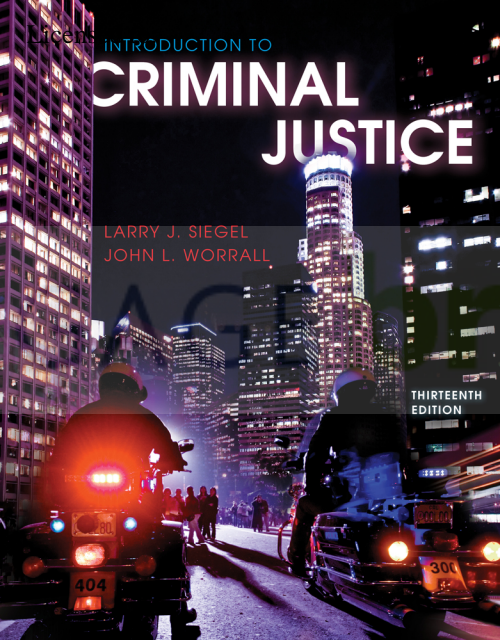


Licens INTRODUCTION TO

# CRIMINAL JUSTICE

LARRY J. SIEGEL  
JOHN L. WORRALL

THIRTEENTH  
EDITION



**Introduction to Criminal Justice,  
Thirteenth Edition**

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Library of Congress Control Number: 2010941230

ISBN-13: 978-0-495-91338-2

ISBN-10: 0-495-91338-3

**Wadsworth**

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Printed in the United States of America

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# CHAPTER 1

## Crime and Criminal Justice

### CHAPTER OUTLINE

#### ■ IS CRIME A RECENT DEVELOPMENT?

Crime in the Old West

Crime in the Cities

#### ■ CREATING CRIMINAL JUSTICE

Federal Involvement

Evidence-Based Justice: A Scientific Evolution

#### ■ THE CONTEMPORARY CRIMINAL JUSTICE SYSTEM

*Careers in Criminal Justice: Police Officer*

Scope of the System

#### ■ THE FORMAL CRIMINAL JUSTICE PROCESS

Formal Procedures

The Criminal Justice Assembly Line

#### ■ THE INFORMAL CRIMINAL JUSTICE SYSTEM

The Courtroom Work Group

The “Wedding Cake” Model of Justice

#### ■ PERSPECTIVES ON JUSTICE

The Crime Control Perspective

*Analyzing Criminal Justice Issues: Why Are Americans So Punitive?*

The Rehabilitation Perspective

The Due Process Perspective

The Nonintervention Perspective

The Equal Justice Perspective

The Restorative Justice Perspective

Perspectives in Perspective

#### ■ ETHICS IN CRIMINAL JUSTICE

Ethics and Law Enforcement

Ethics and the Court Process

Ethics and Corrections

*Evidence-Based Justice: Does Monitoring Sex Offenders Really Work?*

### CHAPTER OBJECTIVES

1. Be able to define the concept of criminal justice.
2. Be aware of the long history of crime in America.
3. Discuss the formation of the criminal justice system.
4. Name the three basic component agencies of criminal justice.
5. Comprehend the size and scope of the contemporary justice system.
6. Trace the formal criminal justice process.
7. Know what is meant by the term “criminal justice assembly line.”
8. Discuss the “wedding cake” model of justice.
9. Be familiar with the various perspectives on criminal justice.
10. Understand the ethical issues that arise in criminal justice.



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**T**he FBI labeled it “Operation Rotten Tomato”—and for good reason! On February 18, 2010, Frederick Salyer of Pebble Beach, California, owner and CEO of the SK Foods corporation (supplier of a range of tomato products), was arrested by federal agents and charged by the U.S. Attorney’s office with violations of the Racketeer Influenced and Corrupt Organizations Act (RICO). The indictment alleged that Salyer had engaged in a variety of corrupt practices, including bribery and food misbranding and adulteration, wire fraud, and obstruction of justice.<sup>1</sup> It seems that over a period of 10 years, Salyer and his associates at SK had bribed the purchasing managers of some of its largest customers, such as Kraft Foods and Frito-Lay, to ensure that they purchased products from SK at elevated, above-market prices. But that was not all. The government also alleged that SK Foods used false documents to conceal its willingness to sell tomato products that fell short of basic quality standards set by the Food and Drug Administration. Unbeknownst to them, consumers were eating tomato sauce with mold levels so high that they violated federal standards. And because SK products were mislabeled, consumers who thought they were getting “organic” tomato paste were actually buying out-of-date conventional tomato products, paying a higher price for inferior goods. SK Foods declared bankruptcy in May 2009, and its assets were purchased by Singapore-based Olam International. A number of employees of SK and its customers pled guilty to charges of taking and/or receiving bribes; if convicted, Salyer faces 20 years in prison. ■

**criminal justice system**

The system of law enforcement, adjudication, and correction that is directly involved in the apprehension, prosecution, and control of those charged with criminal offenses.

The public relies on the agencies of the **criminal justice system** for protection from elaborate schemes such as Salyer's intricate tomato scam. This loosely organized collection of agencies is responsible for protecting the public, maintaining order, enforcing the law, identifying transgressors, bringing the guilty to justice, and treating criminal behavior. The public depends on this vast system, which employs more than 2 million people and costs taxpayers more than \$200 billion per year, to protect them from criminals and to bring justice to their lives. The criminal justice system is now expanding and taking on new duties, including protecting the country from terrorists and cyber criminals, groups that were almost unknown a decade ago. Member agencies must cooperate to investigate complex criminal conspiracies. (Operation Rotten Tomato, for example, was a joint effort of the FBI, the Internal Revenue Service, the Food and Drug Administration, and the Department of Justice Antitrust Division.) The contemporary justice system is constantly evolving to meet these new challenges.

This text serves as an introduction to the study of criminal justice. This chapter covers some basic issues and concepts, beginning with a discussion of the concept and study of criminal justice. The major processes of the criminal justice system are then examined to provide an overview of how the system functions. Because no single view exists of the underlying goals that help shape criminal justice, the varying perspectives on what criminal justice really is—or should be—are set out in some detail.

## IS CRIME A RECENT DEVELOPMENT?

Older people often say, "Crime is getting worse every day" and "I can remember when it was safe to walk the streets at night," but their memories may be colored by wishful thinking. Crime and violence have existed in the United States for more than 200 hundred years. In fact, the crime rate may have been much higher in the nineteenth and early twentieth centuries than it is today.

Crime and violence have been common since the nation was first formed.<sup>2</sup> Guerilla activity was frequent before, during, and after the Revolutionary War. Bands supporting the British (Tories) and the American revolutionaries engaged in savage attacks on each other, using hit-and-run tactics, burning, and looting.

The struggle over slavery during the mid-nineteenth century generated decades of conflict, crime, and violence, including a civil war. Slave patrols were made up of small groups of white men who enforced discipline upon slaves. Their duties included searching slave quarters for weapons that might be used in insurrections and breaking up clandestine slave meetings. They hunted down fugitive slaves and inflicted on the escapees brutal punishments, which could include both maiming and killing them, practices that horrified even some plantation owners.<sup>3</sup>

After the war, night riders and Ku Klux Klan members were active in the South, using vigilante methods to maintain the status quo and terrorize former slaves. The violence also spilled over into bloody local conflicts in the hill country of southern Appalachia. Factional hatred, magnified by the lack of formal law enforcement and by grinding poverty, gave rise to violent attacks and family feuding.

### Crime in the Old West

After the Civil War, many former Union and Confederate soldiers headed west with the dream of finding gold or starting a cattle ranch. Some even resorted to murder, theft, and robbery. The notorious John Wesley Hardin (who is alleged to have killed 30 men) studied law in prison and became a practicing attorney before his death. Henry McCarty, better known as the infamous "Billy the Kid," participated in range wars and may have killed more than 20 people before being gunned down in 1881 by Sheriff Pat Garrett; Billy had just turned 22. Others

formed outlaw bands that terrorized the western territories. There is no more storied bad man in the history of the America than the outlaw Jesse James, who made his living robbing banks and trains. A folk hero, James remained an active outlaw until April 3, 1882, when he was shot in the back by Bob Ford, a fellow gang member, who did the deed in order to claim a \$5,000 reward. Folk tales aside, James was in fact more of an impulsive killer than a latter-day Robin Hood: In September 1864, during the Civil War, Jesse, riding with the guerilla band led by Bloody Bill Anderson, held up a train in the town of Centralia, Missouri, and helped to kill 22 unarmed Union soldiers on board.<sup>4</sup> The James gang was not the only band of outlaws that plied its trade in the Old West. Train robbery was popularized by the Reno brothers in Indiana and perfected by Kid Curry (Harvey Alexander Logan), Butch Cassidy (Robert Leroy Parker), and the Sundance Kid (Harry Alonzo Longabaugh). Legend has it that Butch and Sundance fled from Wyoming to Bolivia to hide out and rob banks and were killed by soldiers in a 1908 shootout. But there are some who believe they sneaked back into the United States and lived quiet lives until their deaths in the 1930s!

Facing these outlaws were an equally colorful group of lawmen who developed reputations that have persisted for more than a century. Of these, none is more famous than Wyatt Earp. In 1876 he became chief deputy marshal of Dodge City, Kansas, a lawless frontier town, and he later moved on to Deadwood, in the Dakota Territory. In 1879 Earp and his brothers Morgan and Virgil journeyed to Tombstone, Arizona, where he eventually was appointed acting deputy U.S. marshal for the Arizona Territory. The Earps, along with their gunslinging dentist friend, Doc Holliday, participated in the famous O.K. Corral gunfight in 1881, during which they killed several members of a rustler gang known as the Cowboys.

## Crime in the Cities

The Old West was not the only area where gang activity flourished. In East Coast cities, gangs bearing colorful names such as the Hudson Dusters and the Shirt-tails battled rivals for control of the streets. In New York City, many gangs, including the Plug Uglies, the Swamp Angels, the Daybreak Boys, and the Bowery Boys, competed for dominance in the Five Point section of the lower East Side. Gang battles were extremely brutal, and men were killed with knives, hatchets, cleavers, and anything else that could puncture or slice flesh. One gang leader, William Poole, who was born in 1821, followed in his father's footsteps, opening a New York City butcher shop. In the 1850s his local street gang became the enforcers for the anti-immigrant Know-Nothing or Native American Party. In 1854 Poole, who was also known as "Bill the Butcher," severely beat John Morrissey, an Irish gang leader. Morrissey and his boys swore vengeance and fatally shot Poole on February 25, 1855, at Stanwix Hall in New York. As legend has it, Poole's dying words were "Good-bye, boys: I die a true American!"<sup>5</sup> Poole's story was told in the 2002 film *Gangs of New York*.

The Civil War also produced widespread business crime. The great robber barons bribed government officials and plotted to corner markets and obtain concessions for railroads, favorable land deals, and mining and mineral rights on government land. The administration of President Ulysses S. Grant was tainted by numerous corruption scandals.

From 1900 to 1935, the nation experienced a sustained increase in criminal activity. This period was dominated by Depression-era outlaws who later became mythic figures. Charles "Pretty Boy" Floyd was a folk hero among the sharecroppers of eastern Oklahoma, and the whole nation eagerly followed the exploits of its premier bank robber, John Dillinger, until he was killed in front of a Chicago movie house. The infamous "Ma" Barker and her sons Lloyd, Herman, Fred, and Arthur are believed responsible for killing more than 10 people, and Bonnie Parker and Clyde Barrow killed more than 13 before they were slain in a shootout with federal agents.

The crime problem, then, is not a recent phenomenon; it has been evolving along with the nation itself. Crime has provided a mechanism for the frustrated to vent their anger, for business leaders to maintain their position of wealth and power, and for those outside the economic mainstream to take a shortcut to the American dream. To protect itself from this ongoing assault, the public has supported the development of a wide array of government agencies whose stated purpose is to control and prevent crime; to identify, apprehend, and bring to trial those who violate the law; and to devise effective methods of criminal correction. These agencies make up the criminal justice system.

## CREATING CRIMINAL JUSTICE

The debate over the proper course for effective crime control can be traced back to the publication in 1764 of Cesare Beccaria's famous treatise *On Crime and Punishments*. Beccaria, an Italian social philosopher, made a persuasive argument against the use of torture and capital punishment, common practices in the eighteenth century. He argued that only the minimum amount of punishment was needed to control crime if criminals could be convinced that their violations of law were certain to be discovered and punished.<sup>6</sup> Beccaria's work provides a blueprint for criminal justice: Potential law violators would most certainly be deterred if agencies of government could swiftly detect, try, and punish anyone foolish enough to violate the criminal law.

It was not until 1829, however, that the first police agency, the London Metropolitan Police, was created both to keep the peace and to identify and apprehend criminal suspects. A huge success in England, police agencies began to appear in the United States during the mid-nineteenth century. Another nineteenth-century innovation, the penitentiary (or prison) was considered a liberal reform that replaced physical punishments.

Although significant and far reaching, these changes were isolated developments. As criminal justice developed over the next century, these fledgling agencies of justice rarely worked together in a systematic fashion. It was not until 1919—when the Chicago Crime Commission, a professional association funded by private contributions, was created—that the work of the criminal justice system began to be recognized.<sup>7</sup> The Chicago Crime Commission acted as a citizens' advocate group and kept track of the activities of local justice agencies. The commission still carries out its work today and is active in administering anti-crime programs.<sup>8</sup>

In 1931 President Herbert Hoover appointed the National Commission of Law Observance and Enforcement, which is commonly known as the Wickersham Commission. This national study group made a detailed analysis of the U.S. justice system and helped usher in the era of treatment and rehabilitation. Its final report found that thousands of rules and regulations govern the system, making it difficult for justice personnel to navigate the system's legal and administrative complexity. Some of the problems the commission encountered are still with us today: controlling illegal substances, the risk of compromising individual liberties, limiting the costs of justice, and recognizing cultural differences within society.<sup>9</sup>

The modern era of criminal justice can be traced to a series of research projects, begun in the 1950s, under the sponsorship of the American Bar Foundation (ABF).<sup>10</sup> Originally designed to provide in-depth analysis of the organization, administration, and operation of criminal justice agencies, the ABF project discovered that the justice system contained many procedures that had been kept hidden from the public view. The research focus then shifted to an examination of these previously obscure processes—investigation, arrest, prosecution, and plea negotiations. Justice professionals had a great deal of latitude in decision making, and how this discretion was used became a prime focus of the research

effort. For the first time, the term “criminal justice system” began to be used, reflecting a view that justice agencies could be connected in an intricate, yet often unobserved, network of decision-making processes.

## Federal Involvement

In 1967 the President’s Commission on Law Enforcement and Administration of Justice (the Crime Commission), which had been created by President Lyndon B. Johnson, published its final report, *The Challenge of Crime in a Free Society*.<sup>11</sup> This group of practitioners, educators, and attorneys had been charged with creating a comprehensive view of the criminal justice process and recommending reforms. Concomitantly, Congress passed the Safe Streets and Crime Control Act of 1968, providing for the expenditure of federal funds for state and local crime control efforts.<sup>12</sup> This act helped launch a massive campaign to restructure the justice system. It funded the National Institute of Law Enforcement and Criminal Justice, which encouraged research and development in criminal justice. Renamed the National Institute of Justice in 1979, it has remained a major source of funding for the implementation and evaluation of innovative experimental and demonstration projects in the criminal justice system.<sup>13</sup>

The Safe Streets Act provided funding for the **Law Enforcement Assistance Administration (LEAA)**, which, throughout its 14-year history, granted hundreds of millions of dollars in federal aid to local and state justice agencies. On April 15, 1982, the program came to an end when Congress ceased funding it. Although the LEAA attracted its share of criticism, it supported many worthwhile programs, including the development of a vast number of criminal justice departments in colleges and universities and the use of technology in the criminal justice system.

### Law Enforcement Assistance Administration (LEAA)

Federal agency that provided technical assistance and hundreds of millions of dollars in aid to state and local justice agencies between 1969 and 1982.

## Evidence-Based Justice: A Scientific Evolution

With continued funding from federal agencies such as the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Bureau of Justice Statistics—as well as from private foundations such as the Pew and Annie E. Casey foundations—the study of criminal justice has embraced careful research analysis to support public policy initiatives. Whereas programs, policies, and procedures may have been shaped by political goals in the past, a mature justice system now relies more on the scientific collection of data to determine whether programs work and what policies should be adopted. According to this “What Works” movement,<sup>14</sup> empirical evidence, carefully gathered using careful scientific methods, must be collected and analyzed in order to determine whether criminal justice programs work and whether they actually reduce crime rates and offender recidivism. Programs must now undergo rigorous review to ensure that they achieve their stated goals and have a real and measurable effect on behavior.

**Evidence-based justice** efforts have a few unifying principles:<sup>15</sup>

1. **Target audience.** Programs must be reaching the right audience. A drug treatment program that is used with groups of college students caught smoking pot may look successful, but can it work with hard-core substance abusers? It is important for programs to work with high-risk offenders who have the greatest probability of recidivating. Targeting low-risk offenders may make programs look good, but it really proves little because the client group might not have repeated their criminal offenses even if left untreated.
2. **Randomized experiments.** Whenever possible, random experiments are conducted. Two groups of drug users are randomly selected, the first group is placed in the special treatment program, and the other is treated in a traditional fashion, such as being put in prison. If the recidivism rates of the experimental group are superior, we have strong evidence that the novel treatment method really works. Although it is sometimes difficult to select

### evidence-based justice

Determining whether criminal justice programs actually reduce crime rates and offender recidivism through the use of the scientific method.



- subjects randomly, other methods (such as matching subjects on key characteristics such as age, race, gender, and prior record) can be substituted.
3. *Intervening factors.* Evidence-based programming must consider intervening factors that enhance or impede program success. A community-based crime prevention program that is used in a high-income neighborhood may be met with general approval and prove effective in reducing local problems, such as kids drinking at night in the local park. But will the program work in a high-crime area where well-armed gangs frighten residents? Conversely, a program that is deemed a failure with a group of at-risk kids living in an inner-city neighborhood, may work quite well with at-risk youngsters living in a rural environment.
  4. *Measurement of success.* Evidence-based programs must develop realistic measures of success. For example, a treatment may seem to work, but careful analysis might reveal that the effect quickly wears off; long-term measures of program effectiveness are needed. Program retention must also be considered: A program for teens may seem to work because those who complete the program are less likely to commit crime in the future. But before success is declared and the program is adopted on a national level, research must closely evaluate such issues as the dropout rate: Are potential failures removed before the program is completed in order to ensure overall success (and continued funding)? And what about selectivity? Is the program open to everyone, including repeat offenders, or is it limited to people who are considered to have the greatest potential for success?
  5. *Cost-effectiveness.* Programs may work, but the cost may be too high. In an era of tight budgets, program effectiveness must be balanced with cost. It is not enough for a program to be effective; it must also prove to be efficient.

These are but a few of the issues being considered today under the umbrella of evidence-based justice. Some well-known programs and policies that are both popular and have high visibility, such as the school-based Drug Abuse and Resistance Education (DARE) program, have been questioned because scientific evidence shows that the best intentions do not necessarily result in the best practice.<sup>16</sup> In addition, scientific research is now being used to dispute commonly held beliefs that may be misleading and erroneous. Throughout the text, we will highlight programs that have passed careful, evidence-based evaluations *and* some that have failed to stand up to such scrutiny.

## THE CONTEMPORARY CRIMINAL JUSTICE SYSTEM

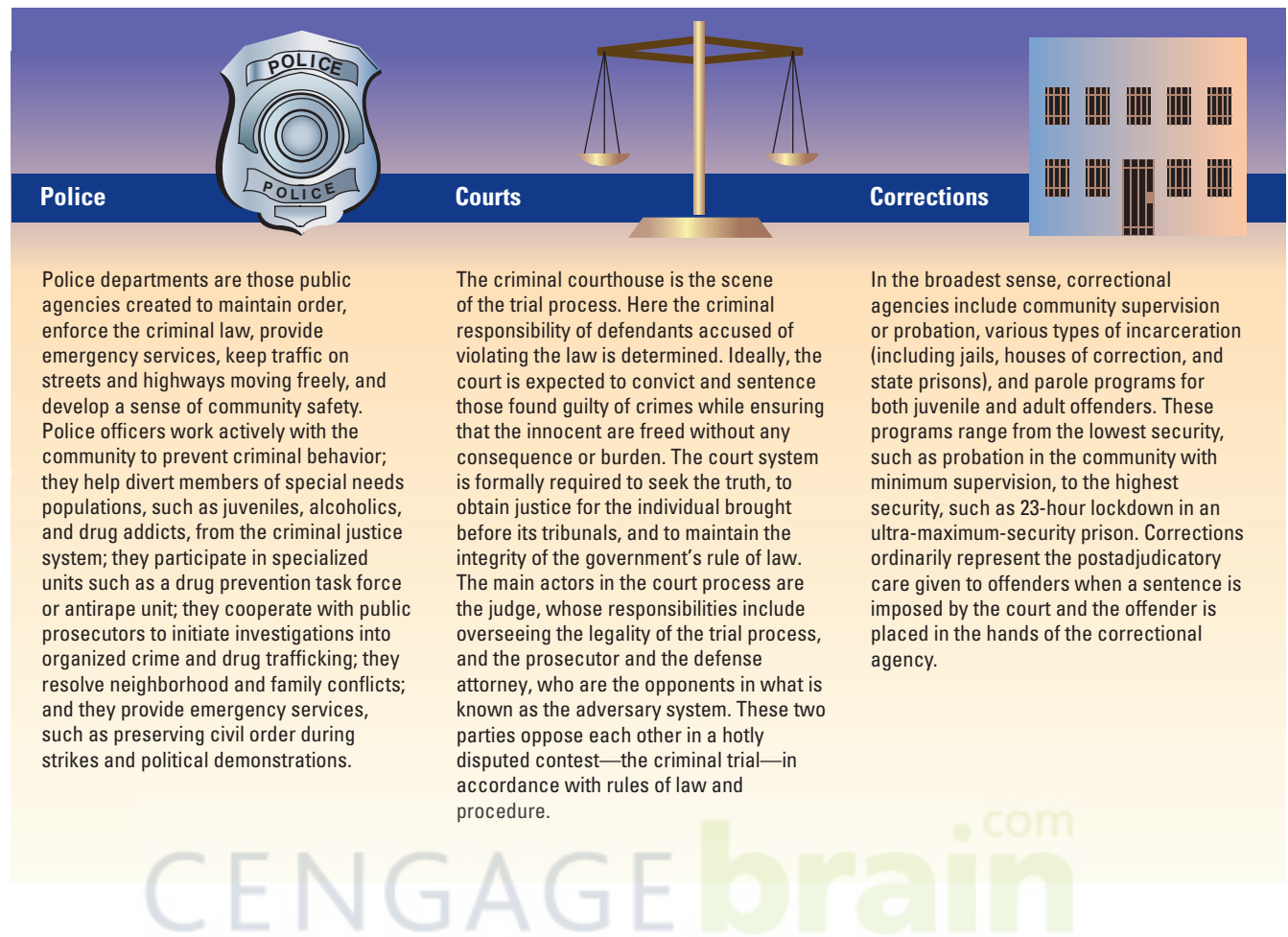
The contemporary criminal justice system is society's instrument of social control. Some behaviors are considered so dangerous that they must be either strictly controlled or outlawed outright; some people are so destructive that they must be monitored or even confined. The agencies of justice seek to prevent or reduce outlawed behavior by apprehending, adjudicating, and sanctioning lawbreakers. Society maintains other forms of informal **social control**, such as parental and school discipline, but these are designed to deal with moral—not legal—misbehavior. Only the criminal justice system has the power to control crime and punish outlawed behavior through the arm of the criminal law.

The contemporary criminal justice system can be divided into three main components: law enforcement agencies, which investigate crimes and apprehend suspects (see the accompanying Careers in Criminal Justice feature); the court system, which charges, indicts, tries, and sentences offenders; and the correctional system, which incapacitates convicted offenders and attempts to aid in their treatment and rehabilitation (see Figure 1.1).

### social control

A society's ability to control individual behavior in order to serve the best interests and welfare of the society as a whole.

**FIGURE 1.1**  
Components of the Criminal Justice System



Criminal justice agencies are political entities whose structure and function are lodged within the legislative, judicial, and executive branches of the government:

- **Legislative.** Under our current justice system, the legislature defines the law by determining what conduct is prohibited and establishes criminal penalties for those who violate the law. The legislative branch of government helps shape justice policy by creating appropriations for criminal justice agencies and acting as a forum for the public expression of views on criminal justice issues.
- **Judicial.** The judiciary interprets existing laws and determines whether they meet constitutional requirements. It also oversees criminal justice practices and has the power to determine whether existing operations fall within the bounds of the state constitution and, ultimately, the U.S. Constitution. The courts have the right to overturn or ban policies that conflict with constitutional rights.
- **Executive.** The executive branch of government is responsible for the day-to-day operation of justice agencies. It does not make or interpret the laws but is trusted with their enforcement. In this capacity, it must create and oversee the agencies of justice, determine their budget, and guide their direction and objectives. Laws cannot be enforced unless the executive supplies crime control agencies with sufficient funding to support their efforts.



## CAREERS IN CRIMINAL JUSTICE

### Police Officer

#### Duties and Characteristics of the Job

Police officers are responsible for enforcing the written laws and ordinances of their jurisdiction. Police officers patrol within their jurisdiction and respond to calls wherever police attention is needed. Duties can be routine, such as writing a speeding ticket, or more involved, such as responding to a domestic disturbance or investigating a robbery. Their nonpatrol duties include testifying in court and writing reports of their



© AP Photo/Elaine Thompson

On November 30, 2009, in the Leschi neighborhood of Seattle, sheriff's deputies look over a rifle they removed from the home of Maurice Clemmons, a career criminal, who was a suspect in the slaying of four Lakewood, Washington, police officers. After evading police for two days following the shooting, Clemmons was shot and killed by a police officer in Seattle. Police work can be dangerous, and even though shootouts are uncommon, a police officer must be prepared for the use of violence as part of the job.

law enforcement actions. Some officers will choose or be chosen to work in specialized units such as the well-known special weapons and tactics (SWAT) teams or canine (K9) corps.

Police officers patrol jurisdictions of various sizes and have varying duties based on the nature of their jurisdiction. For example, sheriffs and their deputies enforce the laws within a county. State police primarily patrol state highways and respond to calls for backup from police units across their state. Institutions such as colleges and universities often have their own police forces as well, which enforce laws and rules in this specific area.

Police work can be an intense and stressful job; it sometimes entails encounters with hostile and potentially violent people. Police are asked to put their lives on the line to preserve order and safety. Their actions are watched closely and reflect upon their entire department. Because the places that police protect must be watched at all times, police work shifts may fall on weekends and holidays. Quite often it is the younger police officers who take these less desirable shifts. Additionally, police officers often have to work overtime; 45-hour workweeks are common.

#### Job Outlook

Government spending ultimately determines how many officers a department has. Overall opportunities in local police departments will be excellent for individuals who meet the stringent psychological, personal, and physical qualifications. Many openings are created by the need to replace workers who retire and those who leave local agencies for federal jobs or for employment in private-sector security.

### Scope of the System

Because of its varied and complex mission, the contemporary criminal justice system in the United States is monumental in size. It now costs federal, state, and local governments more than \$200 billion per year for civil and criminal justice—up more than 300 percent since 1982 (Figure 1.2).

As Figure 1.3 shows, the greatest increase in spending has been for correctional services. Over the past decade, state jurisdictions have conducted a massive correctional building campaign, adding tens of thousands of prison cells. It costs about \$70,000 to build a prison cell, and about \$22,000 per year is needed to keep an inmate in prison. Juvenile institutions cost about \$30,000 per year per resident.

Per capita expenditure across the three government types and criminal justice functions is now more than \$720 each year for every American! One reason why

Most police officers are employed at the local level, so this is where a majority of the jobs are found. There are generally more opportunities for employment in larger departments, such as those that serve large urban or suburban areas. Not surprisingly, most opportunities exist in areas with comparatively high crime rates or low salaries.

### Salary

The most recent data available indicates that police and sheriffs' patrol officers have annual wages of more than \$51,000. The lowest-paid 10 percent earned about \$30,000, and the highest-paid 10 percent earned about \$80,000. Median annual wages were about \$46,000 in federal government, \$57,000 in state government, and \$51,000 in local government. Officers, of course, made more:

Position	Minimum salary	Maximum salary
Police chief	\$90,570	\$113,930
Deputy chief	74,834	96,209
Police captain	72,761	91,178
Police lieutenant	65,688	79,268
Police sergeant	58,739	70,349
Police corporal	49,421	61,173

### Opportunities

Police work is often appealing to many because of the good benefits and retirement policies. These factors may contribute to the fact that for the better-paying positions, such as state police, there may be more applicants than available positions. This competition means that those with qualifications such as a college education will have a better chance of being hired. After several years, those with the proper education who build a reputation for good

work can rise in the ranks of their department or be assigned to other desirable positions, such as detective or investigator.

### Qualifications

To be a police officer, you must be in good shape mentally and physically, as well as meet certain education requirements and pass written tests. New police officers undergo thorough, rigorous training and testing—normally by spending 12 to 14 weeks at a local police academy—before they go out on the streets. During training, new officers learn diverse skills that will be necessary for their job, such as knowledge of laws and individual rights, self-defense, and first aid. Applicants can also expect to be asked to pass lie detector and drug tests.

Because of the enormous responsibility associated with being a police officer, certain personal qualities are considered indispensable for future officers. These include responsibility, good communication skills, good judgment, and the ability to make quick decisions.

### Education and Training

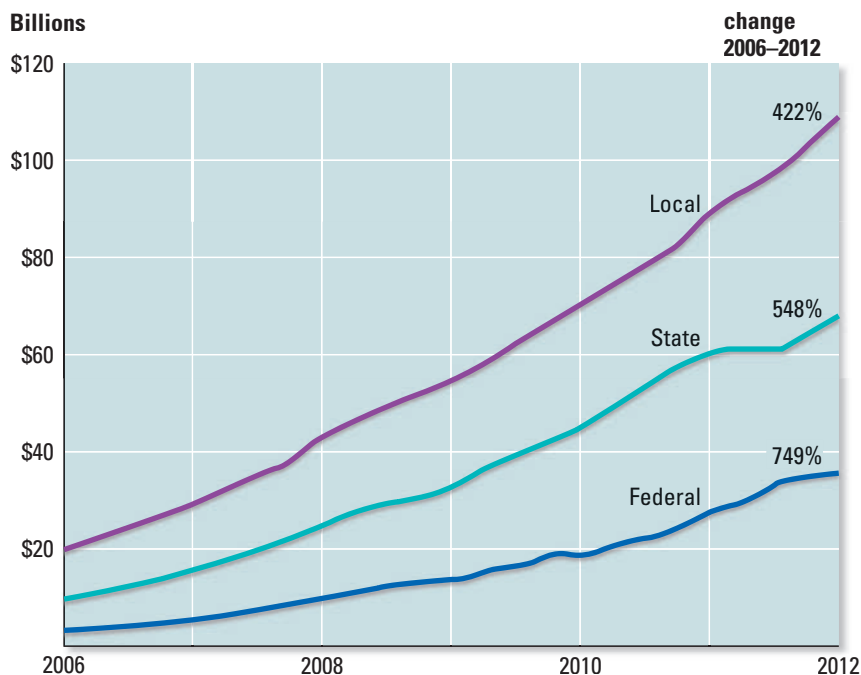
In most cases, one needs a high school diploma to be a police officer, but more and more jurisdictions are requiring at least some college education. Some college credits may be enough for an applicant to obtain a position on the police force, but more education, generally in the form of a bachelor's degree in a relevant field (especially criminal justice) is necessary for being promoted and moving up in rank.

Sources: "Police and Detectives," *Occupational Outlook Handbook*, 2010–2011 edition (Bureau of Labor Statistics, U.S. Department of Labor), retrieved March 16, 2010, from [www.bls.gov/oco/ocos160.htm](http://www.bls.gov/oco/ocos160.htm).

the justice system is so expensive to run is that it employs more than 2.4 million people in thousands of independent law enforcement, court-related, and correctional agencies. The nation now has almost 18,000 law enforcement agencies, including more than 12,000 local police departments, 3,000 county sheriffs' offices, and 49 state police departments (every state has one except Hawaii). In addition, there are 2,000 other specialized law enforcement agencies ranging from transit police in large cities to county constables.

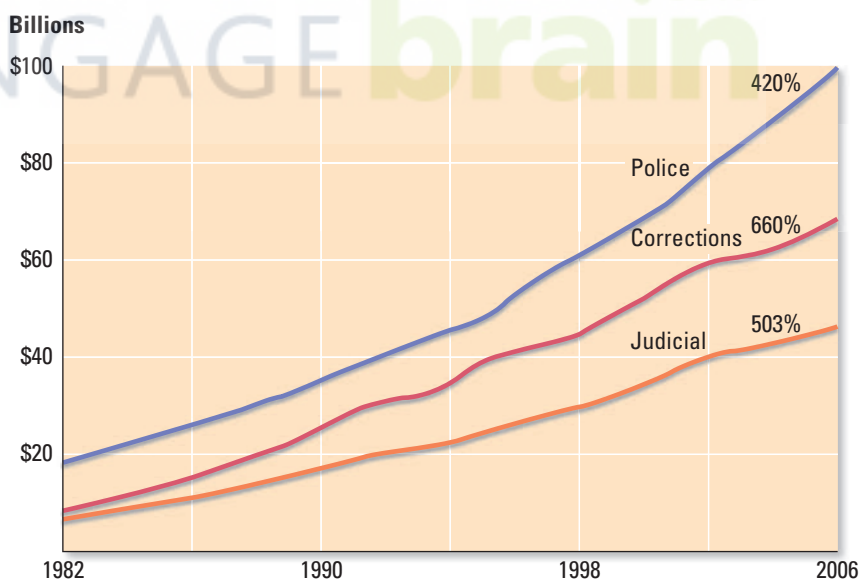
These police and law enforcement agencies now employ more than a million people; more than 700,000 are sworn personnel with general arrest powers, and the rest are civilian employees. Of these, about 600,000 are in local agencies, 330,000 work in county sheriffs' offices, and the rest (90,000) work for state police.<sup>17</sup> There are nearly 17,000 courts; more than 8,000 prosecutorial agencies employ around 80,000 people; and about 1,200 correctional institutions (such as

**FIGURE 1.2**  
Direct Expenditure by Level of Government



Source: Bureau of Justice Statistics, *Justice Expenditure and Employment Extracts*, <http://bjs.ojp.usdoj.gov/content/glance/exptyp.cfm>.

**FIGURE 1.3**  
Direct Expenditure by Criminal Justice Function



Source: Bureau of Justice Statistics, *Justice Expenditure and Employment Extracts*, <http://bjs.ojp.usdoj.gov/content/glance/exptyp.cfm>.

jails, prisons, and detention centers) employ around half a million people. There are also thousands of community corrections agencies, including more than 3,500 probation and parole departments (see Exhibit 1.1).

The system is massive because it must process, treat, and care for millions of people. Although the crime rate has declined substantially in the past decade,

EXHIBIT 1.1

**Elements of the Correctional System**

**Probation**—Court-ordered community supervision of convicted offenders by a probation agency. Offenders on probation are required to obey specific rules of conduct while in the community.

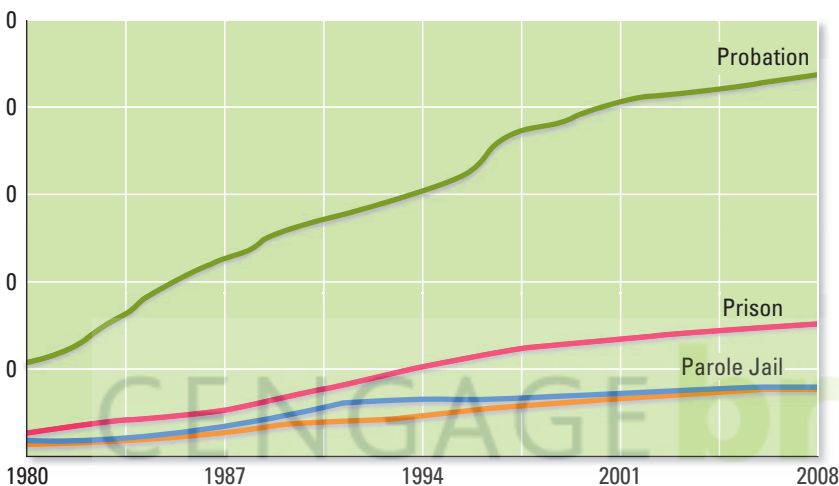
**Prison**—A state or federal correctional facility that houses convicted criminals sentenced to a period of confinement that is typically more than one year.

**Jail**—A county correctional facility that holds people pending trial, awaiting sentencing, serving a sentence that is usually less than one year, or awaiting transfer to other facilities after conviction.

**Parole**—Community supervision after a period of incarceration.

**FIGURE 1.4**  
Adult Correctional Populations

Adult correctional populations, 1980–2008



Source: Bureau of Justice Statistics, *Correctional Surveys*, <http://bjs.ojp.usdoj.gov/content/glance/corr2.cfm>.

**CourseMate** For more information about **data on the criminal justice system**, visit the Criminal Justice CourseMate at [CengageBrain.com](http://CengageBrain.com), then access the “Web Links” for this chapter.

more than 14 million people are still being arrested each year, including more than 2 million for serious felony offenses.<sup>16</sup> In addition, the juvenile courts handle about 1.5 million juveniles. Today, state and federal courts convict a total of over 1 million adults on felony charges.<sup>19</sup> It is not surprising, considering these numbers, that today more than 7 million people are under some form of correctional supervision, including 2 million men and women in the nation’s jails and prisons and an additional 5 million adult men and women being supervised in the community while on probation or parole (see Figure 1.4). How can this trend be explained? The answer is that people are more likely to be convicted than in the past and, if sent to prison or jail, to serve more of their sentence (Table 1.1). The cost of corrections is now about \$68 billion per year, a cost of about \$30,000 per inmate, reinforcing the old saying that “It costs more to put a person in the state pen than to send a student to Penn State.”

**TABLE 1.1**

**Number and Rate of Persons Sentenced in State Courts for Committing a Felony**

Year	Estimated Number	Rate per 100,000 Residents Age 18 or Older
1990	829,340	447
1994	872,220	448
1998	927,720	454
2002	1,051,000	489
2006	1,132,290	503

Source: Matthew R. Durose, Donald Farole, and Sean P. Rosenmerkel, *Felony Sentences in State Courts, 2006* (Washington, D.C.: Bureau of Justice Statistics, 2009), <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=2152>.

## THE FORMAL CRIMINAL JUSTICE PROCESS

Another way of understanding criminal justice is to view it as a process that takes an offender through a series of decision points beginning with arrest and concluding with reentry into society. During this process, key decision makers resolve whether to maintain the offender in the system or to discharge the suspect without further action. This decision making is often a matter of individual discretion, based on a variety of factors and perceptions. Legal factors, including the seriousness of the charges, available evidence, and the suspect's prior record, are usually considered legitimate influences on decision making. Troubling is the fact that the suspect's race, gender, class, and age may also influence decision outcomes. Critics believe that such extralegal factors determine the direction a case will take, whereas supporters argue that the system is relatively fair and unbiased.<sup>20</sup>

In reality, few cases are actually processed through the entire formal justice system. Most are handled informally and with dispatch. The system of justice has been roundly criticized for its “backroom deals” and bargain justice. It is true that most criminal suspects are treated informally, but more important is the fact that every defendant charged with a serious crime is entitled to a full range of legal rights and constitutional protections.

### Formal Procedures

The formal criminal process includes a complex series of steps, from initial contact to postrelease.

**INITIAL CONTACT** In most instances, an offender's initial contact with the criminal justice system takes place as a result of a police action:

- Patrol officers observe a person acting suspiciously, conclude the suspect is under the influence of drugs, and take her into custody.
- Police officers are contacted by a victim who reports a robbery; they respond by going to the scene of the crime and apprehending a suspect.
- An informer tells police about some ongoing criminal activity in order to receive favorable treatment.
- Responding to a request by the mayor or other political figure, the local department may initiate an investigation into an ongoing criminal enterprise such as gambling, prostitution, or drug trafficking.
- A person walks into the police station and confesses to committing a crime—for example, he killed his wife after an altercation.

Initial contact can also be initiated by citizens when no crime is involved—for example, when a parent files a petition in juvenile court alleging that his child is beyond control and needs to be placed in a state detention facility.

**INVESTIGATION** The purpose of the criminal investigation is to gather enough evidence to identify a suspect and support a legal arrest. An investigation can take just a few minutes, as when a police officer sees a crime in progress and apprehends the suspect quickly. Or it can take many years and involve hundreds of law enforcement agents. Dennis Rader, the notorious BTK (Bind, Torture, Kill) serial killer, began his murderous streak in 1974 and was finally apprehended in 2005 after an investigation that lasted more than 20 years.<sup>21</sup>

During the investigatory stage, police officers gather information in an effort to identify the perpetrator of a crime, understand the perpetrator's methods and motives, and determine whether the crime was an individual event or one of many similar crimes committed by a single individual. Gathering information means engaging in such activities as interviewing victims and witnesses at the

crime scene, canvassing the neighborhood to locate additional witnesses, securing the crime scene, and then conducting a thorough search for physical evidence, such as weapons, fluids, and fingerprints.

Experienced officers recognize that all material gathered during a criminal investigation must be carefully collected, recorded, classified, processed, and stored. Because they may have to testify at trial under strict rules of evidence, they know that even early in the investigatory process, all evidence must be marked for identification and protectively packaged. If the police fail to follow proper procedures, the “chain of evidence” may be broken, tainting the evidence and making it inadmissible in court. Similarly, police must follow proper procedures while interviewing and/or searching suspects, being careful to uphold the constitutionally guaranteed right to privacy. If police overstep the boundaries set by the law to protect the rights of the accused, relevant information may later be excluded from trial.

**ARREST** An arrest is considered legal when all of the following conditions exist:

- The police officer believes there is sufficient evidence, referred to as “probable cause,” that a crime is being or has been committed and that the suspect is the person who committed it.
- The officer deprives the individual of freedom.
- The suspect believes that he is now in the custody of the police and has lost his liberty. The police officer is not required to use the word “arrest” or any similar term to initiate an arrest, nor does the officer have to handcuff or restrain the suspect or bring him to the police station.

Under most circumstances, to make an arrest in a misdemeanor, the officer must have witnessed the crime personally, a principle known as the **in-presence requirement**. However, some jurisdictions have waived the in-presence requirement in specific classes of crimes, such as domestic violence offenses, enabling police officers to take formal action after the crime has been committed even if they were not present when it occurred. Arrests can also be made when a magistrate, presented with sufficient evidence by police and prosecutors, issues a warrant authorizing the arrest of the suspect.

#### **in-presence requirement**

The principle that in order to make an arrest in a misdemeanor, the arresting officer must have personally witnessed the crime being committed.

**CUSTODY** After an arrest and while the suspect is being detained, the police may wish to search for evidence, conduct an interrogation, or even encourage a confession. Witnesses may be brought to view the suspect in a lineup or in a one-on-one confrontation. Because these procedures are so crucial and can have a great impact at trial, the U.S. Supreme Court has granted suspects in police custody protection from the unconstitutional abuse of police power, such as illegal searches and intimidating interrogations. If a suspect who is under arrest is to be questioned about her involvement in or knowledge of a crime, the police must advise her of her right to remain silent and inform her that she is under no obligation to answer questions. Furthermore, recognizing that the police can take advantage of or exploit the suspect’s psychological distress, the Court has ordered interrogating officers to advise the suspect that she is entitled to have a lawyer present and that the state will provide one at no charge if she cannot afford legal services. This so-called **Miranda warning** must be given if the police intend to use the answers against the person in a criminal case. If the arrested person chooses to remain silent, the questioning must stop. (*Miranda* will be discussed further in Chapter 8.)

#### **Miranda warning**

*Miranda v. Arizona* established that suspects under arrest must be advised that they have no obligation to answer questions and that they are entitled to have a lawyer present during questioning, if necessary, at no expense to themselves.

**CHARGING** If the arresting officers or their superiors believe that sufficient evidence exists to charge a person with a crime, the case will be turned over to the prosecutor’s office. The prosecutor’s decision whether to charge the suspect with a specific criminal act involves many factors, including evidence sufficiency, crime seriousness, case pressure, and political issues, as well as personal factors such as a prosecutor’s own specific interests and biases.



**nolle prosequi**

The term used when a prosecutor decides to drop a case after a complaint has been formally made. Reasons for a nolle prosequi include evidence insufficiency, reluctance of witnesses to testify, police error, and office policy.

**grand jury**

A type of jury responsible for investigating alleged crimes, examining evidence, and issuing indictments.

**true bill of indictment**

A written statement charging a defendant with the commission of a crime, drawn up by a prosecuting attorney and considered by a grand jury. If the grand jury finds sufficient evidence to support the indictment, it will issue a true bill of indictment.

Charging is a critical decision in the justice process. Depending on the prosecutor's interpretation of the case, the suspect could be charged with a felony or a misdemeanor, and the subsequent differences between the charges can be vast. It is also possible that after conducting a preliminary investigation of its legal merits, prosecutors may decide to take no further action in a case; this is referred to as a **nolle prosequi**.

**PRELIMINARY HEARING/GRAND JURY** Created in England in the twelfth century, the grand jury's original purpose was to act as a buffer between the king (and his prosecutors) and the common citizen. The practice was instituted in the colonies, and later the U.S. Constitution mandated that before a trial can take place, the government must first show probable cause to believe that the accused committed the crime for which he is being charged. In about half the states and in the federal system, this determination is made by a grand jury in a closed hearing. In its most classic form, the **grand jury** consists of 12 to 23 persons, who convene in private session to evaluate accusations against the accused and determine whether the evidence warrants further legal action. If the prosecution can present sufficient evidence, the grand jury will issue a **true bill of indictment**, which specifies the exact charges on which the accused must stand trial.

In some instances, and especially in the federal system, prosecutors have used the grand jury as an investigative instrument directed against ongoing criminal conspiracies, including racketeering and political corruption. In this capacity, the grand jury has wide, sweeping, and almost unrestricted power to subpoena witnesses, solicit their testimony, and hand down indictments. Because the power to use the grand jury in this way is virtually in complete control of the prosecutor, and thus its proper application depends on his or her good faith, critics have warned of abuse and potential "witch hunts."<sup>22</sup>

In most states (and ironically in England, where the practice began), the grand jury system has been either replaced or supplemented by the preliminary hearing. In a preliminary hearing, the prosecution files a charging document (usually called an "information") before a lower trial court, which then conducts an open hearing on the merits of the case. During this procedure, which is often referred to as a "probable cause hearing," the defendant and the defendant's attorney may appear and dispute the prosecutor's charges. The suspect will be called to stand trial if the presiding magistrate or judge accepts the prosecutor's evidence as factual and sufficient.

Both the grand jury and the preliminary hearing are designed to protect citizens from malicious or false prosecutions that can damage their reputations and cause them both financial distress and psychological anguish.

**ARRAIGNMENT** Before the trial begins, the defendant will be arraigned, or brought before the court that will hear the case. At this time, formal charges are read; the defendant is informed of his constitutional rights (the right to be represented by legal counsel and to have the state provide one if he is indigent); an initial plea (not guilty or guilty) is entered in the case; a trial date is set; and bail issues are considered.



© AP Images/Marcio Jose Sanchez

*Some jurisdictions maintain the grand jury system for indictments, whereas others now use preliminary hearings. The federal justice system still employs the grand jury. Former San Francisco Giants baseball player Barry Bonds arrives at the federal courthouse in San Francisco, California, on June 6, 2008. Bonds pleaded not guilty to 15 felony charges of lying to a federal grand jury about his use of performance-enhancing drugs.*

**BAIL/DETENTION** Bail is a money bond levied to ensure the return of a criminal defendant for trial, allowing the defendant to remain in the community prior to trial. Defendants who do not show up for trial forfeit their bail. Those people who cannot afford to put up bail or who cannot borrow sufficient funds for it will remain in state custody prior to trial. In most instances, this means an extended stay in a county jail or house of correction. If they are stable members of the community and have committed nonviolent crimes, defendants may be released on their own recognizance (promise to the court), without bail.

**PLEA BARGAINING** After an arraignment, if not before, the defense and prosecution discuss a possible guilty plea in exchange for reducing or dropping some of the charges or agreeing to a request for a more lenient sentence or some other consideration, such as placement in a treatment facility rather than a maximum-security prison. It is generally accepted that almost 90 percent of all cases end in a plea bargain, rather than a criminal trial.

**TRIAL/ADJUDICATION** If an agreement cannot be reached or if the prosecution does not wish to arrange a negotiated settlement of the case, a criminal trial will be held before a judge (bench trial) or jury, who will decide whether the prosecution's evidence against the defendant is sufficient beyond a reasonable doubt to prove guilt. If a jury cannot reach a decision—that is, if it is deadlocked—the case is left unresolved, leaving the prosecution to decide whether it should be retried at a later date.

**SENTENCING/DISPOSITION** If after a criminal trial the accused has been found guilty as charged, he will be returned to court for sentencing. Possible dispositions may include a fine, probation, some form of community-based corrections, a period of incarceration in a penal institution, and, in rare instances, the death penalty.

**APPEAL/POSTCONVICTION REMEDIES** After conviction, the defense can ask the trial judge to set aside the jury's verdict because the jury has made a mistake of law, such as misinterpreting the judge's instructions or convicting on a charge that was not supported by the evidence. Failing that, the defendant may file an appeal if, after conviction, she believes that her constitutional rights were violated by errors in the trial process. Appellate courts review such issues as whether evidence was used properly, whether the judge conducted the trial in an approved fashion, whether jury selection was properly done, and whether the attorneys in the case acted appropriately. If the court finds that the appeal has merit, it can rule that the defendant be given a new trial or, in some instances, order her outright release.

**CORRECTIONAL TREATMENT** After sentencing, the offender is placed within the jurisdiction of state or federal correctional authorities. The offender may serve a probationary term, be placed in a community correctional facility, serve a term in a county jail, or be housed in a prison. During this stage of the criminal justice process, the offender may be asked to participate in rehabilitation programs designed to help her make a successful readjustment to society.

**RELEASE** Upon completion of the sentence and period of correction, the offender will be free to return to society. Most inmates do not serve the full term of their sentence but are freed through an early-release mechanism, such as parole or pardon, or by earning time off for good behavior. Offenders sentenced to community supervision simply finish their term and resume their lives in the community.

**POSTRELEASE** After termination of their correctional treatment, offenders may be asked to spend some time in a community correctional center, which acts as a bridge

between a secure treatment facility and absolute freedom. Offenders may find that their conviction has cost them some personal privileges, such as the right to hold certain kinds of employment. These may be returned by court order once the offenders have proved their trustworthiness and willingness to abide by society's rules.

## The Criminal Justice Assembly Line

To justice expert Herbert Packer, the image that comes to mind from the criminal justice process is an assembly-line conveyor belt down which moves an endless stream of cases, never stopping, carrying them to workers who stand at fixed stations and who perform, on each case as it comes by, the same small but essential operation that brings it one step closer to being a finished product—or, to exchange the metaphor for the reality, a closed file.<sup>23</sup> Criminal justice is seen as a screening process in which each successive stage (prearrest investigation, arrest, postarrest investigation, preparation for trial or entry of plea, conviction, disposition) involves a series of routinized operations whose success is gauged primarily by their ability to pass the case along to a successful conclusion.<sup>24</sup>

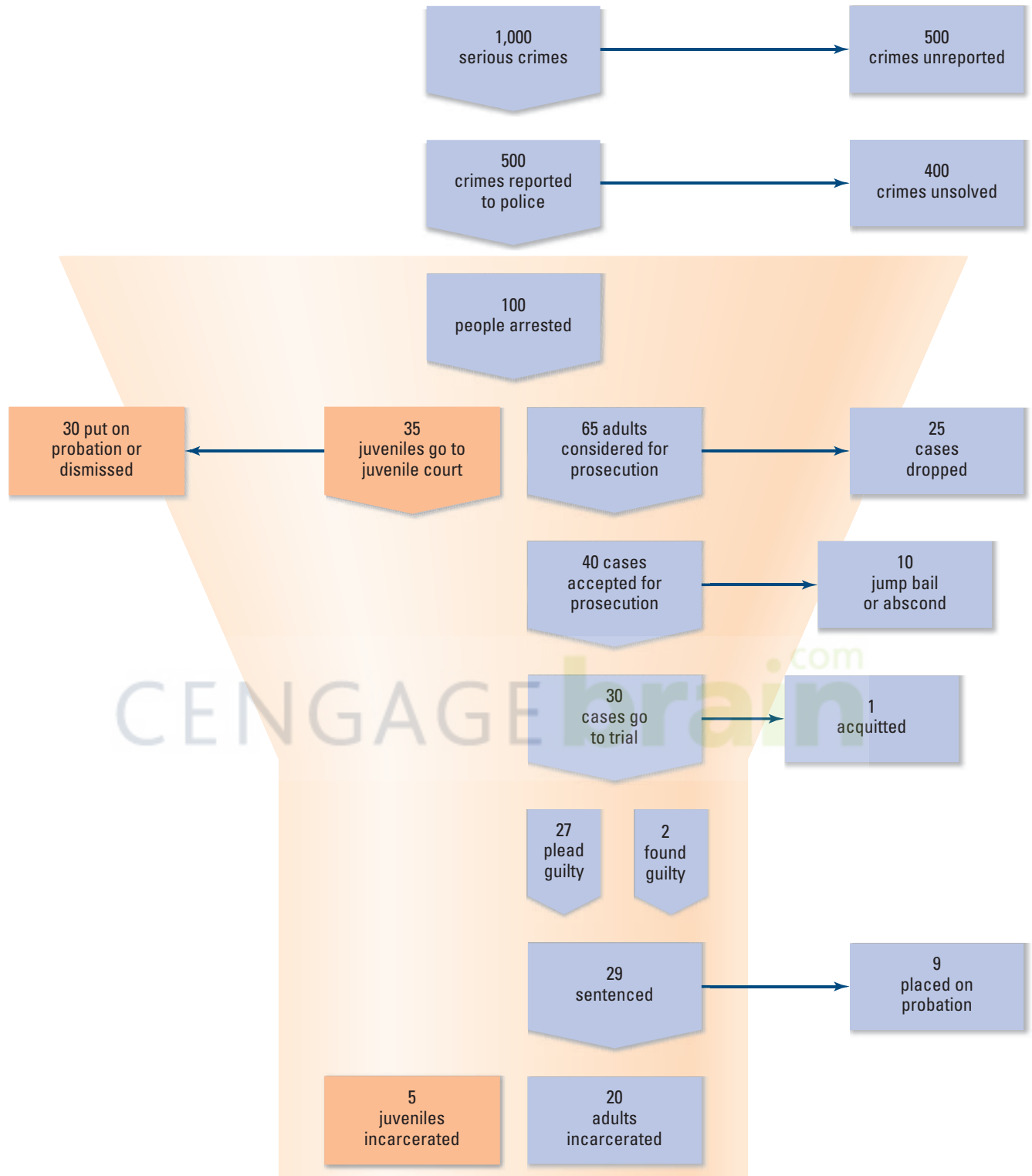
According to this view, each of the stages is a decision point through which cases flow. At the investigatory stage, police must decide whether to pursue the case or to terminate involvement because insufficient evidence exists to identify a suspect, because the case is considered trivial, or because the victim decides not to press charges. At the bail stage, a decision must be made whether to set bail so high that the defendant remains in custody, to set a moderate bail, or to release the defendant on her own recognizance. Each of these decisions can have a critical effect on the defendant, the justice system, and society. If an error is made, an innocent person may suffer or, conversely, a dangerous individual may be released to continue to prey upon the community.

In practice, many suspects are released before trial because of a procedural error, evidence problems, or other reasons that result in a case dismissal by the prosecutor (*nolle prosequi*). Although most cases that go to trial wind up in a conviction, others are dismissed by the presiding judge because of a witness's or complainant's failure to appear or because of procedural irregularities. Thus the justice process can be viewed as a funnel that holds many cases at its mouth and relatively few at its stem end.

Theoretically, nearly every part of the process requires that individual cases be disposed of as quickly as possible. However, the criminal justice process is slowed by congestion, inadequate facilities, limited resources, inefficiency, and the nature of governmental bureaucracy. When defendants are not processed smoothly, often because of the large caseloads and inadequate facilities that exist in many urban jurisdictions, the procedure breaks down, and the ultimate goal of a fair and efficient justice system cannot be achieved.

Figure 1.5 illustrates the approximate number of offenders removed from the criminal justice system at each stage of the process. As the figure shows, most people who commit crime escape detection, and of those who do not, relatively few are bound over for trial, convicted, and eventually sentenced to prison. However, more than a million people are convicted on felony charges each year—about 30 percent of all people arrested on felony charges. Researchers Matthew Durose, Donald Farole, and Sean Rosenmerkel found that about 69 percent of people convicted on felony charges are sentenced to a period of incarceration, either in state prison (41%) and or in a local jail (28%). Of the remainder, an estimated 27 percent received a probation sentence with no jail or prison time. Four percent of felons were not sentenced to any incarceration or probation but received a sentence that included fines, restitution, treatment, community service, or some other penalty (for example, house arrest or periodic drug testing).<sup>25</sup> The average prison sentence was about 5 years; most imprisoned felons are able to get out early via parole, early release for good behavior, or both. Concept Summary 1.1 shows the interrelationship of the component agencies of the criminal justice system and the criminal justice process.

**FIGURE 1.5**  
The Criminal Justice Funnel



Sources: Thomas H. Cohen and Tracey Kyckelhahn, *Felony Defendants in Large Urban Counties, 2006* (Washington, D.C.: Bureau of Justice Statistics, 2010); Matthew Durose, Donald Farole, and Sean Rosenmerkel, *Felony Sentences in State Courts, 2006* (Washington, D.C.: Bureau of Justice Statistics, 2009).



### CONCEPT SUMMARY 1.1

## *The Interrelationship of the Criminal Justice System and the Criminal Justice Process*

The System: Agencies of crime control	The Process
1. Police	1. Contact 2. Investigation 3. Arrest 4. Custody
2. Prosecution and defense	5. Complaint/charging 6. Grand jury/preliminary hearing 7. Arraignment 8. Bail/detention 9. Plea negotiations
3. Court	10. Adjudication 11. Disposition 12. Appeal/postconviction remedies
4. Corrections	13. Correction 14. Release 15. Postrelease

## THE INFORMAL CRIMINAL JUSTICE SYSTEM

The traditional model of the criminal justice system depicts the legal process as a series of decision points through which cases flow. Each stage of the system is defined by time-honored administrative procedures and controlled by the rule of law. The public's perception of the system, fueled by the media, is that it is composed of daredevil, crime-fighting police officers who never ask for overtime or sick leave, crusading district attorneys who stop at nothing to send the mob boss up the river, wily defense attorneys who neither ask clients for up-front cash nor cut short office visits to play golf, no-nonsense judges who are never inept political appointees, and tough wardens who rule the yard with an iron hand. Yet it would be overly simplistic to assume that the system works this way for every case. Although a few cases illustrate all the rights and procedures that make up the traditional, formal model, many are settled in an informal pattern of cooperation between the major actors in the justice process. For example, police may be willing to make a deal with a suspect to gain his cooperation, and the prosecutor may bargain with the defense attorney to get a plea of guilty as charged in return for a promise of leniency. Law enforcement agents and court officers are allowed tremendous discretion in their decisions whether to make an arrest, to bring formal charges, to handle a case informally, to substitute charges, and so on. Crowded courts operate in a spirit of getting the matter settled quickly and cleanly, instead of engaging in long, drawn-out criminal proceedings with an uncertain outcome.

The recognition of the informal justice process has spurred development of two concepts—the courtroom work group and the wedding cake model—that help us better understand how U.S. justice really operates.

## The Courtroom Work Group

Whereas the traditional model regards the justice process as an adversary proceeding in which the prosecution and defense are combatants, the majority of criminal cases are cooperative ventures in which all parties get together to work out a deal.

This **courtroom work group**, which is made up of the prosecutor, defense attorney, judge, and other court personnel, functions to streamline the process of justice through the extensive use of plea bargaining and other trial alternatives. Instead of looking to provide a spirited defense or prosecution, these legal agents (who have often attended the same schools, know one another, and have worked together for many years) try to work out a case to their own professional advantage. Their goal is to remove “unnecessary” delays and avoid formal trials at all costs. Because most defendants who have gotten this far in the system are assumed to be guilty, the goal is to process cases efficiently rather than to seek justice.

Political scientist David Neubauer has identified five essential ingredients of the courtroom work group:

1. *Shared decision making.* The legal process provides the trial judge with formal authority over the outcome of court proceedings. However, the judge’s reliance on other members for information about the case results in a shared decision-making process. Shared decision making allows the judge to remain the informal leader of the work group and also serves to diffuse blame for mistakes.
2. *Shared norms.* Each member of the work group agrees to behave in a predictable manner. The most important shared norm is shielding the work group from nonmembers; the greatest uncertainty comes from outsider contributors (such as witnesses and jurors) that work group members cannot control. There are standards of professional conduct (e.g., be firm in your decisions) and policy (e.g., all members agree on the seriousness of certain cases).
3. *Socialization.* Newcomers are taught the informal expectations of the work group as part of their orientation. Senior members who possess great formal authority, such as judges, may be oriented to work group methods by those with less authority, such as deputy clerks. The socialization process shapes the overall behavior of the group by limiting the use of judicial authority and by communicating the group’s informal work rules.
4. *Reward and sanction.* To be meaningful, group rules must be enforced. Group members who abide by the norms are rewarded; those who do not are sanctioned. Conformity to group norms is secured by both extending rewards and leveling sanctions.
5. *Goal modification.* Although all members share the goal of “doing justice,” that goal is often cloudy because of the difficulty in defining justice and in measuring whether it has been achieved. As a result, members pursue organizational objectives, such as disposing of cases efficiently rather than worrying about effectiveness.<sup>26</sup>

In most criminal cases, cooperation, not conflict, between prosecution and defense appears to be the norm. The adversarial process comes into play in only a few widely publicized criminal cases involving rape or murder. Consequently, more than 80 percent of all felony cases and over 90 percent of misdemeanors are settled without trial.

What has developed is a system in which criminal court experiences can be viewed as a training ground for young defense attorneys looking for seasoning and practice. It provides a means for newly established lawyers to receive government compensation for cases they take to get their practice going and as an

### courtroom work group

A term used to imply that all parties in the justice process work together in a cooperative effort to settle cases efficiently rather than to engage in a true adversarial procedure.

arena in which established firms can place their new associates for experience before they assign them to paying clients. Similarly, successful prosecutors often look forward to a political career or a highly paid partnership in a private firm. To further their career aspirations, prosecutors must develop and maintain a winning track record in criminal cases. Although the courtroom work group limits the constitutional rights of defendants, it may be essential for keeping the overburdened justice system afloat. Moreover, it is not clear that the informal justice system is inherently unfair to both the victim and the offender. Rather, evidence shows that the defendants who benefit the most from informal court procedures commit the least serious crimes, whereas most chronic offenders gain relatively little.<sup>27</sup>

### The “Wedding Cake” Model of Justice

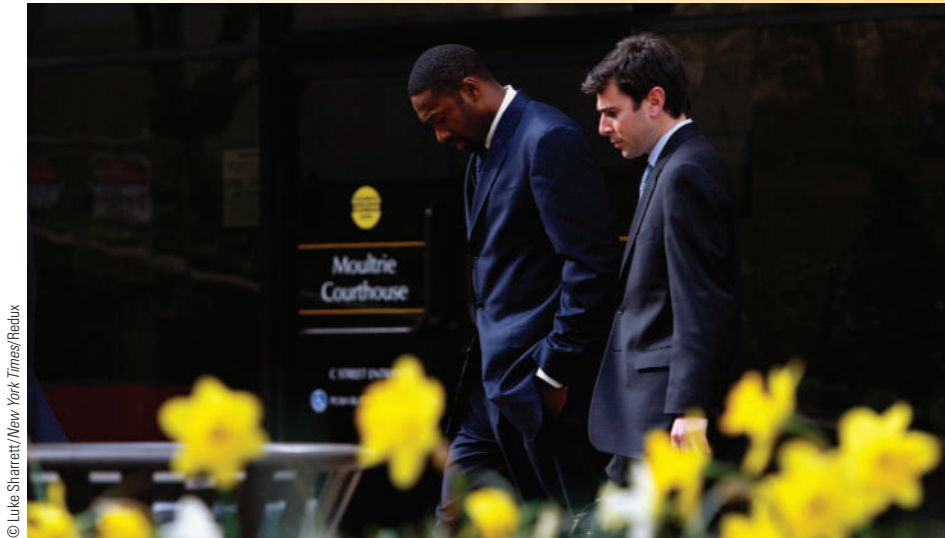
Samuel Walker, a justice historian and scholar, has come up with a dramatic way of describing the informal justice process. He compares it with a four-layer cake, as depicted in Figure 1.6.<sup>28</sup>

**LEVEL I** The first layer of Walker’s model is made up of the celebrated cases involving the wealthy and famous, such as media figure O. J. Simpson, style guru Martha Stewart, and NBA all-star Gilbert Arenas (who in 2010 was sentenced to 30 days in a halfway house for bringing guns into the Washington Wizards locker room. The first level may also contain people who are not so famous or powerful but victimize someone who is—John Hinckley Jr., who shot President Ronald Reagan, might fall into this category, as would Mark David Chapman, who murdered Beatle John Lennon in 1980. Other cases fall into the first layer because they are widely reported in the media and become the subject of a TV investigation. Theodore Kaczynski may have been a recluse living in the Montana wilderness, but his crimes attracted national attention when, over a 17-year

**FIGURE 1.6**  
The Criminal Justice Wedding Cake



Source: Based on Samuel Walker’s *Sense and Nonsense about Crime* (Monterey, Calif.: Brooks/Cole, 1983).



© Luke Sharrett/New York Times/Redux

*Washington Wizards guard Gilbert Arenas, left, leaves District of Columbia Superior Court in Washington after his sentencing on March 26, 2010. Arenas was ordered to spend 30 days in a halfway house for his conviction on gun charges stemming from a locker-room confrontation with a teammate. Arenas, one of the nation's most celebrated athletes, would be classified in the top layer of the criminal justice "wedding cake." Might less wealthy and less famous people, who would occupy the lower layers, not fare as well?*

period, he mailed or hand-delivered a series of increasingly sophisticated bombs that killed 3 Americans and injured 24 more. Along the way, he became known as the Unabomber.

Cases in the first layer of the criminal justice "wedding cake" usually receive the full array of criminal justice procedures, including competent defense attorneys, expert witnesses, jury trials, and elaborate appeals. The media typically focus on Level I cases, and the TV-watching public gets the impression that most criminals are sober, intelligent people, and most victims are members of the upper classes—a patently false impression.

**LEVEL II** In the second layer are the serious felonies—rapes, robberies, and burglaries—that have become all too familiar in U.S. society. These are serious crimes committed by experienced offenders. Burglaries are included if the amount stolen is high and the techniques that were used indicate the suspect is a pro. Violent crimes, such as rape and assault, are vicious incidents against an innocent victim and may involve a weapon and extreme violence. Robberies involve large amounts of money and suspects who brandish handguns or other weapons and are considered career criminals. Police, prosecutors, and judges all agree that these cases demand the full attention of the justice system. Offenders in such Level II cases receive a full jury trial and, if convicted, can look forward to a prison sentence.

**LEVEL III** Although they can also be felonies, crimes that fall in the third layer of the wedding cake are less serious offenses committed by young or first-time offenders or involving people who knew each other or were otherwise related: An inebriated teenager committed a burglary and netted \$50; the rape victim had gone on a few dates with her assailant before he attacked her; the robbery involved members of rival gangs and no weapons; the assault was the result of a personal dispute, and there is some question who hit whom first. Agents of the criminal justice system relegate these cases to the third level because they see them as less important and less deserving of attention. Level III crimes may be dealt with by an outright dismissal, a plea bargain, reduction in charges, or (most typically) a probationary sentence or intermediate sanction, such as victim restitution.

**LEVEL IV** The fourth layer of the cake is made up of the millions of misdemeanors, such as disorderly conduct, shoplifting, public drunkenness, and minor



assault. The lower criminal courts handle these cases in assembly-line fashion. Few defendants insist on exercising their constitutional rights, because the delay would cost them valuable time and money. Because the typical penalty is a small fine, everyone wants to get the case over with.<sup>29</sup>

The wedding cake model of informal justice is an intriguing alternative to the traditional criminal justice flowchart. Criminal justice officials handle individual cases differently, yet there is a high degree of consistency in the way particular types or classes of cases are dealt with in every legal jurisdiction. For example, police and prosecutors in Los Angeles and Boston handle the murder of a prominent citizen in similar fashion. They also deal similarly with the death of an unemployed street person killed in a brawl. Yet in both jurisdictions, the two cases, both involving a murder, will be handled very differently: The bigwig's killer will receive a full-blown jury trial (with details on the 6 o'clock news), whereas the drifter's killer will get a quick plea bargain. The model is useful because it shows that all too often, public opinion about criminal justice is formed on the basis of what happened in an atypical case.

## PERSPECTIVES ON JUSTICE

Since the 1960s, when the field of criminal justice began to be the subject of both serious academic study and attempts at unified policy formation, significant debate has continued over the meaning of the term “criminal justice” and how the problem of crime control should be approached. After decades of research and policy analysis, criminal justice is still far from a unified field. Practitioners, academics, and commentators alike have expressed irreconcilable differences concerning its goals, purpose, and direction. Some conservatives believe the solution to the crime problem is to increase the number of police, apprehend more criminals, and give them long sentences in maximum-security prisons. In contrast, liberals call for increased spending on social services and community organization. Others worry about giving the government too much power to regulate and control behavior and to interfere with individual liberty and freedom.

Given the multitude of problems facing the justice system, this lack of consensus is particularly vexing. The agencies of justice must try to eradicate such diverse social problems as substance abuse, gang violence, pornography, cyber crime, and terrorism, all the while respecting individual liberties and civil rights. The agencies of the justice system also need adequate resources to carry out their complex tasks effectively, but this hope often seems to be wishful thinking. Experts are still searching for the right combination of policies and actions that will significantly reduce crime and increase public safety, while upholding individual freedom and social justice.

Considering the complexity of criminal justice, it is not surprising that no single view, perspective, or philosophy dominates the field. What are the dominant views of the criminal justice system today? What is the role of the justice system, and how should it approach its tasks?

### The Crime Control Perspective

More than 20 years ago, political scientist James Q. Wilson made the persuasive argument that most criminals are not poor unfortunates who commit crime to survive but greedy people who choose theft or drug dealing for quick and easy profits.<sup>30</sup> Criminals, he argued, lack inhibition against misconduct, value the excitement and thrill of breaking the law, have a low stake in conformity, and are willing to take greater chances than the average person. If they could be convinced that their actions will bring severe punishment, only the irrational would be willing to engage in crime. Restraining offenders and preventing their future misdeeds, Wilson argued, is a much more practical goal of the criminal justice system than trying to eradicate the root causes of crime: poverty, poor schools, racism, and family breakup.

Wicked people exist. Nothing avails except to set them apart from innocent people. And many people, neither wicked nor innocent, but watchful, dissembling, and calculating of their chances, ponder our reaction to wickedness as a clue to what they might profitably do.<sup>31</sup>

Wilson's views helped define the **crime control perspective** on criminal justice. According to this view, the proper role of the justice system is to prevent crime through the judicious use of criminal sanctions. People want protection from dangerous criminals and expect the government to do what is necessary—punish criminals—to make them feel secure; crime control is part of the democratic process.<sup>32</sup> Because the public is outraged by such crimes as mass school shootings such as the one at Columbine High School in Colorado, it demands an efficient justice system that hands out tough sanctions to those who violate the law.<sup>33</sup>

According to crime control philosophy, if the justice system operated in an effective manner, most potential criminals would be deterred from crime, and the few who broke the law would be apprehended, tried, and punished so that they would never again risk committing crime. Crime rates trend upward, the argument goes, when criminals do not sufficiently fear apprehension and punishment. If the efficiency of the system could be increased and the criminal law could be toughened, crime rates would decline. Effective law enforcement, strict mandatory punishment, and expanding the use of prison are the keys to reduce crime rates. Although crime control may be expensive, reducing the appeal of criminal activity is well worth the price.

**EFFECTIVENESS AND EFFICIENCY** According to the crime control perspective, the focus of justice should be on the victim of crime, not on the criminal, so that innocent people can be protected from the ravages of crime. This objective can be achieved through more effective police protection, tough sentences (including liberal use of the death penalty), and the construction of prisons designed to safely incapacitate hardened criminals. If the system could be made more efficient, few would be tempted to break the law, and its effectiveness would improve.

Crime control advocates do not want legal technicalities to help the guilty go free and tie the hands of justice. They lobby for the abolition of legal restrictions that limit a police officer's ability to search for evidence and interrogate suspects. Police departments would be more effective crime fighters, they argue, if administrators employed a proactive, aggressive law enforcement style without having to worry about charges that their forceful tactics violated the right of criminal defendants.<sup>34</sup> The police may sometimes be forced to use tactics that abridge civil liberties for the sake of effectiveness, such as profiling people at an airport on the basis of their race or ethnic origin in an effort to identify and apprehend suspected terrorists. Civil libertarians are wary of racial profiling, but crime control advocates argue that we are in the midst of a national emergency and that the ends justify the means.

**ABOLISHING LEGAL ROADBLOCKS** One impediment to effective crime control is the legal roadblocks set up by the courts to protect the due process rights of criminal defendants. Several hundred thousand criminals go free every year in cases dropped because courts find that police have violated the suspects' *Miranda rights*.<sup>35</sup> Crime control advocates lobby for abolition of the exclusionary rule, which requires that illegally seized evidence be barred from criminal proceedings. Their voices have been heard: A more conservative Supreme Court has given police greater latitude to search for and seize evidence and has eased restrictions on how police operate. However, research shows that even in this permissive environment, police routinely violate suspects' rights when searching for evidence, and the majority of these incidents are never reviewed by the courts because the search was not followed up by arrest or citation.<sup>36</sup>

### crime control perspective

A model of criminal justice that emphasizes the control of dangerous offenders and the protection of society through harsh punishment as a deterrent to crime.

## ANALYZING CRIMINAL JUSTICE ISSUES

### Why Are Americans So Punitive?

Why is the general public in the United States more punitive and more willing to get tough on crime than people in other nations? According to criminal justice scholars James Unnever and Francis Cullen, criminal justice policies in the United States have been harsh and punitive for nearly 40 years, resulting in a prison population of more than 2 million. Rather than believing that crime can be controlled through social programs and criminals rehabilitated through individualized treatment interventions, Americans have embraced the “crime control” model’s emphasis on the harsh punishment of offenders as a means of protecting innocent individuals from being victimized. Conservative ideas on public policy, they note, have shifted the United States from a center-left to a center-right position. Three prominent theories have emerged to explain why the American public seems willing to support the idea of “getting tough on crime”: the escalating crime–distrust model, the moral decline model, and the racial animus model.

#### The Escalating Crime–Distrust Model

The escalating crime–distrust model rests on the public’s perception that crime is increasing and that rising crime rates will disrupt their way of life. People view crime as a menace because they have lost faith in the ability of government, and especially of the courts, to protect them from the injurious effects of crime. Whereas fifty years ago, the public was willing to attack the “root causes of crime,” such as poverty and unemployment, today this approach is seen as foolhardy. Offenders are not community members to be saved but threats to public safety; criminals no

longer deserve a second chance but are outsiders who should be imprisoned. In contemporary American society, concern for the offender has largely been replaced by concern for the victim. The court system is widely viewed as a misguided liberal entity that puts the rights of criminals ahead of concern for victims, thereby contributing to the volume of crime. Thus fear of crime, concern about crime, and prior victimization significantly increase punitive attitudes.

#### The Moral Decline Model

According to the moral decline model, people who feel uncertain about the world, where we are going, and the social climate are most likely to be punitive. This view rests on the concept of a world that is in “moral decay.” People who feel that the conventional social bonds that hold society together are dissolving look for punitive public policies to take their place. The family is in decline, they believe. Schools are failing, America is being threatened by overseas adversaries and is in danger of losing its supremacy, and moral values are being undermined by forces ranging from Internet pornography to the glorification of morally questionable rock stars. In this climate, where basic values are under attack, softer approaches to crime, such as probation and community treatment, simply will not work. The justice system must get tough with this growing moral threat.

#### The Racial Animus Model

The racial animus model focuses on the racial beliefs and values that have shaped crime control policies. Sadly, a long history of racism on the part of members of the justice system resulted in horrific

Crime control advocates also question the criminal justice system’s ability to rehabilitate offenders. Most treatment programs are ineffective because the justice system is simply not equipped to treat people who have a long history of antisocial behavior. Even when agents of the system attempt to prevent crime by working with young people, the results are unsatisfactory. From both a moral and a practical standpoint, the role of criminal justice should be the control of antisocial people. If not to the justice system, then to whom can the average citizen turn for protection from society’s criminal elements?

In recent years, the crime control model has emerged as the dominant vision of justice. Its proponents have helped shaped public attitudes toward crime and its control. As a result, the American public seems quite punitive toward criminals (see the nearby Analyzing Criminal Justice Issues feature<sup>37</sup>), and about two-thirds approve availability of the death penalty.

miscarriages of justice. Just as attacks and lynchings were common 80 years ago, some more recent incidents show that the criminal justice system is not yet entirely immune to racism:

- In 1955, Emmett Till was beaten and lynched in Mississippi, allegedly for whistling at a white woman. Two men were tried for the crime but were acquitted.
- In 1964, three civil rights workers (Michael Schwerner, Andrew Goodman, and James Chaney) were abducted and killed in Philadelphia, Mississippi. In 2005, Edgar Killen, by then 80 years old, was convicted of manslaughter in the case and given a 60-year prison sentence.
- In 1998, James Byrd Jr. was abducted, tied to the back of a truck, and dragged to his death in Jasper, Texas. Two of the murderers, who were associated with a white supremacist prison gang, were sentenced to death; the third received life in prison.

Although racism's influence on the justice system has surely declined, there is evidence that perceptions of race still shape the contours of how Americans think about crime and its control. White America has developed a mental image of the typical offender as a young, inner-city black male who offends with little remorse. People who subscribe to this view will oppose even policies that are in their own best interests because they may benefit groups that they hold in disregard. In sum, the racial animus model contends that racial and ethnic intolerance is integral to any understanding of why Americans endorse get-tough policies.

### Testing the Models

When Unnever and Cullen tested the validity of the foregoing models by using data from a national

public opinion survey, they found that punitive sentiments can emerge from all three views but that the racial animus model seemed to be most powerful determinant of punitiveness. People view crime and justice through a racial lens. The American public's endorsement of mass imprisonment and the death penalty rests on the belief that the targets of these harsh crime control efforts are African American young men, a group already feared and loathed by the white majority. The fact that a disliked subgroup is also associated with crime legitimizes the public's feelings and prejudices. These feelings are supported by political pundits who constantly dwell on the failings of the court system and the "coddling of criminals," Unnever and Cullen conclude that

when politicians justify their support for getting tough on criminals by citing public-opinion polls, they are either explicitly or implicitly basing their policy decisions on racialized punitive attitudes. In short, the data show that when it comes to public opinion about crime and its control, race and racism matter.

### Critical Thinking

Do you agree with this analysis? Are punitive crime control measures a function of racial animus, or are people genuinely scared of crime and just want the agencies of the justice system to take drastic action. Have the media stirred the pot by providing a racially biased vision of who commits crime, sells drugs, and joins gangs?

Source: James Unnever and Francis Cullen, "The Social Sources of Americans' Punitiveness: A Test of Three Competing Models," *Criminology* 48 (2010): 99–129.

## The Rehabilitation Perspective

If the crime control perspective views the justice system in terms of protecting the public and controlling criminal elements, then the **rehabilitation perspective** sees the justice system as a means of caring for and treating people who cannot manage themselves. Advocates of this perspective view crime as an expression of frustration and anger created by social inequality. Crime can be controlled by giving people the means to improve their lifestyle through conventional endeavors.

The rehabilitation concept assumes that people are at the mercy of social, economic, and interpersonal conditions and interactions. Criminals themselves are the victims of racism, poverty, strain, blocked opportunities, alienation, family disruption, and other social problems. They live in socially disorganized neighborhoods that are incapable of providing proper education, health care, or civil services. Society must help them compensate for their social problems.

### rehabilitation perspective

A perspective on criminal justice that sees crime as an expression of frustration and anger created by social inequality that can be controlled by giving people the means to improve their lifestyles through conventional endeavors.

**ALTERNATIVES TO CRIME** Rehabilitation advocates believe that government programs can help reduce crime on both a societal (macro) and an individual (micro) level. On the macro, or societal, level, research shows that as the number of legitimate opportunities to succeed declines, people are more likely to turn to criminal behaviors, such as drug dealing, to survive. Increasing economic opportunities through job training, family counseling, educational services, and crisis intervention is a more effective crime reducer than prisons and jails. As legitimate opportunities increase, violence rates decline.<sup>38</sup>

On the micro, or individual, level, rehabilitation programs can help at-risk youths avoid entry into criminal careers by providing them with legitimate alternatives to crime and with counseling to help them grasp opportunities. Drug offenders, a population known to be resistant to change, have shown marked improvement given the proper course of treatment.<sup>39</sup>

Even if preventive measures have not worked, incarcerating offenders without proper treatment is not the right course of action. Given the proper therapy, incarcerated offenders can significantly lower their rates of recidivism.<sup>40</sup> Within correctional settings, programs that develop interpersonal skills, induce a prosocial change in attitudes, and improve thinking patterns have been shown to significantly reduce recidivism rates.<sup>41</sup>

Society has a choice: Pay now, by funding treatment and educational programs, or pay later, when troubled youths enter costly correctional facilities over and over again. This view is certainly not lost on the public. Although the public may want to get tough on crime, many people are willing to make exceptions—for example, by advocating leniency for younger offenders.<sup>42</sup>

### due process perspective

A perspective on criminal justice that emphasizes individual rights and constitutional safeguards against arbitrary or unfair judicial or administrative proceedings.

## The Due Process Perspective

Advocates of the **due process perspective** argue that the greatest concern of the justice system should be treating all those accused of crime fairly.<sup>43</sup> This means providing impartial hearings, competent legal counsel, equitable treatment, and reasonable sanctions. The use of discretion within the justice system should be strictly monitored to ensure that no one suffers from racial, religious,

*Due process advocates fear that the justice process is often imprecise and that life-threatening mistakes are routinely made by police, prosecutors, and judges. Consequently, we must be ever vigilant to guard against violations of constitutional rights. Here Polk County public defender Robert Young hugs James Bain, right, during a hearing at the Polk County Courthouse Thursday, on December 17, 2009, in Bartow, Florida. Bain was released after spending 35 years in prison for a 1974 rape conviction. New DNA evidence proved that he could not have committed the crime.*



© AP Photo/Michael Wilson, Pool

or ethnic discrimination. The system must be attuned to the civil rights afforded every citizen by the U.S. Constitution. Therefore, it is vexing to due process advocates when the Supreme Court extends the scope of law enforcement's reach, enabling police agencies to monitor and control citizens at the expense of their right to privacy.

Although many views exist of what the true goals of justice should be, the system undoubtedly must be expected to operate in a fair and unbiased manner. Those who advocate the due process orientation point out that the justice system remains an adversary process that pits the forces of an all-powerful state against those of a solitary individual accused of committing a crime. If concern for justice and fairness did not exist, the defendant who lacked resources could easily be overwhelmed.

Miscarriages of justice are common. Numerous criminal convictions have been overturned because newly developed DNA evidence later showed that the accused could not have committed the crimes. Many of those who were falsely convicted spent years in prison before their release.<sup>44</sup> Evidence also shows that many innocent people have been executed for crimes they did not commit. From 1976 to 1999, 566 people were executed. During that same period, 82 convicts awaiting execution were exonerated—a ratio of one freed for every seven put to death.<sup>45</sup> Because such mistakes can happen, even the most apparently guilty offender deserves all the protection the justice system can offer. Having a competent attorney who mounts a spirited defense may mean the difference between life and death. When Talia Roitberg Harmon and William Lofquist studied the cases of people who had been falsely convicted of murder, they found that those who employed private counsel were much more likely to be exonerated than those who could not afford a private attorney.<sup>46</sup> Is it fair that a life-or-death outcome may rest on the ability to afford private counsel?

Those who question the due process perspective claim that the legal privileges that are afforded to criminal suspects have gone too far and that the effort to protect individual rights now interferes with public safety. Is it fair, they argue, for evidence to be suppressed when it is obtained in violation of the constitutional right to be free from illegal search and seizure, even if it means that a guilty person goes free? Yet, many people who appear guilty may actually be victims of slipshod justice. Recent (2008) research sponsored by the Pew Foundation found that a majority of death penalty convictions that have been overturned were due to “serious, reversible error,” including egregiously incompetent defense counsel, suppression of exculpatory evidence, false confessions, racial manipulation of the jury, questionable “snitch” and accomplice testimony, and faulty jury instructions.<sup>47</sup> Certainly, the danger of convicting an innocent person still remains a frightening possibility.

## The Nonintervention Perspective

Supporters of the **nonintervention perspective** believe that justice agencies should limit their involvement with criminal defendants. Regardless of whether intervention is designed to punish people or to treat them, the ultimate effect of any involvement is harmful. Whatever their goals or design, programs that bring people in contact with a social control agency—such as the police, a mental health department, the correctional system, or a criminal court—will have long-term negative effects. Once involved with such an agency, criminal defendants may be watched, people might consider them dangerous and untrustworthy, and they can develop a lasting record that has negative connotations. Bearing an official label disrupts their personal and family life and harms parent–child relationships. Eventually, they may even come to believe what their official record suggests; they may view themselves as bad, evil, outcasts, troublemakers, or crazy. Thus, official intervention promotes, rather than reduces, the tendency to engage in antisocial activities.<sup>48</sup>

Noninterventionists are concerned about the effect of the stigma that convicted criminals bear when they are branded “rapist” or “child abuser.”

### nonintervention perspective

A perspective on criminal justice that favors the least intrusive treatment possible: decarceration, diversion, and decriminalization.

On October 28, 2009, a group of sign-waving supporters demonstrate for Measure 2F, a reform to legalize private possession of up to an ounce of marijuana by adults 21 and older in the town of Breckenridge, Colorado. Supporters urged people to pass 2F, which would legalize possession of smoking paraphernalia and of up to 1 ounce of marijuana. Pot possession would still be a state crime, but rather than making an arrest, town police officers would have to take users to the county sheriff's department to be cited. The measure passed overwhelmingly in the November election. Do you believe that pot should be legalized?



© AP Photo/Summit Daily, Mark Fox

As horrifying as these crimes are, such labels imply chronic criminality, and they will stick with the perpetrators forever. Noninterventionists point out that this may not be in the best interests of society. Once labeled, people may find it difficult to be accepted back into society, even after they have completed their sentence. It is not surprising, considering these effects of stigma and labeling, that recidivism rates are so high. When people are given less stigmatizing forms of punishment, such as probation, they are less likely to become repeat offenders.<sup>49</sup>

Fearing the harmful effects of stigma and labels, noninterventionists have tried to place limitations on the government's ability to control people's lives. They have called for the **decriminalization** (reduction of penalties) and legalization of nonserious victimless crimes, such as the possession of small amounts of marijuana, public drunkenness, and vagrancy.

Noninterventionists demand the removal of nonviolent offenders from the nation's correctional system, a policy referred to as **deinstitutionalization**. First offenders who commit minor crimes should instead be placed in informal, community-based treatment programs, a process referred to as pretrial diversion.

Sometimes the passage of new criminal laws can stigmatize offenders beyond the scope of their offense, a phenomenon referred to as widening the net of justice. For example, a person who purchases pornography on the Internet may be labeled a dangerous sex offender, or someone caught for a second time with marijuana may be considered a habitual drug abuser. Noninterventionists have fought implementation of community notification-type laws that require convicted sex offenders to register with state law enforcement officials and that allow officials to publicly disclose when a registrant moves into a community. Their efforts have resulted in rulings stating that these laws can be damaging to the reputation and future of offenders who have not been given an opportunity to defend themselves from the charge that they are chronic criminal sex offenders.<sup>50</sup> As a group, noninterventionist initiatives have been implemented to help people avoid the stigma associated with contact with the criminal justice system.

## The Equal Justice Perspective

The **equal justice perspective** asserts that all people should receive the same treatment under the law. Efforts to distinguish between criminal offenders and create a system of individualized treatment create a sense of unfairness that

### decriminalization

Reducing the penalty for a criminal act without legalizing it.

### deinstitutionalization

The policy of removing from secure confinement as many first offenders of minor, nonviolent crimes as possible and treating them in the community.

### equal justice perspective

A perspective on criminal justice based on the idea that all people should receive the same treatment under the law and should be evaluated on the basis of their current behavior, not on what they have done in the past.

undermines the goals of the system. Frustration arises when two people commit the same crime but receive different sentences or punishments. The resulting anger and sense of unfairness will increase the likelihood of recidivism.

To remedy this situation, the criminal justice system must reduce discretion and unequal treatment. Each criminal act must be treated independently and punished proportionately. Punishment must not be based either on past events for which people have already paid their debt to society or on what they may do in the future. The treatment of criminal offenders must be based solely on present behavior. Punishment must be equitably administered and based on the principle of “just deserts.”

The equal justice perspective has had considerable influence in molding the nation’s sentencing policy. An ongoing effort has been made to reduce discretion and guarantee that every offender convicted of a particular crime receives equal and precisely computed punishment. This change has been particularly welcome, given the charges of racial discrimination that have beset the sentencing process. A number of initiatives have been designed to achieve this result, including mandatory sentences, which require that all people convicted of a crime receive the same prison sentence. Truth-in-sentencing laws require offenders to serve a substantial portion of their prison sentence behind bars, thus limiting their eligibility for early release on parole.<sup>51</sup>

## The Restorative Justice Perspective

According to the **restorative justice perspective**, the true purpose of the criminal justice system is to promote a peaceful and just society; the justice system should aim for peacemaking, not punishment.<sup>52</sup> The restorative justice perspective draws its inspiration from religious and philosophical teachings ranging from Quakerism to Zen. Advocates of restorative justice view the efforts of the state to punish and control as “crime encouraging” rather than “crime discouraging.” The violent punishing acts of the state, they claim, are not unlike the violent acts of individuals.<sup>53</sup> Therefore, mutual aid, not coercive punishment, is the key to a harmonious society. Without the capacity to restore damaged social relations, society’s response to crime has been almost exclusively punitive.

According to restorative justice, resolution of the conflict between criminal and victim should take place in the community in which that conflict originated,

### restorative justice perspective

A perspective on criminal justice that sees the main goal of the criminal justice system as making a systematic response to wrongdoing that emphasizes healing victims, offenders, and communities wounded by crime. It stresses peacemaking, not punishment.



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*Inmate James Burton Jr. waters the “Restorative Justice Gardens” at the Southeast Correctional Center in Charleston, Missouri, on September 5, 2007. Inmates have produced tens of thousands of pounds of fresh vegetables from a six-acre garden at the state prison complex, all of it donated to the Bootheel Food Bank in Sikeston, Missouri, which serves some of the poorest counties in the state. Should society attempt to restore law violators to the community, or should violators merely be punished for their misdeeds?*





## CONCEPT SUMMARY 1.2

### *Key Elements of the Perspectives on Justice*

Perspective on Justice	Main Beliefs
<b>CRIME CONTROL PERSPECTIVE</b>	<ul style="list-style-type: none"> <li>■ The purpose of the justice system is to deter crime through the application of punishment.</li> <li>■ The more efficient the system, the greater its effectiveness.</li> <li>■ The role of the justice system is not to treat people but, rather, to investigate crimes, apprehend suspects, and punish the guilty.</li> </ul>
<b>REHABILITATION PERSPECTIVE</b>	<ul style="list-style-type: none"> <li>■ In the long run, it is better to treat than to punish.</li> <li>■ Criminals are society's victims.</li> <li>■ Helping others is part of the American culture.</li> </ul>
<b>DUE PROCESS PERSPECTIVE</b>	<ul style="list-style-type: none"> <li>■ Every person deserves his or her full array of constitutional rights and privileges.</li> <li>■ Preserving the democratic ideals of American society takes precedence over the need to punish the guilty.</li> <li>■ Because of potential errors, decisions made within the justice system must be carefully scrutinized.</li> <li>■ Steps must be taken to treat all defendants fairly, regardless of their socioeconomic status.</li> <li>■ Illegally seized evidence should be suppressed even if it means that a guilty person will go free.</li> <li>■ Despite the cost, the government should supply free legal counsel at every stage of the justice system to prevent abuse.</li> </ul>
<b>NONINTERVENTION PERSPECTIVE</b>	<ul style="list-style-type: none"> <li>■ The justice process stigmatizes offenders.</li> <li>■ Stigma locks people into a criminal way of life.</li> <li>■ Less is better. Decriminalize, divert, and deinstitutionalize whenever possible.</li> </ul>
<b>EQUAL JUSTICE PERSPECTIVE</b>	<ul style="list-style-type: none"> <li>■ People should receive equal treatment for equal crimes.</li> <li>■ Decision making in the justice system must be standardized and structured by rules and regulations.</li> <li>■ Whenever possible, individual discretion must be reduced and controlled.</li> <li>■ Inconsistent treatment undermines respect for the system.</li> </ul>
<b>RESTORATIVE JUSTICE PERSPECTIVE</b>	<ul style="list-style-type: none"> <li>■ Offenders should be reintegrated into society.</li> <li>■ Coercive punishments are self-defeating.</li> <li>■ The justice system must become more humane.</li> <li>■ Crime is a community-level problem.</li> </ul>

not in some far-off prison. The victim should be given a chance to voice his story, and the offender can directly communicate her need for social reintegration and treatment. The goal is to enable the offender to appreciate the damage she has caused, to make amends, and to be reintegrated into society.

Restorative justice programs are now being geared to these principles. Mediation and conflict-resolution programs are now common in efforts to resolve

harmful human interactions ranging from domestic violence to hate crimes.<sup>54</sup> Police officers, as elements of community policing programs, are beginning to use mediation techniques to settle disputes instead of resorting to formal arrest.<sup>55</sup> Financial and community service restitution programs as an alternative to imprisonment have been in operation for more than two decades.

## Perspectives in Perspective

The variety of tactics being used to combat crime today aptly illustrates the impact of the various perspectives on the operations of the criminal justice system. Advocates of each view have attempted to promote their vision of what justice is all about and how it should be applied. During the past decade, the crime control and equal justice models have dominated. Laws have been toughened and the rights of the accused curtailed, the prison population has grown, and the death penalty has been employed against convicted murderers. Because the crime rate has been dropping, these policies seem to be effective. They may be questioned if crime rates once again begin to rise. At the same time, efforts to rehabilitate offenders, to provide them with elements of due process, and to administer the least intrusive treatment have not been abandoned. Police, courts, and correctional agencies supply a wide range of treatment and rehabilitation programs to offenders in all stages of the criminal justice system. Whenever possible, those accused of a crime are treated informally in nonrestrictive, community-based programs, and the effects of stigma are guarded against.


Although the legal rights of offenders are being closely scrutinized by the courts, the basic constitutional rights of the accused remain inviolate. Guardians of the process have made sure that defendants are afforded the maximum protection possible under the law. For example, criminal defendants have been awarded the right to *competent* legal counsel at trial; merely having a lawyer to defend them is not considered sufficient legal protection.

In sum, understanding the justice system today requires analyzing a variety of occupational roles, institutional processes, legal rules, and administrative doctrines. Each predominant view of criminal justice offers a vantage point for understanding and interpreting these complex issues. No single view is *the* right or correct one. Each individual must choose the perspective that best fits his or her ideas and judgment—or they can all be discarded and the individual's own view substituted. The various perspectives on justice and their key elements are set out in Concept Summary 1.2.

## ETHICS IN CRIMINAL JUSTICE

Both the general public and criminal justice professionals are concerned with the application of ethics.<sup>56</sup> Both would like every police officer on the street, every district attorney in court, and every correctional administrator in prison to be able to discern what is right, proper, and moral; to be committed to ethical standards; and to apply equal and fair justice. These demands are difficult to meet, however, because justice system personnel are often forced to work in an environment in which moral ambiguity is the norm. Should a police officer be forced to arrest, a prosecutor to charge, and a correctional official to punish a woman who for many years was the victim of domestic abuse and in desperation retaliated against her abusive spouse? Who is the victim here, and who is the aggressor? And what about the parent who attacks the man who has sexually abused her young child? Should she be prosecuted as a felon? And what happens if the parent mistakenly attacks and injures the wrong person? Can a clear line be drawn between righteous retribution and vigilante justice? As students of justice, we are concerned with identifying the behavioral standards that should govern everyone involved in the administration of justice. And if these standards can be identified, can we find ways to disseminate them to police departments, courts, and correctional agencies around the nation?

## EVIDENCE-BASED JUSTICE

**Does Monitoring Sex Offenders Really Work?**


Keeping tabs on sex offenders remains a controversial issue. Do Internet-based sex offender registration lists violate the privacy of offenders who have served their time? After all, there is no arsonist, drug dealer, or murderer list, even

though these offenders may present a danger to society. Should people who have served their time be left alone? Or are neighbors entitled to know when a former sex offender moves into the community?

There is no question that sex offender registration lists are legal. The Supreme Court, in *Connecticut Dept. of Public Safety v. Doe* (2003), upheld the legality of sex offender registration when it ruled that persons convicted of sexual offenses may be required to register with a state's Department of Public Safety and may then be listed on a sex offender registry that contains registrants' names, addresses, photographs, and descriptions and can be accessed on the Internet. In a 9–0 opinion upholding the plan, the Court reasoned that, because these defendants had been convicted of a sex offense, disclosing their names on the registry without a hearing did not violate their right to due process.

Thus sex offender registration laws have been ruled constitutional, are pervasive (they are used in all 50 states), appeal to politicians who may be swayed by media crusades against child molesters (such as “To Catch a Predator” on *Dateline NBC*), and appease the public's desire to “do something” about child predators. But do they actually work? Does registration deter offenders from committing further sex offenses and reduce the incidence of predatory acts against children?

To answer this question, criminologists Kristen Zgoba and Karen Bachar recently conducted an in-depth study of the effectiveness of the New Jersey registration law and found that, although it was maintained at great cost to the state, the system did not produce effective results. On the one hand, sex offense rates in New Jersey were in steep decline before the system was installed, and the rate of decline actually slowed down after 1995 when the law took effect. The study showed that the greatest rate of decline in sex offending occurred prior to the passage and implementation of Megan's Law. Zgoba and Bachar also found that the passage and implementation of Megan's Law did not reduce the number of rearrests for sex offenses, nor did it have any demonstrable effect on the time between when sex offenders were released from prison and the time they were rearrested for any new offense, such as a drug offense, theft, or another sex offense.

Zgoba and Bachar's results can be used to rethink legal changes such as sex offender registration. Rather than deterring them from committing crime, such laws may merely cause sex offenders to be more cautious, while giving parents a false sense of security. For example, sex offenders may target victims in other states or in communities where they do not live and parents are less cautious.

Sources: *Connecticut Dept. of Public Safety v. Doe*, 538 U.S. 1 (2003); Kristen Zgoba and Karen Bachar, “Sex Offender Registration and Notification: Research Finds Limited Effects in New Jersey,” National Institute of Justice, April 2009, [www.ncjrs.gov/pdffiles1/nij/225402.pdf](http://www.ncjrs.gov/pdffiles1/nij/225402.pdf).

Ethics in criminal justice is an especially important topic today, considering the power granted to those who work in, operate, and control the justice system. We rely on the justice system to exert power over people's lives and to be society's instrument of social control, so we give the system and its agents the authority to deny people their personal liberty on a routine basis. A police officer's ability to arrest and use force, a judge's power to sentence, and a correctional administrator's authority to punish an inmate give them considerable personal power, which must be governed by ethical considerations. Without ethical decision making, individual civil rights may suffer, and personal liberties guaranteed by the U.S. Constitution may be trampled upon. The need for an ethical criminal justice system is further enhanced by cyber-age advances in record keeping and data recording. Agents of the criminal justice system now have immediate access to our most personal information, ranging from arrest record to medical history. Issues of privacy and confidentiality, which can have enormous economic, social, and political consequences, are now more critical than ever.

Take, for instance, the Megan's Law movement, which began in New Jersey in 1994, after 7-year-old Megan Kanka was murdered by a paroled child molester who had moved in across the street. The form of Megan's Laws differs from state to state, but most require law enforcement officials to maintain a registry of convicted sex offenders living in the area and make this registry available to the public. Although monitoring convicted sex offenders may seem like an effective crime deterrent, the American Civil Liberties Union has fought the effort around the nation because they consider such laws overreaching and dangerous. In one case, the local chapter of the ACLU strongly objected to a legislative effort introduced in Louisiana that required registered sex offenders to (a) inform colleges and universities where they were either employed or enrolled of their status, so that (b) the institution could inform all students and staff that there are sex offenders working and studying at the institution.<sup>57</sup> The monitoring of sex offenders has also been challenged on the grounds that it simply does not work, an issue discussed in the accompanying Evidence-Based Justice feature.

Ethical issues transcend all elements of the justice system. Yet specific issues shape the ethical standards in each branch.

## Ethics and Law Enforcement

Ethical behavior is particularly important in law enforcement because police officers have the authority to deprive people of their liberty. And in carrying out their daily activities, they also have the right to use physical and even deadly force.

Depriving people of liberty and using force are not the only police behaviors that require ethical consideration. Police officers have considerable discretion in choosing whom to investigate, how far the investigation should go, and how much effort is required—does an investigation merit undercover work, listening devices, surveillance? While carrying out their duties, police officers must be responsive to the public's demand for protection and at the same time remain sensitive to the rights and liberties of those they must deter from committing crime and/or control. In this capacity, they serve as the interface between the power of the state and the citizens it governs. This duality creates many ethical dilemmas. Consider the following:

- Should law enforcement agents target groups who they suspect are heavily involved in crime and violence, or does this practice lead to racial/ethnic profiling? Is it unethical for a security agent to pay closer attention to a young Arab male getting on an airline flight than she pays to a clean-cut American soldier from upstate New York? Why suspect a blue-eyed, blonde soldier of being a terrorist when the 9/11 terrorists were of Arab descent? But don't forget that Tim McVeigh, who grew up in rural Pendleton, New York, and spent more than three years in the Army, went on to become the Oklahoma City Bomber. How can police officers balance their need to protect public security with the ethical requirement that they protect citizens' legal rights?
- Should police officers tell the truth even if it means that a guilty person will go free? Let's say that a police officer stops a car for a traffic violation and searches it illegally. In so doing, he finds a weapon that was used in a particularly heinous shooting in which three children were killed. Would it



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As part of his probation, Leroy Schad must have signs on his car and home stating that he is a sex offender. He's allowed to leave his Hudson, Kansas, home only for counseling, for doctors' appointments, and to register as a sex offender at the sheriff's office. Schad, 72, was convicted in March 2007 of aggravated indecent solicitation of a child. Is it ethical to punish people through labeling and humiliation, and does ethics apply even to those who prey upon children? The American Civil Liberties Union, an opponent of registration, has said, "Sex offender registration becomes a lifelong invasion of a person's privacy, . . . ability to resume a normal life, and . . . ability to assimilate with mainstream society. Sex offender registration causes hysteria and suspicion without solving the problem. Instead, it is counterproductive, pushing the sex offender into a different neighborhood, or even worse, underground." Do you agree?

## EXHIBIT 1.2

**The Dilemma of Red Light Cameras**

Police in Dallas, Texas, installed “red light cameras” that take snapshots of busy intersections, capturing the license plates of cars that are running the light, under the assumption that this use of technology would simultaneously save lives and generate millions of dollars in extra fines. But things did not work out as planned, and in March 2008, one-quarter of the cameras were removed. The decision was based not on their ineffectiveness but on the fact that they worked all too well! The data showed that drivers pay attention to cameras at intersections—resulting in fewer violations and consequently shrinking revenue from fines. Even though the cameras reduced injuries, they reduced revenue so much that the cameras could not even pay for themselves. Red light

violations went down by as much as 29 percent from month to month. A good thing—but not necessarily, if you rely on traffic fines to make up a healthy chunk of your budget. Accordingly, after losing millions in fines, the city turned off about a quarter of the least profitable cameras, saying it couldn’t justify the cost of running them.

Is it ethical to remove or reduce a crime/safety device that is effective but does not generate profits? Should financial concerns ever play a role in the justice system?

Source: Alex Johnson, “Do Red Light Cameras Work Too Well? Some Cities Rethink Devices as Drivers Pay Heed, Reducing Fine Revenue,” March 21, 2008, [msnbc.com](http://msnbc.com), [www.msnbc.msn.com/id/23710970](http://www.msnbc.msn.com/id/23710970).

be ethical for the officer to lie on the witness stand and say he noticed the gun on the car seat in plain sight (and hence subject to legal and proper seizure)? Or should he tell the truth and risk having the charges against the suspect dismissed, leaving the offender free to kill again?

- Should police officers be loyal to their peers even when they know that these officers have violated the law? A new officer soon becomes aware that his partner is taking gratuities from local gangsters in return for looking the other way and allowing their prostitution and bookmaking operations to flourish. Should the rookie file a complaint and turn in his partner? Will she be labeled a “rat” and lose the respect of her fellow officers? After all, gambling and prostitution are not violent crimes and do not really hurt anyone. Or do they?
- Is it ethical for police agencies to profit financially from their law enforcement activities? Police departments have instituted a number of money-making schemes ranging from selling ads on the back of police cars to ticket-writing campaigns. In some instances, individual officers can benefit. For example, when contractors are required to have paid police officer details present at job sites, officers are paid two or three times the standard wage. Profiting from police services is controversial, and it can also have unexpected consequences, as Exhibit 1.2 shows.

How can law enforcement officers be aided in making ethical decisions? Various national organizations have produced model codes of conduct that can serve as behavioral guides. One well-known document created by the International Association of Chiefs of Police says,<sup>58</sup>

As a Law Enforcement Officer my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional Rights of all men to liberty, equality and justice. . . .

**Ethics and the Court Process**

Ethical concerns do not stop with an arrest. As an officer of the court and the “people’s attorney,” the prosecutor must seek justice for all parties in a criminal matter and should not merely be targeting a conviction. To be fair, prosecutors

must share evidence with the defense, not use scare tactics or intimidation, and represent the public interest. It would be inexcusable and illegal for prosecutors to suppress critical evidence, a practice that might mean the guilty walk free and the innocent are convicted.

Prosecutorial ethics may be tested when the dual role of a prosecutor causes her to experience role conflict. On the one hand, she represents the people and has an obligation to present evidence, uphold the law, and obtain convictions as vigorously as possible. In the adversary system, it is the prosecutor who takes the side of the victims and on whom they depend for justice.

However, as a fair and impartial officer of the court, the prosecutor must oversee the investigation of crime and make sure that all aspects of the investigation meet constitutional standards. If during the investigation it appears that the police have violated the constitutional rights of suspects—for example, by extracting an illegal confession or conducting an illegal search—the prosecutor has an ethical obligation to take whatever action is necessary and appropriate to remedy legal or technical errors, even if that means rejecting a case in which the defendant's rights have been violated. Moreover, the canon of legal ethics in most states forbids the prosecutor from pursuing charges when there is no probable cause and mandates that all evidence that might mitigate guilt or reduce the punishment be turned over to the defense.

**THE DEFENSE ATTORNEY** As an officer of the court, along with the judge, prosecutors, and other trial participants, the defense attorney seeks to uncover the basic facts and elements of the criminal act. In this dual capacity of being both an advocate for defendants and an officer of the court, this attorney often experiences conflicting obligations to his client and his profession. Suppose a client confides that she is planning to commit a crime. What are the defense attorney's ethical responsibilities in this case? Obviously, the lawyer would have to counsel the client to obey the law; if the lawyer assisted the client in engaging in illegal behavior, he would be subject to charges of unprofessional conduct and even to criminal liability.

## Ethics and Corrections

Ethical issues do not cease to arise when a defendant has been convicted. The ethical issues surrounding punishment are too vast to discuss here, but they include the following:

- Is it fair and ethical to execute a criminal? Can capital punishment ever be considered a moral choice?
- Should people be given different punishments for the same criminal law violation? Is it fair and just when some convicted murderers and rapists receive probation for their crimes, while others are sentenced to prison for the same offense?
- Is it fair to grant leniency to criminals who agree to testify against their co-conspirators and therefore allow them to benefit from their perfidy, while others not given the opportunity to “squeal” are forced to bear the full brunt of the law?
- Should some criminal inmates be granted early release because they can persuade the parole board that they have been rehabilitated, while others, who are not so glib, convincing or well spoken, are forced to serve their entire sentence behind bars?
- Should technology be used to monitor offenders in the community? Would it be ethical to track a probationer's movements with a GPS unit attached to an ankle bracelet she is required to wear at all times? Should her Internet use and computer downloads be monitored? Should profit be an issue in correctional administration? There has been a trend to privatize aspects of

corrections, ranging from outsourcing food and health services to running the prisons themselves. Is it ethical to turn the care and custody of incarcerated people over to corporations that may give profit higher priority than treatment?

Ethical standards are also challenged by the discretion afforded to correctional workers and administrators. Discretion is involved when a correctional officer decides to report an inmate for disorderly conduct, which might jeopardize his or her parole. And although the Supreme Court has issued many rulings related to prisoners' rights, implementing these mandates is left to others, who may or may not carry them out in an orderly way.

Correctional officers have significant coercive power over offenders. They are under a legal and professional obligation not to use unnecessary force or to take advantage of inmates' powerlessness. One example of abuse is an officer beating an inmate; another is a staff member coercing sex from an inmate. These abuses of power can occur because of the powerlessness of the offender relative to the correctional professional. One national survey uncovered evidence that this breach of ethics is significant: Correctional inmates reported 8,210 allegations of sexual violence. About 42 percent of the reported allegations of sexual violence involved staff-on-inmate sexual misconduct, and 11 percent involved staff sexual harassment of inmates. In other words, staff members were involved in more cases of sexual violence and harassment in correctional facilities than were inmates!<sup>59</sup>

Ethical considerations pervade all elements of the justice system. Making ethical decisions is an increasingly important task in a society that is becoming more diverse, pluralistic, and complex every day.

### Ethical Challenges in Criminal Justice: A Writing Assignment



Some people believe drugs should be legalized and controlled so that they could not fall into the hands of adolescents. Drug sales would be controlled in the same manner as the sale of alcohol and cigarettes. Write an essay addressing this issue from each of the perspectives of justice discussed in the chapter. In other words, how would a crime control, a rehabilitation, a due process, a nonintervention, an equal justice, and a restorative justice advocate react to the suggestion that drugs be legalized? You should refer to the sections that describe the core values of all of these perspectives before you submit your answer. You might want to include a comment on the position each perspective might take on the legalization of drug use.

## SUMMARY

### 1. Be able to define the concept of criminal justice.

- The criminal justice system consists of the agencies that dispense justice and the process by which justice is carried out.

### 2. Be aware of the long history of crime in America.

- America has experienced crime throughout most of its history.

- In the Old West, justice was administered by legendary lawmen such as Wyatt Earp.

### 3. Discuss the formation of the criminal justice system.

- There was little in the way of a formal criminal justice system until the nineteenth century when the first police agencies were created.
- The term "criminal justice system" became prominent in the United States around 1967,

when the President's Commission on Law Enforcement and the Administration of Justice began a nationwide study of the nation's crime problem.

- Criminal justice is a field that applies knowledge gleaned from various disciplines in an attempt to understand what causes people to commit crimes and how to deal with the crime problem.

#### 4. Name the three basic component agencies of criminal justice.

- Criminal justice consists of the study of crime and of the agencies concerned with its prevention and control.
- On an ideal level, the criminal justice system functions as a cooperative effort among the primary agencies—police, courts, and corrections.

#### 5. Comprehend the size and scope of the contemporary justice system.

- The contemporary criminal justice system in the United States is monumental in size.
- It now costs federal, state, and local governments more than \$200 billion per year to maintain a criminal justice system that now employs more than 2 million people.
- The system now processes, treats, and cares for millions of people. More than 14 million people are still being arrested each year; and there are more than 7 million people in the correctional system.

#### 6. Trace the formal criminal justice process.

- The process consists of the actual steps the offender takes from the initial investigation through trial, sentencing, and appeal.
- The justice process comprises 15 stages, each of which is a decision point through which cases flow.
- Each of these decisions can have a critical effect on the defendant, the justice system, and society.

#### 7. Know what is meant by the term “criminal justice assembly line.”

- Herbert Packer described the criminal justice process as an assembly-line conveyor belt down which moves an endless stream of cases
- The system acts as a “funnel”: Most people who commit crime escape detection, and of those who do not, relatively few are bound over for trial, and even fewer are convicted and eventually sentenced to prison.
- The justice funnel holds many cases at its mouth and relatively few at its stem end.

#### 8. Discuss the “wedding cake” model of justice.

- In many instances, the criminal justice system works informally to expedite the disposal of cases.
- Criminal acts that are very serious or notorious may receive the full complement of criminal justice processes, from arrest to trial. However, less serious cases are often settled when a bargain is reached between the prosecution and the defense.

#### 9. Be familiar with the various perspectives on criminal justice.

- The role of criminal justice can be interpreted in many ways.
- People who study the field or work in its agencies bring their own ideas and feelings to bear when they try to decide on the right course of action to take or recommend. Therefore, there are a number of different perspectives on criminal justice today.
- Perspectives range from the most conservative—crime control—to the most liberal—restorative justice.

#### 10. Understand the ethical issues that arise in criminal justice.

- The justice system must deal with many ethical issues.
- The challenge is to determine what is fair and just and to balance that with the need to protect the public.

## KEY TERMS

criminal justice system, 4  
Law Enforcement Assistance  
Administration (LEAA), 7  
evidence-based justice, 7  
social control, 8  
in-presence requirement, 15  
*Miranda* warning, 15

nolle prosequi, 16  
grand jury, 16  
true bill of indictment, 16  
courtroom work group, 21  
crime control perspective, 25  
rehabilitation perspective, 27  
due process perspective, 28

nonintervention perspective, 29  
decriminalization, 30  
deinstitutionalization, 30  
equal justice perspective, 30  
restorative justice perspective, 31



## CRITICAL THINKING QUESTIONS

1. Can a single standard of ethics be applied to all criminal justice agencies? Or is the world too complex to legislate morality and ethics?
2. Describe the differences between the formal and informal justice systems. Is it fair to treat some offenders informally?
3. What are the layers of the criminal justice “wedding cake”? Give an example of a crime for each layer.
4. What are the basic elements of each perspective on justice? Which perspective best represents your own point of view?
5. How would each perspective on criminal justice view the use of the death penalty as a sanction for first-degree murder?

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