temporal and geographic context in which they are relevant. This helps us not only to understand that there is no one 'truth' about sex or crime, or when sex is criminalised, and when it is not (for example, child marriage or the publishing of pornographic stories), but also to consider that our understanding of what is going on when sexual practice or sexuality is criminalised (or is not) can only ever be partial and limited by our own positionality (or the place from which we speak). It is our job as criminologists to enquire after the parts of the story that we do not know; to ask awkward questions which address this partial knowledge, in order to gain a better understanding of the politics, morality, or exercise of power which works to normalise the specific control of sexuality. It is also our job to be curious about why we think what we do about a specific issue. What is it about us/our lives/our upbringing/our society that leads us to think the way that we do about sex and crime? As authors, we have outlined our own positionalities in the opening pages of this book.

Alongside examining the complex relationship between crime and sex, in this book we intend to help you to acquire the tools to do this awkward questioning, and this critical thinking. We will do this by exploring some of the many ways that sex and crime are linked, and, using case studies to illustrate what we are saying, invite you to ask, and to answer, probing questions about the scenarios we are asking you to think about.

The following four tools will come in handy for you when you are doing this work.

1. Understanding what we mean by normative and non-normative sexuality

The word 'normative' is used in social sciences to describe something mainstream or commonplace. For instance, in most of the world heterosexuality is mainstream and normative; much policy planning, news reporting, educational material, and law is created with heterosexual people and heterosexual coupling in mind. The word **heteronormative** is used to describe a world created for heterosexual lifestyles. Other things are normative too; marriage, monogamy, having children, living in a family unit, working, staying fit and healthy, obeying the law... and it is not only heterosexual people who do all these things. People who identify as lesbian, gay, bisexual or **trans (LGBT+)** can also live normative lives, just as some heterosexual people may refuse to live a normative lifestyle. Nonetheless normativity is often a

word used to describe the way certain dominant modes of living – and in this context having sex – have become mainstream. We sometimes use the word 'normativity' critically because the mainstreaming of certain lifestyles necessarily comes at the expense of others. Minority groups are usually excluded from what is normative. For instance, same-sex relations are criminalised in 70 countries around the world and carry the death penalty in seven. In England and Wales, it was only in 2011 that the census started collecting data for same-sex households. In the USA, the census of 2020 will be the first to collect these data. And even despite now counting gay and lesbian couples, these records of the population do not count bisexuals, trans people, or gay/lesbian people who are not living in a couple. What do you think the implications of missing this population might be?

We also use the word 'normative' to describe a desire for the way life 'should' be, or 'could' be. We might say that we want social justice to be normative, meaning we want it to be mainstream that we live in a socially just world. We might say that the fact that, as of 2019, same sex marriage is recognised in 26 countries worldwide means that gay marriage is becoming normative.

In the context of sexual practice and the law, Gayle Rubin's (1984) analysis of the socalled 'charmed circle' of sexuality also helps us to better understand normativity. Rubin suggests that in public policy, law, and morality there is 'good' and 'bad' sex: Only sex acts on the good side of the line are accorded moral complexity. For instance, heterosexual encounters may be sublime or disgusting, free or forced, healing or destructive, romantic or mercenary. As long as it does not violate other rules, heterosexuality is acknowledged to exhibit the full range of human experience. In contrast, all sex acts on the bad side of the line are considered utterly repulsive and devoid of all emotional nuance. (Rubin, 1984: 152)

[Fig 1.1 HERE]

The circle of the 'sex hierarchy' that Rubin has created situates sex which is monogamous; married; procreative; non-commercial; coupled; in a relationship; 'vanilla' (meaning not engaged with non-normative or unusual – we might say kinky – sexual practices); taking place at home; without pornography; between heterosexuals of similar age; using just their bodies (and no sex toys), as 'good sex'. 'Bad sex' – sex which is condemned, criminalised or otherwise deviant or 'non-normative' – is kinky sex; using objects; taking place in public; using pornography; non-procreative; queer; anonymous; promiscuous; commercial (paid for); inter-generational; unmarried; casual; alone, or in a group. In this way, Rubin's sex hierarchy helps us to understand the difference between 'normative' and 'non-normative' sex. We will use these concepts a lot in this book because normativity is so important in the context of crime and of designating how deviant sexuality or sexual practice is approached.

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Rubin's schema was created in 1984:

- Do you think it still applies now?
- What is similar?
- What is different?
- Are there now any practices that you would add or remove from the circle?
- How can the concept of 'good' and 'bad' sex and 'sexual hierarchies' help us understand sex and crime?

• Who do you think gets to decide what counts as 'good' and 'bad' sex? [END TEXTBOX]

2. Practicing Loving Perception and World-Travelling

In this book we will talk about issues that you may sometimes find difficult. Paedophilia, rape as a weapon of war, so-called 'revenge porn', sex trafficking, online harassment, sexual violence: all of these issues are highly emotive and sometimes controversial topics. You, or someone you know, may have personal experience of some of the things that we think about. Indeed, it is likely that in your class, at least one person may have some experience of these sorts of crimes. According to the 2017 Crime Survey of England and Wales, one in five women and four per cent of men have experienced some type of sexual assault since the age of 16. According to the United Nations, in North Africa and the Middle East, 40 to 60 per cent of women have experience street-based sexual harassment. In 2017, 58 per cent of the women in the world who were killed were killed by intimate partners or family members (UN Women, 2019a). In the first three months of 2019, nearly 2000 women and girls received treatment for Female Genital Mutilation (FGM) in England (NHS Digital, 2019). Sexual violence and sex crimes are not rare.

When we talk about issues in this book, and as you explore these in your classes, we bear in mind the different trajectories that people have taken to come to studying these questions (see also section about intersectionality and positionality below). Some people may need to spend more time than others on some topics in order to fully work with them. For some people the material may just be unbearable, or, notyet-bearable.

When encountering difference in this book, and with other people with whom you talk about the topics in this book, we suggest that you consider adopting a praxis (that is, a practical action of) that Maria Lugones (1987) refers to as 'loving-perception' and 'world-travelling'. It may seem counter-intuitive to be asked to encounter violent crimes like FGM and child sexual abuse with 'love', and here we are not suggesting that you should try to love or like these crimes. Instead we are offering loving perception as a tool to understand *why* they happen, so that from this position of understanding, we can better act against them. We discuss this more in Chapter Fifteen. We appreciate that it is somewhat unusual to reflect on topics such as these in this way and you may find this challenging, odd, or unsettling.

Lugones (1987: 5) contrasts loving perception with arrogant perception. Arrogant perception is one that refuses to 'travel' to the perspective of another person or to try to see a situation or understand a concept from their perspective. Arrogant perception thinks that nothing anyone else has to say is of interest if it does not agree with them. Arrogant perception tries to erase differences of opinion, or worse, silence them. The tool of world-travelling helps us to practice loving perception. A 'world', in this context, is someone's flesh and blood reality. It may be their past, it may be their imagined past, it may be the imperfect present: it is a life experience that informs a world view.

Thus, even if some of the material we talk about shocks you, or disgusts you, or you cannot understand why people would do it, try to adopt a loving perception – an openness to difference – towards this issue. Think about the fact that people in your class may have been affected by the issue at hand, or may disagree with you that they are shocking or disgusting things. Adopting a loving perception recognises difference and allows a plurality of opinions about a topic to be held together. That is how we better understand the world, and ultimately make it more just: by better appreciating the opinions that other people hold, and understanding why they hold them (we talk more about this in Chapter Fifteen). It also helps in your project of critical

engagement, reflexivity, and intellectual curiosity; of reflecting on why you hold the opinions and perspectives you do about an issue.

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Take a moment to think about the following sexual practices and consider using the praxis outlined by Lugones:

- Sexting with a person you do not know.
- Taking stimulants or other chemical substances to change the experience of sex.
- Having a sexual relationship with a sibling.
- Paying someone to engage in sexual behaviour.

What would arrogant and loving perception look like for each?

What questions would you ask or consider if you were doing some 'world-travelling' in order to understand this issue?

[END TEXTBOX]

3. Understanding intersectionality and positionality

The concept of intersectionality is one that has received increased traction in popular **discourses** in recent years. Positionality – accounting for where you are speaking from and how it is influenced by the experiences you have encountered – and intersectionality often go hand in hand. The concept of intersectionality itself is not new and is borne out of **Black** feminist praxis. Kimberlé Crenshaw developed the term

of intersectionality in 1989 in response to the erasure of Black women's experiences within the feminist and anti-racist movements. She argued that feminist approaches which demanded that women unite behind issues of **gender**, or that Black women unite behind issues of '**race**' without attending to the specific experiences that some women experienced as Black women, 'contributes to the marginalisation of Black women in feminist theory and in antiracist politics' (Crenshaw, 1989: 3). Often antiracist debates would be dominated by men, whilst feminist fights would centre around issues which were prioritised by white women. Crenshaw argues that 'the intersectional experience is greater than the sum of racism and sexism, any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated' (1989: 3).

We can develop this further than the axes of 'race' and gender here in our study of sex and crime. Teenage pregnancy, whilst not a crime, is still considered to be 'deviant'. The extent to which teenage pregnancy is considered deviant will also depend on the **ethnicity** and **class** of the pregnant teenager, and on whether or not the teenager has a disability. Police attitudes towards children who have been trafficked for sex may also depend on the family background the child is perceived to have – their class and ethnicity – if they are trans, if they are care-leavers, if they have a history of drug or alcohol use. Similarly, people who have been raped or sexually assaulted may not report their experiences to the police if they are from communities which have historically been harassed or attacked by the police; travellers, immigrants, trans, queers, members of **BAME** communities. On the other hand, white, middle class women who have never been bullied by the police may not hesitate to go to the police to report the same crime. All of this is to demonstrate that there are multiple axes of identity which inform people's experiences, politics, and perspectives of the world. We need to consider how positionality and intersecting identities impact on experiences of sexual practice, crime, and control. Such critical analysis helps us to make sure our analysis of the relationship between sex and crime is as complex and nuanced as it needs to be to make pertinent, inclusive analyses which make sense in the real world and which call into question all the ways in which intersectionality is obscured in contemporary criminal justice.

This is not to suggest that only the most marginalised can speak, nor is intersectionality about claiming victimhood, or a 'race to the bottom' of disadvantage. Some people *are* multiply marginalised, but the picture is rarely as straightforward as this. Some, like Caitlyn Jenner, may be marginalised in some contexts – as a trans woman, for instance – but in others benefit from their **whiteness**, their ablebodiedness, and from enormous wealth and influence. In other contexts, white, heterosexual, working class men might benefit socially, economically, culturally from their ethnicity and gender but men are also amongst the group which is most likely to commit suicide in England and Wales, according to the Office for National Statistics (ONS, 3 September 2019), and are the most under-represented group in Higher Education Institutions (Hillman and Robinson, 2016).

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Thinking about your own positionality (where you are coming from) and trying to appreciate that of other people, including the way in which it influences the world is not easy. Here is an exercise you can try to visualise your own positionality. All you need is some space (a large room or outdoor space would be best), a bin, and a ball. Position the bin at one end of the room, and position yourself in the middle of the room, holding the ball. Once you are there, read out each of the following statements to yourself. Each statement will ask you to take a step forward (closer to the bin) or take a step back (away from the bin):

- 1. Step forward if you identify as male.
- 2. Step back if you've been cat-called/whistled at in the street.
- 3. Step forward if you didn't need to take a loan to go to university.
- Step back if you sometimes feel you are expected to wear makeup to be presentable.
- 5. Step forward if you're never asked to speak for all the people in your ethic group.
- Step back if you had someone in a position of authority (such as, your teacher, boss, supervisor) come onto you or flirt with you.
- 7. Step forward if you don't identify as having a disability.
- 8. Step back if you've been mocked for an aspect of your identity.

- 9. Step forward if your citizenship and your country of residence align (e.g. you are an Australian citizen living in Australia).
- 10. Step back if you've ever felt inadequate due to your body features.
- 11. Step forward if you identify as heterosexual.
- 12. Step back if you're a primary care-giver.
- 13. Step forward if you are monogamous (are married to, or in a relationship with, just one person at a time).
- 14. Step forward if you've never been burdened by the cost of sanitary products (tampons, sanitary towels, menstruation cup).
- 15. Step back if you had 'less than enough' growing up as a child, however you define enough.
- 16. Step forward if you feel safe walking home alone at night.
- 17. Step back if you were expected to do housework chores as a child.

(Adapted from Österman et al, 2018)

Now, wherever you are, try to throw the ball in the bin. Did you dunk the ball? Perhaps, you are a talented basketball player. Yet distance will inevitably affect your chances of a slam dunk.

Your position in relation to the bin will be influenced by your positionality in society, at the intersection of different identities which are influenced by structural categories of gender, 'race' and class, but also disability, sexuality, age, and sexual orientation. Some identities endow people with certain privileges, making it easier to 'score', while others make it harder.

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4. Reparative, rather than paranoid, thinking

Eve Sedgwick (2003) articulates two ways in which contemporary critics, theorists, and activists (we might also add critical criminologists) tend to think about contemporary social problems; through paranoid thought or through reparative thought.

Paranoid readings are, according to Sedgwick analyses of contemporary social issues or phenomena (the Love Island TV show, for instance, or Pride marches, or gay marriage) which seek to reveal a 'dark truth' about the phenomenon which nobody else has seen, or that proves the false consciousness that we live under (that TV shows are racist, or that Pride has been commodified by **capitalism**, or that gay marriage is homonormative). To an extent, critical criminology must do some of this questioning work, but to do it in a way that, as Sedgwick says, is 'paranoid' is to occlude any sort of transformation, or way out. If the project of criminology is to understand why crime happens and also to work towards a position which advocates for justice (and we may not agree what justice looks like), then it must be necessary to move beyond paranoia towards 'reparation'. A reparative reading of a social phenomenon is one which seeks to repair the damage that a paranoid reading may have identified by formulating, or seeking out an outcome beyond outright condemnation or rage (though this is not to say that rage does not have its place in a social justice project, see Chapter Fifteen) (Sedgwick, 2003: 128).

Rather then, than analysing the world and finding fault all over the place and leaving our analysis there, Sedgwick urges us to think reparatively about social issues: to ask, 'what can we do now?'. This does not mean being complacent or naïve about the world (Ball, 2016: 65), rather it means to turn our critique into an active practice of bringing about social change, or what Paolo Freire (2017[1970]) refers to as developing a praxis.

Praxis is not only about activism. It is also about adjusting ways of thinking and perceiving the world; about working to be curious, critical, and perceptive. We have already talked about world travelling and loving perception as a way to do that. Analysing the world from a reparative perspective is another way of doing this.

Consider how reparative readings and paranoid readings might operate in this case study:

In 2009, the singer Rihanna was beaten in a car by her then-boyfriend Chris Brown. The pictures of her swollen face were released online two weeks after the attack, confirming the viciousness of the attack and making the case notorious. The attack happened on the eve of the Grammys in Los Angeles,

USA. Both artists had been due to perform at the Grammys, but neither of them did as a result of this incident and the subsequent global attention that it received. Brown, who had turned himself into police after the attack pleaded guilty to a felony assault and was sentenced to 180 hours community service and a 5-year suspended sentence. Rihanna was also granted a restraining order against Brown. Brown's public appearances were cancelled. His 2012 album *Fortune* was targeted by protesters who placed stickers reading "Warning: Do not buy this album! This man beats women". Every one of Brown's collaborations and singles has been negatively reviewed in left wing newspapers like *The Guardian* in the UK, who specifically cite his violence against Rihanna as the reason why they slate his music. And yet, in 2013, Rihanna announced that she was once again in a relationship with Chris Brown (one that lasted only 6 months). Before they reunited, she had appeared on the Oprah show and, crying, told the chat show host that after the attack:

I lost my best friend - like everything I knew switched in a night, and I couldn't control that. So, I had to deal with that and that's not easy for me to understand, interpret and it's not easy to interpret on camera, not with the world watching.

Her decision to get back together with Brown a year after this interview drew huge criticism from her fans and supporters. Rihanna told Rolling Stone magazine that 'if it's [getting back together with Brown] a mistake, it's my mistake'. Celebrity blogger, Perez Hilton commented:

The notion that not only would she not help to incriminate Brown in court, but that she was also intimate with him again, was too much for some onlookers to bear.

How might a paranoid reading of this case go?

A paranoid reading might suggest that Rihanna is a classic victim of intimate partner violence; lacking self-esteem to leave an abusive relationship. Some critics have called her decision 'dumb' (see Bierria, 2011), but a paranoid reading would suggest that she is in fact unaware of her own victimisation; maybe her huge celebrity and her world-wide fame make her feel less anchored and secure than other people. As other

commentators have noted, the presentation of Rihanna's sexuality is of one erotic Islander from Barbados; the figure of the 'island woman' is one whose sexuality is figured through an erotic attachment to violence (Fleetwood, 2012). Rihanna had an abusive and neglectful childhood. Indeed, some of Rihanna's songs are about BDSM, and many feature nihilistic, bondage-orientated themes and images. After being attacked, Rihanna then collaborated with a number of male artists, which can be interpreted as unfeminist. She eroticises violence, which is also unfeminist, and therefore has no real choice but to be in a violent relationship. She does not know, or want, anything else.

How might a reparative reading of this case go?

A reparative reading of the same incident might note that Black women have a history of antagonistic relationships with the police and Criminal Justice System. Rihanna's decision not to engage with the Criminal Justice System to convict Brown may stem from a rejection or, or refusal to engage with, systems of oppression which have historically (and currently) been engines of racist violence. Rihanna may indeed like bondage and BDSM. She has reportedly confirmed this (Fleetwood, 2012: 429). And why should she not? It should be noted that participating in, and enjoying BDSM, is not equivalent to accepting abuse within an intimate relationship, and to elide the two in a way that a paranoid reading might, is very dangerous. bell hooks (1994) and Audre Lorde (1978) tell us that the erotic has power. Erotic power is, for Audre Lorde (1978), feminine power that has been suppressed in all realms but that of sex; that has been approached with suspicion. Lorde (1987: 55) explains that 'the very word erotic comes from the Greek word eros, the personification of love in all its aspects born of Chaos, and personifying creative power and harmony'. Erotic power is 'replenishing', and 'provocative', it allows women to find pleasure and love in all realms of the world. This is why it is dangerous in a **patriarchal** world. Here Lorde suggests:

> Beyond the superficial, the considered phrase, "It feels right to me," acknowledges the strength of the erotic into a true knowledge, for what that means is the first and most powerful guiding light toward any understanding...In touch with the erotic, I become less willing to accept powerlessness, or those other supplied states of being which are not native to me, such as resignation, despair, self-effacement, depression, self-denial...

(1987:56)

Bringing Lorde's conceptualisation of erotic power into this reparative reading of Rihanna's actions in the aftermath of being attacked by Brown, we can come to understand Rihanna's decision to record songs with men as an appropriation, or incorporation, of their perceived power. Rather than unfeminist, her decisions to do what 'feels right' to her by getting back together with Brown is an expression of erotic power and a refusal of the victim-blaming that is latent in critiques of her decisions. It is also a refusal of her status as 'role model' – hinted at by Perez Hilton – and the discourses about personal responsibility (responsibilisation discourses) that accompany this. A reparative reading, in a sense, is one that pushes the paranoid further and which also seeks to find some sort of way out, or some sort of response beyond simply saying that everything is dreadful. It opens dialogue and permits ways of being curious as well as critical. Be under no illusion; sometimes some of the issues that we cover in the context of sex and crime are distressing, unfair, and astounding. Criminologists need to do the critical work to excavate understanding of all of the ways that the relationship between sex and crime are intertwined. Then, in the words of Freire (2017[1970]: 25), develop a praxis, or develop the skills to 'reflect *and act* upon the world in order to change it' (emphasis added). In this book, we take you along some of these paths and point you in the direction of others.

How to read this book

Each chapter in this book is structured around particular issues that are illustrated with case studies to ask you to think about the way that sex and crime interact with each other in practice. Chapters outline what you can expect to learn about in each chapter. Task boxes offer questions and exercises that we really urge you to stop and think about/complete. Part of the reasons why we ask these questions are to highlight that the issues that we explore in this book are not straightforward. There is no right or wrong answer to many of the things that we think about. Doing a reparative reading, and using loving perception to understand our own trajectory, and our own way of thinking as well as those of other people in different situations requires us to ask difficult questions. Therefore, we encourage you to take the time to complete the tasks, either on your own in preparation for teaching and learning sessions, or in groups as part of seminars, workshops, or group study sessions.

As we have argued above, in addition to knowledge always being incomplete, it is also contextual, and is influenced by the time and place it is written in. So much criminological scholarship is written from a white person's perspective, telling stories from the **Global North** which present poorer parts of the world as exotic, strange places, or which ignores them entirely. We have tried to challenge this presentation of knowledge in this book.

Finally, as you will see, if you do not realise already, the potential field of study in the context of sex and crime is enormous. We have chosen cases that interest us, that we think will interest you, and that we think are important. We have been comprehensive, but we cannot be complete. This is why we end each chapter by sending you off into other directions in this book which are also relevant and interesting but which are beyond the scope of the chapter, so as you prepare your classes, and your assignments, you can move around the book, following ideas, exploring new ones, and coming up with ideas of your own.